

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SEVENTH DAY — WEDNESDAY, MAY 2, 2007

The house met at 11:30 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 864).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — Moreno.

LEAVES OF ABSENCE GRANTED

On motion of Representative C. Howard and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative C. Howard moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed.

MOTION FOR ONE RECORD VOTE

On motion of Representative C. Howard and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 865): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Moreno.

HB 42

HB 149

HB 182

HB 434

HB 556

HB 606

HB 616

HB 643

HB 693

HB 1158

HB 1207 (Harper-Brown - no) (146 - 1 - 2)

HB 1352

HB 1456

HB 1498

HB 1567

HB 1585

HB 1587

HB 1733

HB 1833

HB 1944

SB 622

HB 2060

HB 2095

SB 1074

HB 2128

HB 2171

HB 2195

HB 2222

HB 2293

HB 2346

HB 2371

HB 2455

HB 2557

HB 2585

HB 2591

HB 2621

HB 2623

HB 2625

HB 2639

SB 1634

HB 2714

HB 2718

HB 2820

HB 2833

HB 2895

HB 2896

HB 2897

HB 2945

HB 2992

HB 3129

HB 3131

HB 3210

HB 3211

HB 3273

HB 3449

HB 3460

HB 3493

HB 3494

HB 3514

HB 3601

HB 3630 (Latham - no) (146 - 1 - 2)

HB 3725

HB 3731

HB 3768

HB 3769 (Burnam - no) (146 - 1 - 2)

HB 3827

HB 3879

HB 3955

HB 3992

HB 3993

HB 4007

HB 4037

HB 4045

SB 57

SB 91

SB 158

SB 237

SB 331

SB 342

SB 355

SB 393

SB 471

SB 500

SB 580

SB 593

SB 893

SB 948

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. 29).

(Goolsby in the chair)

HR 1793 - ADOPTED
(by Darby)

Representative Darby moved to suspend all necessary rules to take up and consider at this time **HR 1793**.

The motion prevailed.

The following resolution was laid before the house:

HR 1793, Congratulating the gymnastics team of Central High School in San Angelo for winning the 2007 Region III championship.

HR 1793 was adopted.

On motion of Representative Vo, the names of all the members of the house were added to **HR 1793** as signers thereof.

HR 1820 - ADOPTED
(by Darby)

Representative Darby moved to suspend all necessary rules to take up and consider at this time **HR 1820**.

The motion prevailed.

The following resolution was laid before the house:

HR 1820, Recognizing former State Representative David B. Read of San Angelo for his outstanding service to his profession, community, and state.

HR 1820 was adopted.

On motion of Representative Vo, the names of all the members of the house were added to **HR 1820** as signers thereof.

(Speaker in the chair)

**SB 483 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative P. King, the house granted the request of the senate for the appointment of a conference committee on **SB 483**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 483**: P. King, chair; T. Smith, Christian, Swinford, and Peña.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative C. Howard moved to suspend all necessary rules to set a local, consent, and resolutions calendar for 9 a.m. Friday, May 4.

The motion prevailed.

**HB 1311 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1311, A bill to be entitled An Act relating to requiring certain municipalities to disannex land owned by a navigation district.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1311**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1311**: Bonnen, chair; O'Day, Lucio, R. Cook, and Keffer.

**HB 1312 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1312, A bill to be entitled An Act relating to the annexation by certain municipalities of land owned by a navigation district.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1312**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1312**: Bonnen, chair; O'Day, Lucio, R. Cook, and Keffer.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Environmental Regulation, upon lunch recess today, Desk 1, for a formal meeting, to consider pending business.

Financial Institutions, upon lunch recess today, Desk 7, for a formal meeting.

Local and Consent Calendars, upon lunch recess today, Desk 95, for a formal meeting, to consider transferring bills to the regular calendar and pending business.

Criminal Jurisprudence, upon lunch recess today, Desk 118, for a formal meeting, to consider pending business.

Ways and Means, upon lunch recess today, Desk 108, for a formal meeting, to consider pending business.

HR 1855 - ADOPTED (by Craddick)

Representative C. Howard moved to suspend all necessary rules to take up and consider at this time **HR 1855**.

The motion prevailed.

The following resolution was laid before the house:

HR 1855, Honoring the life and legacy of Dorothy Turner Scharbauer of Midland.

HR 1855 was unanimously adopted by a rising vote.

HR 1856 - ADOPTED (by Craddick)

Representative C. Howard moved to suspend all necessary rules to take up and consider at this time **HR 1856**.

The motion prevailed.

The following resolution was laid before the house:

HR 1856, Honoring philanthropist and community leader Jim Alsup of Midland.

HR 1856 was adopted.

RECESS

At 12:04 p.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 Representative Gattis.

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. 32).

LEAVES OF ABSENCE GRANTED

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

F. Brown on motion of Raymond.

Guillen on motion of Raymond.

**HR 1697 - ADOPTED
(by Y. Davis)**

Representative Phillips moved to suspend all necessary rules to take up and consider at this time **HR 1697**.

The motion prevailed.

The following resolution was laid before the house:

HR 1697, Honoring the Reverend Nyal Scott Bell on his installation as pastor of the Greater New Bethel Missionary Baptist Church in Dallas.

HR 1697 was adopted.

**HR 1797 - ADOPTED
(by T. King)**

Representative Phillips moved to suspend all necessary rules to take up and consider at this time **HR 1797**.

The motion prevailed.

The following resolution was laid before the house:

HR 1797, Honoring the 150th anniversary of the First United Methodist Church of Hondo.

HR 1797 was adopted.

**HR 1847 - ADOPTED
(by Gallego)**

Representative Phillips moved to suspend all necessary rules to take up and consider at this time **HR 1847**.

The motion prevailed.

The following resolution was laid before the house:

HR 1847, Honoring Tom Romanelli on his retirement from the Del Rio Police Department.

HR 1847 was adopted.

(Speaker in the chair)

**HB 1892 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1892, A bill to be entitled An Act relating to the authority of certain counties and other entities with respect to certain transportation projects.

HB 1892 - REMARKS

REPRESENTATIVE PHILLIPS: I'm just curious, you're saying this is the only chance to vote for a moratorium?

REPRESENTATIVE W. SMITH: I didn't say it was the only one, I said it might very well be.

PHILLIPS: And we've already had an opportunity to vote for a moratorium, correct?

W. SMITH: You voted for the moratorium on this bill, before it went to the senate.

PHILLIPS: Correct.

W. SMITH: The senate voted on it 30 to one.

PHILLIPS: Which time, Mr. Smith?

W. SMITH: Day before yesterday they voted 30 to one.

PHILLIPS: So how many times did they vote on your bill?

W. SMITH: They voted on it, I believe, twice, maybe three times.

PHILLIPS: When it left this chamber, it had, what, nineteen pages on it?

W. SMITH: It had some pages on it, yes.

PHILLIPS: And how many pages does it have now?

W. SMITH: Less than that.

PHILLIPS: How many pages does it have now?

W. SMITH: It has less than that, if you look at the total number of pages, it looks like there's sixty-something.

PHILLIPS: So it went from nineteen to sixty?

W. SMITH: I don't know how many it had when I left here, so I can't say that. I didn't count the pages.

PHILLIPS: So was anything added to it?

W. SMITH: I was about to tell you what was added to it.

PHILLIPS: That would be great. I'd love to hear it.

W. SMITH: Okay. The senate put further reins on the CDAs, requiring transparency, requiring public hearings, requiring review by the attorney general, requiring review by the state auditor. They accepted projects that were in the North Texas area, they ensured compliance with federal laws. Actually, there were three amendments that required ensuring compliance with federal law not to jeopardize the federal spending.

PHILLIPS: Mr. Smith, there's a concern that your bill, as it went out of here, that it would cost us federal highway funding. Are you aware that concern has been raised?

W. SMITH: I have heard that concern raised as late as yesterday afternoon at 7 p.m. eastern time. We were told by representatives of the federal highway commission that all of the issues have been done and were taken care of in the senate, and that they could all be done by interpretation by TxDOT as TxDOT proceeded with their normal course of events.

PHILLIPS: Now where are those? Did they put that in writing? Because I saw something from the Federal Highway Administration that was actually in writing, that raised grave concerns about costing us federal highway dollars, and the last thing we want to do is—we want a moratorium—but the last thing we want to do is cost our communities from getting those precious road funds.

W. SMITH: The amendments specifically say that we specifically can't do anything that jeopardizes those federal funds.

PHILLIPS: So is it your understanding, just to make sure we get legislative intent, that if there's something in your bill that causes jeopardy to federal highway funds, it would be null and void.

W. SMITH: Well, I don't know that it would be null and void. The intent is that we cannot do things that prevent us from getting federal funds.

PHILLIPS: Alright. So if the bill, as it comes out, does something the way it's written that would cost us federal funds, those provisions would be inoperable and should not be enforced.

W. SMITH: I don't know. Until we know, until any of those issues come up, we can't make the decision in fact to what those were. I've been told that the federal fund issue is something that TxDOT, if they manage it properly, it will not occur.

PHILLIPS: But you don't have a letter that says that, correct?

W. SMITH: I don't have a letter that says that today. I have a telephone conversation yesterday.

PHILLIPS: Well, could you delay doing this until we get a letter from the federal government?

W. SMITH: No, I'm not delaying it anymore.

PHILLIPS: Have we delayed it at all on the floor?

W. SMITH: No. I have responded to you. It's been since November 11th, it's been a constant day-to-day process. I think that the members want to get a chance to vote on the moratorium, and I think today's the day.

PHILLIPS: Right, but your bill wasn't filed as a moratorium bill, correct?

W. SMITH: My bill was filed as a county bill.

PHILLIPS: Okay. Now let's get some legislative intent, because it's really important for North Texas. Is it your understanding that the 121 project is exempted out from the moratorium?

W. SMITH: Correct. Your senator, I don't know who your senator is, but your senators, one of them is bound to be yours, worked on this bill and it is exempted out, the Brimer amendment.

PHILLIPS: I just want to make sure that the 121 project in the Dallas-Fort Worth area is exempted out.

W. SMITH: That's correct.

PHILLIPS: Is the 161 project in the North Texas area exempted out?

W. SMITH: It's my understanding that it is, yes.

PHILLIPS: Okay.

W. SMITH: The Brimer amendment.

PHILLIPS: Is the Loop 9 project in the North Texas area exempted out?

W. SMITH: My understanding is that it is, yes.

PHILLIPS: Okay, so it's your legislative intent that those three projects that I just mentioned are exempted out?

W. SMITH: My legislative intent is that any project currently is underway that would be jeopardized be exempted out.

PHILLIPS: Okay, and thank you for working with those of us in North Texas to make sure that those are exempted out. We appreciate that, and we understand that that was part of the reason why the senate sucked it back. Are there any other projects that are exempted out?

W. SMITH: I would have to look, I don't remember right off-hand. I'd have to look at the amendments.

REMARKS ORDERED PRINTED

Representative Phillips moved to print remarks between Representative W. Smith and Representative Phillips.

The motion prevailed.

REPRESENTATIVE LEIBOWITZ: Mr. Smith, as the bill left the house, certain managed land projects were exempted from the moratorium, but we added an amendment to ensure that the CDA toll project for Highway 281 and Loop 1604 in Bexar County was included in the moratorium. Is that correct?

W. SMITH: Yes, that is correct.

LEIBOWITZ: And it's my understanding that in the senate, the moratorium only extends to Highway 281, but not Loop 1604. Is that also correct?

W. SMITH: That is correct.

LEIBOWITZ: Lastly, the CDA for 281 also includes Loop 1604. Does the moratorium put the 281/1604 project on hold or just that 281 portion of the project?

W. SMITH: It's my belief that the intent is that since 281 and 1604 were developed together as a joint project, the entire 281/1604 Comprehensive Development Agreement would be subject to the moratorium. And if Loop 1604 wanted to be developed as a toll project, a new request for qualifications would be needed to be started on 1604 as a stand-alone project.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative W. Smith and Representative Leibowitz.

The motion prevailed.

REPRESENTATIVE Y. DAVIS: Chairman Smith, the North Texas region was exempted out of this bill, is that correct, in terms of the moratorium?

W. SMITH: Yes, I think so. The projects that you have specifically asked for have been exempted, yes.

Y. DAVIS: Okay, is Loop 9 in the bill or out of the bill? Did it get exempted out or in?

W. SMITH: It's in the bill as a exemption, yes.

Y. DAVIS: It's in the bill as a project that's exempted out of, so it's part of the moratorium?

W. SMITH: That's correct. So they could go forward.

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks between Representative W. Smith and Representative Y. Davis.

The motion prevailed.

REPRESENTATIVE TRUITT: Mr. Smith, is it your understanding that both the Dallas and Fort Worth districts will be able to work cooperatively on the funding of the projects in the North Texas area that have been exempted?

W. SMITH: Yes, it is. Your senator has an amendment that takes care of the North Texas areas.

TRUITT: And the Dallas and Fort Worth separate districts will be able to work cooperatively?

W. SMITH: You can have your managed lands.

REMARKS ORDERED PRINTED

Representative Truitt moved to print remarks between Representative W. Smith and Representative Truitt.

The motion prevailed.

REPRESENTATIVE JACKSON: Representative Smith, you told us that the North Texas projects that we exempted earlier are still exempted?

W. SMITH: It is my understanding that they are, yes, from the Brimer and Carona amendments.

JACKSON: I noticed that the senate put in a limit in the terms of finance for CDAs to 30 years. Does that affect the projects that are exempted?

W. SMITH: That's the reason it went back, so that the 40-year restriction that was initially in the senate package that came over here could be changed and stripped out so that that would not affect your projects.

JACKSON: So there is no intent to limit the finance term to under the 50 year projects—

W. SMITH: That's correct, on your projects.

REMARKS ORDERED PRINTED

Representative Jackson moved to print remarks between Representative W. Smith and Representative Jackson.

The motion prevailed.

Representative W. Smith moved to concur in the senate amendments to **HB 1892**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 866): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles;

Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Krusee.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Bohac; Dukes; Flynn; Latham; Peña; Rose.

STATEMENTS OF VOTE

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted yes.

Bohac

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 866 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

Senate Committee Substitute

CSHB 1892, A bill to be entitled An Act relating to the authority of certain counties and other entities with respect to certain transportation projects; providing penalties.

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

SECTION 1. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.210 to read as follows:

Sec. 223.210. MORATORIUM ON CERTAIN TERMS IN COMPREHENSIVE DEVELOPMENT AGREEMENTS OR SALE OF TOLL PROJECTS. (a) In this section:

(1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project:

(A) is a part of the state highway system; or

(B) is subject to the jurisdiction of the department.

(2) "Toll project entity" means a public entity authorized by law to acquire, design, construct, finance, operate, or maintain a toll project, including:

(A) the department;

(B) a regional tollway authority;

(C) a regional mobility authority; or

(D) a county.

(b) A comprehensive development agreement entered into with a private participant by a toll project entity on or after the effective date of this subsection for the acquisition, design, construction, financing, operation, or maintenance of a toll project may not contain a provision permitting the private participant to operate the toll project or collect revenue from the toll project, regardless of whether the private participant operates the toll project or collects the revenue itself or engages a subcontractor or other entity to operate the toll project or collect the revenue.

(c) Subsection (b) does not apply to a comprehensive development agreement in connection with:

(1) a project associated with the highway designated as the Trinity Parkway in the City of Dallas; or

(2) a project:

(A) that includes one or more managed lane facilities to be added to an existing controlled-access highway;

(B) the major portion of which is located in a nonattainment or near nonattainment air quality area as designated by the United States Environmental Protection Agency; and

(C) for which the department has issued a request for qualifications before the effective date of this section.

(c-2) Notwithstanding the TxDOT/NTTA Regional Protocol entered into between the Texas Department of Transportation and the North Texas Tollway Authority (the authority) and approved on August 10, 2006, by the tollway authority and on August 24, 2006, by the department, Subsection (b) does not apply to a comprehensive development agreement:

(1) entered into in connection with State Highway 121 if before the commission or the department enters into a contract for the financing, construction, or operation of the project with a private participant, an authority under Chapter 366 was granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 90 days from March 26, 2007, to submit a commitment to the metropolitan planning organization which is determined to be equal to or greater than any other commitment submitted prior to March 26, 2007; and

(a) If the financial value of the commitment is determined to be equal to or greater value than any other commitment submitted prior to March 26, 2007, then the commission shall allow the authority to develop the project; or

(2) entered into in connection with State Highway 161 if before the commission or the department enters into a contract with a private participant for the financing, construction, or operation, an authority under Chapter 366 was

granted the ability to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority, and the authority was granted a period of 90 days to submit a commitment to the metropolitan planning organization.

(a) If the authority makes a commitment to proceed, then the department shall allow the authority to proceed and the authority must enter into contracts to finance, construct, or operate the project within 180 days.

(d) For purposes of Subsection (c)(2), "managed lane facility" means a facility that increases the efficiency of a controlled-access highway through various operational and design actions and that allows lane management operations to be adjusted at any time. The term includes high-occupancy vehicle lanes, single-occupant vehicle express lanes, tolled lanes, priced lanes, truck lanes, bypass lanes, dual use facilities, or any combination of those facilities.

(e) The department may not enter into a comprehensive development agreement in connection with a project described by Subsection (c)(2) unless the commissioners court of the county in which the majority of the project is located passes a resolution in support of the agreement that states that the commissioners court:

(1) acknowledges that the comprehensive development agreement may contain penalties for the construction of future competing transportation projects that are acquired or constructed during the term of the comprehensive development agreement; and

(2) knowing of those potential penalties, agrees that the department should execute the comprehensive development agreement.

(f) On or after the effective date of this section, a toll project entity may not sell or enter into a contract to sell a toll project of the entity to a private entity.

(g) A legislative study committee is created. The committee is composed of nine members, appointed as follows:

(1) three members appointed by the lieutenant governor;

(2) three members appointed by the speaker of the house of representatives; and

(3) three members appointed by the governor.

(h) The legislative study committee shall select a presiding officer from among its members and conduct public hearings and study the public policy implications of including in a comprehensive development agreement entered into by a toll project entity with a private participant in connection with a toll project a provision that permits the private participant to operate and collect revenue from the toll project. In addition, the committee shall examine the public policy implications of selling an existing and operating toll project to a private entity.

(i) Not later than December 1, 2008, the legislative study committee shall:

(1) prepare a written report summarizing:

(A) any hearings conducted by the committee;

(B) any legislation proposed by the committee;

(C) the committee's recommendations for safeguards and protections of the public's interest when a contract for the sale of a toll project to a private entity is entered into; and

(D) any other findings or recommendations of the committee; and

(2) deliver a copy of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

(j) On December 31, 2008, the legislative study committee created under this section is abolished.

(k) This section expires September 1, 2009.

(l) Subsections (b), (c), (d), and (e) do not apply to a project that is located in a county with a population of 575,000 or more and is adjacent to an international border.

SECTION 2. Section 228.0055, Transportation Code, is amended to read as follows:

Sec. 228.0055. USE OF CONTRACT PAYMENTS. (a) Payments received by the commission or the department under a comprehensive development agreement shall ~~may~~ be used by the commission or the department to finance the construction, maintenance, or operation of ~~an~~ transportation projects ~~project~~ or air quality projects ~~project~~ in the region.

(b) The commission or the department shall distribute the payments received under Subsection (a) among the department districts in which the project that is the subject of a comprehensive development agreement is located and allocate the money to each district based on the percentage of toll revenue from users in that district. To assist the commission or the department in determining the appropriate allocation of money under this subsection, each entity that collects tolls for a project shall annually calculate the percentage of toll revenue from users of the project in each department district in which the project is located based on the number of recorded electronic toll collections.

(c) The commission or the department may not:

(1) revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a department district's allocation because of a payment under Subsection (a); or

(2) take any other action that would reduce funding allocated to a department district because of payments received under a comprehensive development agreement.

SECTION 3. Subchapter A, Chapter 228, Transportation Code, is amended by adding Sections 228.011 and 228.012 to read as follows:

Sec. 228.011. TOLL PROJECTS IN CERTAIN COUNTIES. (a) This section applies only to a county acting under Chapter 284.

(b) The county is the entity that has primary responsibility for the financing, construction, and operation of a toll project located in the county.

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the county in the financing, construction, and operation of a toll project in the county by allowing the county to use highway right-of-way owned by the department and to access the state highway system.

(d) Subsections (b) and (c) do not limit the authority of the commission or the department to participate in the cost of acquiring, constructing, maintaining, or operating a turnpike project of the county under Chapter 284.

(e) Before the commission or the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located in the county, the commission or department shall provide the county the first option to finance, construct, or operate, as applicable, the portion of the toll project located in the county:

(1) on terms agreeable to the county, without the requirement of any payment to the commission or the department except as provided by Section 284.004(a); and

(2) in a manner determined by the county to be consistent with the practices and procedures by which the county finances, constructs, or operates a project.

(f) A county's right to exercise the first option under Subsection (e) is effective for six months following the date of receipt by the county of written notification from the commission or the department meeting the requirements of Subsection (e) and describing in reasonable detail the location of the toll project, a projected cost estimate, sources and uses of funds, and a construction schedule. If a county exercises the first option with respect to a toll project, the county must enter into one or more contracts for the financing, construction, or operation of the toll project within 18 months of the date of exercising the option. A contract may include agreements for design of the project, acquisition of right-of-way, and utility relocation. If the county does not enter into a contract within the 18-month period, the commission or the department may enter into a contract for the financing, construction, or operation of the toll project with a different entity.

(g) Except as provided by Section 284.004(a), an agreement entered into by the county and the commission or the department in connection with a project under Chapter 284 that is financed, constructed, or operated by the county and that is on or directly connected to the state highway system may not require the county to make any payments to the commission or the department.

(h) An agreement entered into by the county and the commission or department in connection with a project under Chapter 284 that is financed, constructed, or operated by the county and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

Sec. 228.012. TOLL PROJECTS WITHIN BOUNDARIES OF REGIONAL MOBILITY AUTHORITIES. (a) This section applies only to a toll project located within the boundaries of a regional mobility authority operating under Chapter 370.

(b) The regional mobility authority is the entity that has primary responsibility for the financing, construction, and operation of a toll project located within the boundaries of the authority.

(c) To the extent authorized by federal law or authorized or required by this title, the commission and the department shall assist the authority in the financing, construction, and operation of a toll project located within the boundaries of the authority by allowing the authority to use highway right-of-way owned by the department and to access the state highway system. In connection with the use by the authority of improved state highway right-of-way, the authority must enter into an agreement with the commission or the department as provided in this chapter.

(d) Subsections (b) and (c) do not limit the authority of the commission or the department to participate in the cost of acquiring, constructing, maintaining, or operating a turnpike project of the authority under Chapter 370.

(e) Before the commission or the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located within the boundaries of an authority, the commission or department shall provide the authority the first option to finance, construct, or operate, as applicable, the portion of the toll project located within the boundaries of the authority:

(1) on terms agreeable to the authority, without the requirement of any payment to the commission or the department except to reimburse the commission or department for actual costs incurred or to be incurred by a third party, including the federal government, as a result of that use by the authority; and

(2) in a manner determined by the authority to be consistent with the practices and procedures by which the authority finances, constructs, or operates a project.

(f) An agreement entered into by the authority and the commission or the department in connection with a project under Chapter 370 that is financed, constructed, or operated by the authority and that is on or directly connected to the state highway system may not require the authority to make any payments to the commission or the department, provided that the authority and the department or the commission may enter into an agreement which provides for the repayment of all or a portion of funds advanced by the department or the commission to the authority for the specific purpose of assisting the authority in the development or construction of the project.

(g) An agreement entered into by the authority and the commission or department in connection with a project under Chapter 370 that is financed, constructed, or operated by the authority and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

(h) Once the authority or metropolitan planning organization has received notice from the department relating to a toll project, the authority has 180 days to provide the department with written notice of the authority's decision to exercise the first option to finance, construct, or operate, as applicable, the toll project.

Written notice from the department shall describe in reasonable detail the location of the toll project, a projected cost estimate, sources and uses of funds, and a construction schedule. In the event the authority does not initiate work within 18 months of exercising its option to develop the project, the metropolitan planning organization at its discretion may allow the department to finance, construct, or operate the project.

SECTION 4. Section 284.001(3), Transportation Code, is amended to read as follows:

(3) "Project" means:

(A) a causeway, bridge, tunnel, turnpike, highway, ferry, or any combination of those facilities, including:

(i) [~~(A)~~] a necessary overpass, underpass, interchange, entrance plaza, toll house, service station, approach, fixture, and accessory and necessary equipment that has been designated as part of the project by order of a county;

(ii) [~~(B)~~] necessary administration, storage, and other buildings that have been designated as part of the project by order of a county; and

(iii) [~~(C)~~] all property rights, easements, and related interests acquired; or

(B) a turnpike project or system, as those terms are defined by Section 370.003.

SECTION 5. Section 284.003, Transportation Code, is amended to read as follows:

Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION, AND COST. (a) A county, acting through the commissioners court of the county, or a local government corporation, without state approval, supervision, or regulation, may:

(1) construct, acquire, improve, operate, maintain, or pool a project located:

(A) exclusively in the county;

(B) in the county and outside the county; or

(C) in one or more counties adjacent to the county;

(2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project;

(3) impose tolls or charges as otherwise authorized by this chapter;

(4) construct a bridge over a deepwater [~~deep water~~] navigation channel, if the bridge does not hinder maritime transportation; [~~or~~]

(5) construct, acquire, or operate a ferry across a deepwater navigation channel;

(6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or

(7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366.

(b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails.

(c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide transportation services to the general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state.

(d) If the county constructs, acquires, improves, operates, maintains, or pools a project under this chapter, before December 31 of each even-numbered year the county shall submit to the department a plan for the project that includes the time schedule for the project and describes the use of project funds. The plan may provide for and permit the use of project funds and other money, including state or federal funds, available to the county for roads, streets, highways, and other related facilities in the county that are not part of a project under this chapter. A plan is not subject to approval, supervision, or regulation by the commission or the department.

(e) Except as provided by federal law, an action of a county taken under this chapter is not subject to approval, supervision, or regulation by a metropolitan planning organization.

(f) The county may enter into a protocol or other agreement with the commission or the department to implement this section through the cooperation of the parties to the agreement.

SECTION 6. Subchapter A, Chapter 284, Transportation Code, is amended by adding Sections 284.0031 and 284.0032 and amending Section 284.004 to read as follows:

Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS. (a) The commissioners court of a county or a local government corporation, without state approval, supervision, or regulation may:

(1) authorize the use or pledge of surplus revenue to pay or finance the costs of a project for the study, design, construction, maintenance, repair, or operation of roads, streets, highways, or other related facilities that are not part of a project under this chapter; and

(2) prescribe terms for the use of the surplus revenue, including the manner in which revenue from a project becomes surplus revenue and the manner in which the roads, streets, highways, or other related facilities are to be studied, designed, constructed, maintained, repaired, or operated.

(b) To implement this section, a county may enter into an agreement with the commission, the department, a local governmental entity, or another political subdivision of this state.

(c) A county may not take an action under this section that violates or impairs a bond resolution, trust agreement, or indenture that governs the use of the revenue of a project.

(d) Except as provided by this section, a county has the same powers, including the powers to finance and to encumber surplus revenue, and may use the same procedures with respect to the study, financing, design, construction, maintenance, repair, or operation of a road, street, highway, or other related facility under this section as are available to the county with respect to a project under this chapter.

Sec. 284.0032. TRANS-TEXAS CORRIDOR PROJECTS. If a county requests or is requested by the commission to participate in the development of a project under this chapter that has been designated as part of the Trans-Texas Corridor, in connection with the project and in addition to the other powers granted by this chapter, the county has all the powers of the department related to the development of a project that has been designated as part of the Trans-Texas Corridor.

Sec. 284.004. USE OF COUNTY PROPERTY AND STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any other law, under this chapter a county may use any county property, state highway right-of-way, or access to the state highway system [for a project under this chapter], regardless of when or how the property, right-of-way, or access is acquired. The department or the commission may require the county to comply with any covenant, condition, restriction, or limitation that affects state highway right-of-way, but may not:

(1) adopt rules or establish policies that have the effect of denying the county the use of the right-of-way or access that the county has determined to be necessary or convenient for the construction, acquisition, improvement, operation, maintenance, or pooling of a project under this chapter or the implementation of a plan under Section 284.003(d); or

(2) require the county to pay for the use of the right-of-way or access, except to reimburse the commission or department for actual costs incurred or to be incurred by a third party, including the federal government, as a result of that use by the county.

(b) If a project of the county under this chapter includes the proposed use of improved state highway right-of-way, the county and the commission or the department must enter into an agreement that includes reasonable terms to accommodate that use of the right-of-way by the county and to protect the interests of the commission and the department in the use of the right-of-way for operations of the department, including public safety and congestion mitigation on the improved right-of-way.

(c) Notwithstanding any other law, the commission and the department are not liable for any damages that result from a county's use of state highway right-of-way or access to the state highway system under this chapter, regardless of the legal theory, statute, or cause of action under which liability is asserted.

SECTION 7. Sections 284.008(c) and (d), Transportation Code, are amended to read as follows:

(c) Except as provided by Subsection (d), a project becomes a part of the state highway system and the commission shall maintain the project without tolls when:

(1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid by the issuer of the bonds or another person with the consent or approval of the issuer; or

(2) a sufficient amount for the payment of all bonds and the interest on the bonds to maturity has been set aside by the issuer of the bonds or another person with the consent or approval of the issuer in a trust fund held for the benefit of the bondholders.

(d) A [Before construction on a project under this chapter begins, a] county may request that the commission adopt an order stating that a [the] project will not become part of the state highway system under Subsection (c). If the commission adopts the order:

(1) Section 362.051 does not apply to the project;

(2) the project must be maintained by the county; and

(3) the project will not become part of the state highway system unless the county transfers the project under Section 284.011.

SECTION 8. Sections 284.065(b) and (c), Transportation Code, are amended to read as follows:

(b) An existing project may be pooled in whole or in part with a new project or another existing project.

(c) A project may ~~not~~ be pooled more than once.

SECTION 9. Section 366.003, Transportation Code, is amended by adding Subdivision (9-a) to read as follows:

(9-a) "Surplus revenue" means the revenue of a turnpike project or system remaining at the end of any fiscal year after all required payments and deposits have been made in accordance with all bond resolutions, trust agreements, indentures, credit agreements, or other instruments and contractual obligations of the authority payable from the revenue of the turnpike project or system.

SECTION 10. Chapter 366, Transportation Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. 366.401. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) An authority may use a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a turnpike project.

(b) A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design, construction, rehabilitation, expansion, or improvement of a turnpike project and may also provide for the financing, acquisition, maintenance, or operation of a turnpike project.

(c) An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) An authority may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

Sec. 366.402. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If an authority enters into a comprehensive development agreement, the authority shall use a competitive procurement process that provides the best value for the authority. An authority may accept unsolicited proposals for a proposed turnpike project or solicit proposals in accordance with this section.

(b) An authority shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(1) information regarding the proposed project location, scope, and limits;

(2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and

(3) any other information the authority considers relevant or necessary.

(c) An authority shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the authority decides to issue a request for qualifications for a proposed project; or

(2) the authority authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) An authority may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The authority shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The authority must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the authority does not receive more than one proposal or one response to a request under Subsection (c).

(f) An authority shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the authority proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information the authority considers relevant or necessary, including information relating to:

(1) the private entity's qualifications and demonstrated technical competence;

(2) the feasibility of developing the project as proposed;

(3) engineering or architectural designs;

(4) the private entity's ability to meet schedules; or

(5) a financial plan, including costing methodology and cost proposals.

(g) In issuing a request for proposals under Subsection (f), an authority may solicit input from entities qualified under Subsection (e) or any other person. An authority may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) An authority shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the authority.

(i) An authority may enter into negotiations with the private entity whose proposal offers the apparent best value.

(j) If at any point in negotiations under Subsection (i), it appears to the authority that the highest ranking proposal will not provide the authority with the overall best value, the authority may enter into negotiations with the private entity submitting the next-highest-ranking proposal.

(k) An authority may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The authority may then publish a new request for competing proposals and qualifications.

(l) An authority may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) An authority may pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. A stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this subsection. After payment of the stipulated amount:

(1) the authority, with the unsuccessful private entity, jointly owns the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful private entity of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful private entity and does not confer liability on the authority.

(n) An authority may prescribe the general form of a comprehensive development agreement and may include any matter the authority considers advantageous to the authority. The authority and the private entity shall finalize the specific terms of a comprehensive development agreement.

(o) Section 366.185 and Subchapter A, Chapter 223, of this code and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.

Sec. 366.403. CONFIDENTIALITY OF INFORMATION. (a) To encourage private entities to submit proposals under this subchapter, the following information is confidential, is not subject to disclosure, inspection, or

copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 366.402(b)(1) and (2), unless the private entity consents to the disclosure of the information;

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement unless the private entity consents to the disclosure of the information or material; and

(3) information created or collected by an authority or its agent during consideration of a proposal for a comprehensive development agreement or during the authority's preparation of a proposal to the department relating to a comprehensive development agreement.

(b) After an authority completes its final ranking of proposals under Section 366.402(h), the final rankings of each proposal under each of the published criteria are not confidential.

Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY.

(a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

(1) ensure the proper performance of the agreement; and

(2) protect:

(A) the authority; and

(B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If an authority determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the authority shall set the amount of the bonds or the alternative forms of security.

(d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.

(e) The amount of the payment security must not be less than the amount of the performance security.

(f) In addition to, or instead of, performance and payment bonds, an authority may require the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the authority;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit; or

(4) any other form of security determined suitable by the authority.

(g) An authority by rule shall prescribe requirements for alternative forms of security provided under this section.

Sec. 366.405. OWNERSHIP OF TURNPIKE PROJECTS. (a) A turnpike project that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and is owned by the authority.

(b) Notwithstanding Subsection (a), an authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the termination of the agreement, the turnpike project, including the facilities, are to be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost.

Sec. 366.406. LIABILITY FOR PRIVATE OBLIGATIONS. An authority may not incur a financial obligation for a private entity that designs, develops, finances, constructs, operates, or maintains a turnpike project. The authority or a political subdivision of the state is not liable for any financial or other obligation of a turnpike project solely because a private entity constructs, finances, or operates any part of the project.

Sec. 366.407. TERMS OF PRIVATE PARTICIPATION. (a) An authority shall negotiate the terms of private participation in a turnpike project under this subchapter, including:

(1) methods to determine the applicable cost, profit, and project distribution among the private participants and the authority;

(2) reasonable methods to determine and classify toll rates and the responsibility for setting toll rates;

(3) acceptable safety and policing standards; and

(4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) A comprehensive development agreement entered into under this subchapter may include any provision the authority considers appropriate, including a provision:

(1) providing for the purchase by the authority, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a turnpike project designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;

(2) establishing the purchase price, as determined in accordance with the methodology established by the parties in the comprehensive development agreement, for the interest of a private participant in the comprehensive development agreement and related property;

(3) providing for the payment of an obligation incurred under the comprehensive development agreement, including an obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any available source, including securing the obligation by a pledge of revenues of the authority derived from the applicable project, which pledge shall have priority as established by the authority;

(4) permitting the private participant to pledge its rights under the comprehensive development agreement;

(5) concerning the private participant's right to operate and collect revenue from the turnpike project; and

(6) restricting the right of the authority to terminate the private participant's right to operate and collect revenue from the turnpike project unless and until any applicable termination payments have been made.

(c) An authority may enter into a comprehensive development agreement under this subchapter with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(d) Section 366.406 does not apply to an obligation of an authority under a comprehensive development agreement, nor is an authority otherwise constrained from issuing bonds or other financial obligations for a turnpike project payable solely from revenues of that turnpike project or from amounts received under a comprehensive development agreement.

(e) Notwithstanding any other law, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of an authority under a comprehensive development agreement entered into under this subchapter to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the authority in a district court of any county of the authority, and the sovereign immunity of the authority is waived for that purpose. The district courts of any county of the authority shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) If an authority enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the private participant will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(g) Except as provided by this section, a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 30 years.

Sec. 366.408. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) To promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants, an authority shall adopt rules, procedures, and other guidelines governing selection of private participants for comprehensive development agreements and negotiations of comprehensive development agreements. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) An authority shall have up-to-date procedures for participation in negotiations under this subchapter.

(c) An authority has exclusive judgment to determine the terms of an agreement.

Sec. 366.409. USE OF CONTRACT PAYMENTS. (a) Payments received by an authority under a comprehensive development agreement shall be used by the authority to finance the construction, maintenance, or operation of a turnpike project or a highway.

(b) The authority shall allocate the distribution of funds received under Subsection (a) to the counties of the authority based on the percentage of toll revenue from users, from each county, of the project that is the subject of the comprehensive development agreement. To assist the authority in determining the allocation, each entity responsible for collecting tolls for a project shall calculate on an annual basis the percentage of toll revenue from users of the project from each county within the authority based on the number of recorded electronic toll collections.

SECTION 11. Subsection (f), Section 366.033, Transportation Code, is amended to read as follows:

(f) An authority may rent, lease, franchise, license, or otherwise make portions of any property of the authority, including tangible or intangible property, [its properties] available for use by others in furtherance of its powers under this chapter by increasing:

(1) the feasibility or efficient operation [the revenue] of a turnpike project or system; or

(2) the revenue of the authority.

SECTION 12. Subchapter B, Chapter 366, Transportation Code, is amended by adding Sections 366.037 and 366.038 to read as follows:

Sec. 366.037. OTHER HIGHWAY PROJECTS. (a) In addition to the powers granted under this chapter and without supervision or regulation by any state agency or local governmental entity, but subject to an agreement entered

into under Subsection (c), the board of an authority may by resolution, and on making the findings set forth in this subsection, authorize the use of surplus revenue of a turnpike project or system for the study, design, construction, maintenance, repair, and operation of a highway or similar facility that is not a turnpike project if the highway or similar facility is:

(1) situated in a county in which the authority is authorized to design, construct, and operate a turnpike project;

(2) anticipated to either:

(A) enhance the operation or revenue of an existing, or the feasibility of a proposed, turnpike project by bringing traffic to that turnpike project or enhancing the flow of traffic either on that turnpike project or to or from that turnpike project to another facility; or

(B) ameliorate the impact of an existing or proposed turnpike project by enhancing the capability of another facility to handle traffic traveling, or anticipated to travel, to or from that turnpike project; and

(3) not anticipated to result in an overall reduction of revenue of any turnpike project or system.

(b) The board in the resolution may prescribe terms for the use of the surplus revenue, including the manner in which the highway or related facility shall be studied, designed, constructed, maintained, repaired, or operated.

(c) An authority shall enter into an agreement to implement this section with the department, the commission, a local governmental entity, or another political subdivision that owns a street, road, alley, or highway that is directly affected by the authority's turnpike project or related facility.

(d) An authority may not:

(1) take an action under this section that violates, impairs, or is inconsistent with a bond resolution, trust agreement, or indenture governing the use of the revenue of a turnpike project or system; or

(2) commit in any fiscal year expenditures under this section exceeding 10 percent of its surplus revenue from the preceding fiscal year.

(e) In authorizing expenditures under this section, the board shall consider:

(1) balancing throughout the counties of the authority the application of funds generated by its turnpike projects and systems, taking into account where those amounts are already committed or programmed as a result of this section or otherwise; and

(2) connectivity to an existing or proposed turnpike project or system.

(f) Except as provided by this section, an authority has the same powers and may use the same procedures with respect to the study, financing, design, construction, maintenance, repair, and operation of a highway or similar facility under this section as are available to the authority with respect to a turnpike project or system.

Sec. 366.038. TOLL PROJECTS IN TERRITORY OF LOCAL OR REGIONAL TOLL PROJECT ENTITY. (a) In this section, "local toll project entity" means a regional tollway authority under this chapter.

(b) For each toll project located within the boundaries of a local toll project entity, after completion of the market valuation the policy board of the metropolitan planning organization shall notify the local toll project entity by mail that the entity has the first option to develop, finance, construct, and operate the project. The toll project entity must decide whether to exercise the option before the 90th day after the date the notice sent under this subsection is received by the local toll project entity.

(c) If the local toll project entity does not exercise the option to develop, finance, construct, and operate a toll project under Subsection (b), the metropolitan planning organization shall allow the department to develop, finance, construct, and operate the project.

(d) If the department determines that a toll project offered to the department under Subsection (c) should be developed, financed, constructed, and operated under a comprehensive development agreement, a request for proposal shall include the terms and conditions approved by the policy board of the metropolitan planning organization.

(e) If a local toll project entity does not exercise the right to first option under Subsection (b) and after five years after the date of the notice under Subsection (b) the commission or the department has not issued a request for proposal or taken any other action to begin the toll project, before taking such an action the commission or the department shall provide the toll project entity the right to first option under Subsection (b).

(f) A local toll project entity shall provide customer service and other toll collection and enforcement services for a toll project, regardless of whether the toll project is developed, financed, constructed, and operated under a comprehensive development agreement or an agreement with the toll project entity.

(g) For the purposes of this section, a notice is considered received on the third business day after the date that the notice is mailed.

SECTION 13. The heading to Section 366.185, Transportation Code, is amended to read as follows:

Sec. 366.185. ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES [~~COMPETITIVE BIDDING~~].

SECTION 14. Section 366.185, Transportation Code, is amended by amending Subsection (a) and adding Subsections (c) through (f) to read as follows:

(a) A contract made by an authority that requires the expenditures of public funds for the construction or maintenance of a turnpike project ~~may~~ ~~[must]~~ be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the authority's criteria.

(c) An authority may procure a combination of engineering, design, and construction services in a single procurement for a turnpike project, provided that any contract awarded results in the best value to the authority.

(d) The authority shall adopt rules governing the award of contracts for engineering, design, construction, and maintenance services in a single procurement.

(e) Notwithstanding any other provision of state law, an authority may let a contract for the design and construction of a turnpike project by a construction manager-at-risk procedure under which the construction manager-at-risk provides consultation to the authority during the design of the turnpike project and is responsible for construction of the turnpike project in accordance with the authority's specifications. A construction manager-at-risk shall be selected on the basis of criteria established by the authority, which may include the construction manager-at-risk's experience, past performance, safety record, proposed personnel and methodology, proposed fees, and other appropriate factors that demonstrate the construction manager-at-risk's ability to provide the best value to the authority and to deliver the required services in accordance with the authority's specifications.

(f) The authority shall adopt rules governing the award of contracts using construction manager-at-risk procedures under this section.

SECTION 15. Subchapter F, Chapter 366, Transportation Code, is amended by adding Sections 366.2521 and 366.2522 to read as follows:

Sec. 366.2521. GIFTS AND CONTRIBUTIONS; OFFENSE. (a) In this section, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

(b) A director commits an offense if the person solicits, accepts, or agrees to accept any benefit from:

(1) a person the director knows to be subject to regulation, inspection, or investigation by the authority; or

(2) a person the director knows is interested in or likely to become interested in any contract, purchase, payment, claim, transaction, or matter involving the exercise of the director's discretion.

(c) A director who receives an unsolicited benefit that the director is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(d) This section does not apply to:

(1) a fee prescribed by law to be received by a director;

(2) a benefit to which the director is lawfully entitled; or

(3) a benefit for which the director gives legitimate consideration in a capacity other than as a director.

(e) An offense under this section is a Class A misdemeanor.

(f) If conduct that constitutes an offense under this section also constitutes an offense under Section 36.08, Penal Code, the actor may be prosecuted under this section or Section 36.08.

Sec. 366.2522. OFFERING GIFT TO A DIRECTOR; OFFENSE. (a) A person commits an offense if the person offers, confers, or agrees to confer any benefit on a director that the person knows the director is prohibited from accepting under Section 366.2521.

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

(c) If conduct that constitutes an offense under this section also constitutes an offense under Section 36.09, Penal Code, the actor may be prosecuted under this section or Section 36.09.

SECTION 16. Subchapter F, Chapter 366, Transportation Code, is amended by adding Section 366.2575 to read as follows:

Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. The commissioners court of a county of an authority may request the board of the authority to vote on whether to build a project that the county requests.

SECTION 17. Subchapter G, Chapter 366, Transportation Code, is amended by adding Section 366.305 to read as follows:

Sec. 366.305. TRANS-TEXAS CORRIDOR PROJECTS. If an authority is requested by the commission to participate in the development of a turnpike project that has been designated as part of the Trans-Texas Corridor, the authority shall have, in addition to all powers granted in this chapter, all powers of the department related to the development of Trans-Texas Corridor projects.

SECTION 18. 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, 2007.

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

Amend **CSHB 1892** (Senate committee printing) in SECTION 5 by adding the following Subsection 284.003(g):

(g) An action of a county taken under this chapter must comply with the requirements of applicable federal law. The foregoing compliance requirement shall apply to the role of metropolitan planning organizations under federal law, including the approval of projects for conformity to the state implementation plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to Federal-aid highways. Notwithstanding an action of a county taken under this chapter, the commission or department may take any action that is necessary to comply with any federal requirement to enable the state to receive Federal-aid highway funds.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 1892** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 223.201(f), Transportation Code, is amended to read as follows:

(f) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2009 ~~[2011]~~.

SECTION _____. Section 370.305(d), Transportation Code, is amended to read as follows:

(d) This section expires on August 31, 2009 ~~[2011]~~.

SECTION _____. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 371 to read as follows:

CHAPTER 371. COMPREHENSIVE DEVELOPMENT AGREEMENTS FOR
HIGHWAY TOLL PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. DEFINITIONS. In this chapter:

(1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:

(A) a part of the state highway system; or

(B) subject to the jurisdiction of the department.

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, operate, and maintain a toll project, including:

(A) the department, including under Chapter 227;

(B) a regional tollway authority under Chapter 366;

(C) a regional mobility authority under Chapter 370; or

(D) a county under Chapter 284.

[Sections 371.002-371.050 reserved for expansion]

SUBCHAPTER B. OVERSIGHT

Sec. 371.051. ATTORNEY GENERAL REVIEW. A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

Sec. 371.052. NOTIFICATION TO LEGISLATIVE BUDGET BOARD AND STATE AUDITOR. (a) Not later than the 10th day after the date of qualifying or shortlisting private entities to submit detailed proposals for a toll project, a toll project entity shall provide the Legislative Budget Board with the names of qualifying or shortlisted proposers and their team members.

(b) At least 30 days before entering into a comprehensive development agreement, a toll project entity shall provide the Legislative Budget Board with:

(1) a copy of the version of the proposed comprehensive development agreement to be executed;

(2) a copy of the proposal submitted by the apparent best value proposer; and

(3) a financial forecast prepared by the toll project entity that includes:

(A) toll revenue the entity projects will be derived from the project during the planned term of the agreement;

(B) estimated construction costs and operating expenses; and

(C) the amount of income the entity projects the private participant in the agreement will realize during the planned term of the agreement.

(c) Before entering into a comprehensive development agreement, a toll project entity shall provide the state auditor with the traffic and revenue report prepared by the toll project entity or its consultant for the project. The entity may not enter into the comprehensive development agreement before the 30th day after the date that the state auditor receives the report so that the state auditor may review and comment on the report and the methodology used to develop the report.

(d) Before the comprehensive development agreement is entered into, financial forecasts and traffic and revenue reports prepared by or for a toll project entity for the project are confidential and are not subject to disclosure, inspection, or copying under Chapter 552, Government Code.

[Sections 371.053-371.100 reserved for expansion]

SUBCHAPTER C. CONTRACT PROVISIONS

Sec. 371.101. TERMINATION FOR CONVENIENCE. (a) A toll project entity having rulemaking authority by rule and a toll project entity without rulemaking authority by official action shall develop a formula for making termination payments to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a toll project. A formula must calculate an estimated amount of loss to the private participant as a result of the termination for convenience that is based on investments, expenditures, and rate of return associated with the project.

(b) A formula under Subsection (a) may not include an estimate of future revenue from the project.

Sec. 371.102. TERMINATION OF CERTAIN COMPREHENSIVE DEVELOPMENT AGREEMENTS. If a toll project entity elects to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a project, the entity may:

(1) if authorized to issue bonds for that purpose, issue bonds to:

(A) make any applicable termination payments to the private participant; or

(B) purchase the interest of the private participant in the comprehensive development agreement or related property; or

(2) provide for the payment of obligations of the private participant incurred pursuant to the comprehensive development agreement.

Sec. 371.103. PROHIBITION AGAINST LIMITING OR PROHIBITING CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive development agreement may not contain a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project, as that term is defined by Section 370.003, by the toll project entity or other governmental entity, or by a private entity under a contract with the toll project entity or other governmental entity.

(b) Except as provided by Subsection (c), a comprehensive development agreement may contain a provision authorizing the toll project entity to compensate the private participant in the agreement for the loss of toll revenues attributable to the construction by the entity of a limited access highway project located within an area that extends up to four miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any.

(c) A comprehensive development agreement may not require the toll project entity to provide compensation for the construction of:

(1) a highway project contained in the state transportation plan or a transportation plan of a metropolitan planning organization in effect on the effective date of the agreement;

(2) work on or improvements to a highway project necessary for improved safety, or for maintenance or operational purposes;

(3) a high occupancy vehicle exclusive lane addition or other work on any highway project that is required by an environmental regulatory agency; or

(4) a transportation project that provides a mode of transportation that is not included in the project that is the subject of the comprehensive development agreement.

(d) The private participant has the burden of proving any loss of toll revenue resulting from the construction of a highway project described by Subsection (b).

(e) A comprehensive development agreement that contains a provision described by Subsection (b) must require the private participant to provide compensation to the toll project entity in the amount of any increase in toll revenues received by the private participant that is attributable to the construction of a highway project described by Subsection (b), less the private participant's increased operation and maintenance costs attributable to the highway project, if any.

[Sections 371.104-371.150 reserved for expansion]

SUBCHAPTER D. DISCLOSURE OF INFORMATION

Sec. 371.151. DISCLOSURE OF FINANCIAL INFORMATION. (a)

Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the manner provided by Section 371.152 information regarding:

(1) project financing, including:

(A) the total amount of debt that has been and will be assumed to acquire, design, construct, operate, and maintain the toll project;

(B) a description of how the debt will be repaid, including a projected timeline for repaying the debt; and

(C) the projected amount of interest that will be paid on the debt;

(2) whether the toll project will continue to be tolled after the debt has been repaid;

(3) a description of the method that will be used to set toll rates;

(4) a description of any terms in the contract relating to competing facilities, including any penalties associated with the construction of a competing facility;

(5) a description of any terms in the contract relating to a termination for convenience provision, including any information regarding how the value of the project will be calculated for the purposes of making termination payments;

(6) the initial toll rates, the methodology for increasing toll rates, and the projected toll rates at the end of the term of the contract; and

(7) the projected total amount of concession payments.

(b) A toll project entity may not enter into a contract for the construction of a toll project before the 30th day after the date the information is first published under Section 371.152.

Sec. 371.152. DISCLOSURE BY PUBLICATION. (a) Information under Section 371.151 must be published in a newspaper published in the county in which the toll project is to be constructed once a week for at least two weeks before the time set for entering into the contract and in two other newspapers that the toll project entity may designate.

(b) Instead of the notice required by Subsection (a), if the toll project entity estimates that the contract involves an amount less than \$300,000, the information may be published in two successive issues of a newspaper published in the county in which the project is to be constructed.

(c) If a newspaper is not published in the county in which the toll project is to be constructed, notice shall be published in a newspaper published in the county:

(1) nearest the county seat of the county in which the improvement is to be made; and

(2) in which a newspaper is published.

Sec. 371.153. HEARING. (a) A toll project entity shall hold a public hearing on the information published under Section 371.152 not later than the 10th day after the date the information is first published and not less than 10 days before the entity enters into the contract.

(b) A hearing under this section must be held in the county seat of the county in which the toll project is located.

(c) A hearing under this section must include a formal presentation and a mechanism for responding to comments and questions.

SECTION _____. (a) Section 223.203, Transportation Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) A private entity responding to a request for detailed proposals issued under Subsection (f) may submit alternative proposals based on comprehensive development agreements having different terms, with the alternative terms in multiples of 10 years, ranging from 10 years to 40 years or any lesser term provided in a comprehensive development agreement.

(b) Section 223.208(h), Transportation Code, is amended to read as follows:

(h) A ~~Except as provided by this section, a~~ comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 40 ~~[50]~~ years. The comprehensive development agreement must contain ~~[may be for a term not longer than 70 years if the agreement:~~

~~[(1) contains] an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement[; and~~

~~[(2) outlines the benefit the state will derive from having a term longer than 50 years].~~

(c) Section 227.023(f), Transportation Code, is amended to read as follows:

(f) A contract with a private entity that includes the collection by the private entity of a fee for the use of a facility may not be for a term longer than 40 ~~[50]~~ years. The contract must contain an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the contract.

(d) Section 370.302(i), Transportation Code, is amended to read as follows:

(i) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project may not be for a term longer than 40 ~~[50]~~ years. The agreement must contain an explicit mechanism for setting the price for the purchase by the authority of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

(e) The changes in law made by this section apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION _____. Subchapter A, Chapter 227, Transportation Code, is amended by adding Sections 227.005, 227.006, 227.007, and 227.008 to read as follows:

Sec. 227.005. PUBLIC ACCESS TO INFORMATION. (a) The department shall:

(1) seek to achieve transparency in the department's functions related to the Trans-Texas Corridor by providing, to the greatest extent possible under the public information law (Chapter 552, Government Code) and other statutes governing the access to records, public access to information collected, assembled, or maintained by the department relating to the Trans-Texas Corridor;

(2) make public in a timely manner all documents, plans, and contracts related to the Trans-Texas Corridor; and

(3) make public in a timely manner all updates to the master development plan for the Trans-Texas Corridor, including financial plans.

(b) The department shall send electronic versions of all updates to the master development plan for the Trans-Texas Corridor to the Governor's Office of Budget and Planning, the Senate Finance Committee, the House Appropriations Committee, the Legislative Budget Board, the state auditor's office, and the comptroller in a timely manner.

Sec. 227.006. POSTING INFORMATION RELATING TO TRANS-TEXAS CORRIDOR ON DEPARTMENT'S WEBSITE. (a) The department shall post on the department's Internet website, in a timely manner, the costs incurred by the department in connection with the financing, design, construction, maintenance, or operation of the Trans-Texas Corridor.

(b) Not later than the 10th day after the date the department enters into a contract relating to the Trans-Texas Corridor, the department shall post a copy of the contract on the department's Internet website.

SECTION _____. Section 223.203(m), Transportation Code, is amended to read as follows:

(m) The department may [~~shall~~] pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. A [~~The~~] stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

(1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the department.

SECTION _____. Section 370.306(m), Transportation Code, is amended to read as follows:

(m) An authority may [~~shall~~] pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred in preparing that proposal. A [~~The~~] stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this subsection. After payment of the stipulated amount:

(1) the authority owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design; and

(2) the work product contained in the proposal becomes the property of the authority.

(2) In SECTION 1 of the bill, in proposed Section 223.210, Transportation Code (page 1, between lines 53 and 54), insert the following:

(c-1) Subsection (b) does not apply to a comprehensive development agreement in connection with a project associated with any portion of the Loop 9 project that is located in a nonattainment air quality area as designated by the United States Environmental Protection Agency that includes two adjacent counties that each have a population of one million or more.

(3) In SECTION 1 of the bill, in proposed Section 223.210, Transportation Code (page 2, between lines 22 and 23), insert the following:

(c-3) Subsection (c) does not apply to any toll project or managed lane facility project located on any portion of U.S. Highway 281 that is located in a county with a population of more than one million in which more than 80 percent of the population lives in a single municipality.

(4) In SECTION 12 of the bill, in the introductory language (page 12, line 56), strike "366.037 and 366.038" and substitute "366.037, 366.038, and 366.039".

(5) In SECTION 12 of the bill, at the end of proposed Section 366.038, Transportation Code (page 14, between lines 13 and 14), insert the following:

(h) A local toll project entity that exercises the option under Subsection (b) must begin the environmental phase of the project within 18 months of the action taken by the entity under Subsection (b).

Sec. 366.039. USE OF STATE HIGHWAY ALIGNMENT, RIGHT-OF-WAY, AND ACCESS. (a) Notwithstanding any other law, an authority may use any authority property, state highway right-of-way, or access to the state highway system, regardless of when or how the property, right-of-way, or access is acquired. The department or the commission may require the authority to comply with any covenant, condition, restriction, or limitation that affects state highway right-of-way, but may not:

(1) adopt rules or establish policies that have the effect of denying the authority the use of the right-of-way or access that the authority has determined to be necessary or convenient for the construction, acquisition, improvement, operation, maintenance, or pooling of a project under this chapter; or

(2) require the authority to pay for the use of the right-of-way or access, except to reimburse the commission or department for actual costs incurred or to be incurred by a third party, including the federal government, as a result of that use by the authority.

(b) If a project of an authority under this chapter includes the proposed use of improved state highway right-of-way, the authority and the commission or the department must enter into an agreement that includes reasonable terms to accommodate that use of the right-of-way by the authority and to protect the interests of the commission and the department in the use of the right-of-way for operations of the department, including public safety and congestion mitigation on the improved right-of-way.

(c) Notwithstanding any other law, the commission and the department are not liable for any damages that result from an authority's use of state highway right-of-way or access to the state highway system under this chapter, regardless of the legal theory, statute, or cause of action under which liability is asserted.

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend Floor Amendment No. 2 by Carona to **CSHB 1892** as follows:

1. Page 1, between lines 9 and 10, insert the following:

Section 223.201(f), Transportation Code does not apply to a comprehensive development agreement in connection with a project that:

(a) that includes one or more managed lane facilities to be added to an existing controlled-access highway;

(b) the major portion of which is located in a nonattainment or near nonattainment air quality area as designed by the United States Environmental Protection Agency; and

(c) for which the department has issued a request for qualifications before the effective date of this section.

2. Page 1, between lines 12 and 13, insert the following:

Section 370.305(d), Transportation Code does not apply to a comprehensive development agreement in connection with a project that:

(a) that includes one or more managed lane facilities to be added to an existing controlled-access highway;

(b) the major portion of which is located in a nonattainment or near nonattainment air quality area as designed by the United States Environmental Protection Agency; and

(c) for which the department has issued a request for qualifications before the effective date of this section.

Senate Amendment No. 4 (Senate Floor Amendment No. 5)

Amend the **CSHB 1892** as follows:

(1) On page 2, line 3, strike "90" and substitute "60".

Senate Amendment No. 5 (Senate Floor Amendment No. 6)

Amend **CSHB 1892** (Senate committee printing) as follows:

(1) Add a new SECTION 10 to read as follows and renumber subsequent sections appropriately:

SECTION 10. Section 366.301, Transportation Code, is amended by adding the following new Subsection 366.301(e):

(e) An action of an authority under this chapter must comply with the requirements of applicable federal law, if any, including standards regarding the role of metropolitan planning organizations under federal law, the use of toll revenue, the planning, design, financing, construction, and operation of turnpike projects, and the use of right-of-way of and access to federal-aid highways, to the extent such standards are otherwise applicable to an authority's turnpike project. Nothing in this chapter shall impair the ability of the commission or the department to ensure compliance with any federal requirement enabling the state to receive federal highway money.

Senate Amendment No. 6 (Senate Floor Amendment No. 7)

Amend **CSHB 1892** (Senate committee printing) as follows:

(1) Add a new SECTION ____ to read as follows and renumber subsequent sections appropriately:

SECTION _____. Section 370.301(d), Transportation Code, is amended as follows:

(d) The commission or department may use federal money for any purpose described by this chapter. An action of an authority under this chapter or chapter 228 must comply with the requirements of applicable federal law, if any,

including standards regarding the role of metropolitan planning organizations under federal law, the use of toll revenue, the planning, design, financing, construction, and operation of turnpike projects, and the use of right-of-way of and access to federal-aid highways, to the extent such standards are otherwise applicable to an authority's turnpike project. Nothing in this chapter or chapter 228 shall impair the ability of the commission or the department to ensure compliance with any federal requirement enabling the state to receive federal highway money.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 1389 ON THIRD READING
(Hochberg - House Sponsor)**

SB 1389, A bill to be entitled An Act relating to the processing of consumer rebates.

Amendment No. 1

Representative Hochberg offered the following amendment to **SB 1389**:

Amend **SB 1389** on third reading as follows:

(1) On page 4, line 17, after "actionable", insert the following:
"by a consumer"

(2) On page 4, line 17, after the period, insert the following:
"Claims related to more than one consumer may not be joined in a single action brought for an alleged violation of this subchapter, unless all parties agree."

(3) On page 4, line 20, insert the following:
"(n) A violation of this section is subject to an action by the office of the attorney general as provided by Section 17.46(a)."

Amendment No. 1 was adopted.

SB 1389 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CASTRO: For purposes of legislative intent, I just want to clarify that when somebody supplies an e-mail address on a rebate application that the retailer or the person receiving the rebate application can use that e-mail address to communicate with the person applying, is that right?

REPRESENTATIVE HOCHBERG: Yes, sir. That would be considered an authorization to communicate with them by e-mail under the bill as long as they provided an E-mail address on the rebate application form.

REMARKS ORDERED PRINTED

Representative Castro moved to print remarks between Representative Hochberg and Representative Castro.

The motion prevailed.

A record vote was requested.

SB 1389, as amended, was passed by (Record 867): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Burnam; Cook, R.; Farias; Flynn; Goolsby; Hill; Hopson; Latham; McClendon; Swinford.

STATEMENTS OF VOTE

When Record No. 867 was taken, I was in the house but away from my desk. I would have voted yes.

R. Cook

When Record No. 867 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

SB 1209 ON THIRD READING (Krusee - House Sponsor)

SB 1209, A bill to be entitled An Act relating to the relocation of utility facilities required by improvement of a state highway.

A record vote was requested.

SB 1209 was passed by (Record 868): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Haggerty; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Howard, C.;

Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Alonzo; Bolton; Flores; Flynn; Frost; Goolsby; Hamilton; Hopson; King, T.; Latham; Madden; McClendon; Naishtat; Villarreal.

STATEMENTS OF VOTE

When Record No. 868 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 868 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

When Record No. 868 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

SB 1107 ON THIRD READING (Naishtat - House Sponsor)

SB 1107, A bill to be entitled An Act relating to the powers and duties of the Travis County Healthcare District.

(Krusee in the chair)

A record vote was requested.

SB 1107 was passed by (Record 869): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose;

Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Flynn; Gattis; Orr.

STATEMENT OF VOTE

When Record No. 869 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

SB 1580 ON THIRD READING

(Haggerty, Madden, and Hodge - House Sponsors)

SB 1580, A bill to be entitled An Act relating to the provision of pay telephone service to inmates confined in facilities operated by the Texas Department of Criminal Justice.

A record vote was requested.

SB 1580 was passed by (Record 870): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Flynn; Hill.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 870. I intended to vote no.

Bohac

When Record No. 870 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

POSTPONED BUSINESS

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

SB 671 ON SECOND READING (Miles - House Sponsor)

SB 671, A bill to be entitled An Act relating to territory included in, and the validation of acts of, the Greater Southeast Management District.

SB 671 was considered in lieu of **HB 1383**.

SB 671 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1383 - LAID ON THE TABLE SUBJECT TO CALL

Representative Miles moved to lay **HB 1383** on the table subject to call.

The motion prevailed.

CSSB 288 ON SECOND READING (Delisi - House Sponsor)

CSSB 288, A bill to be entitled An Act relating to the reporting of health care-associated infections at certain health care facilities and the creation of an advisory panel.

CSSB 288 was considered in lieu of **CSHB 1398**.

CSSB 288 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1398 - LAID ON THE TABLE SUBJECT TO CALL

Representative Delisi moved to lay **CSHB 1398** on the table subject to call.

The motion prevailed.

MAJOR STATE CALENDAR HOUSE BILLS THIRD READING

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

HB 3928 ON THIRD READING (by Keffer, Ritter, Otto, Paxton, Pitts, et al.)

HB 3928, A bill to be entitled An Act relating to technical changes to the revised franchise tax.

Amendment No. 1

Representative Keffer offered the following amendment to **HB 3928**:

Amend **HB 3928** (2nd Reading Engrossment) on third reading as follows:

(1) On page 1, lines 17 and 18, strike "50 [80] percent or more," and substitute "more than 50 [80] percent [or more],".

(2) On page 1, lines 19 and 20, strike "50 [80] percent or more," and substitute "more than 50 [80] percent [or more],".

(3) On page 1, lines 23 and 24, strike "50 [80] percent or more," and substitute "more than 50 [80] percent [or more],".

(4) On page 2, lines 3 and 4, strike "50 percent or more," and substitute "more than 50 percent,".

(5) On page 2, lines 5 and 6, strike "50 percent or more," and substitute "more than 50 percent,".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Thompson offered the following amendment to **HB 3928**:

Amend **HB 3928** by adding a new section and renumbering the subsequent sections appropriately:

Section 33: No entity covered by this Chapter may separately state any reductions in price on a customer's bill, nor may any entity separately state any reductions in property taxes on a customer's bill pursuant to this Chapter.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Villarreal offered the following amendment to **HB 3928**:

Amend **HB 3928**, second reading engrossment, as follows:

(1) On page 40, line 1, between "(a)" and "A taxable", insert the following: In this section, "art museum" and "museum" mean an institution that:

(1) is operated by a nonprofit organization or public entity primarily to display fine visual works of art; and

(2) has a permanent collection with a value that exceeds \$100 million.

(b)

(2) On page 40, line 9, strike "(b)" and substitute "(c)".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Thompson offered the following amendment to **HB 3928**:

Amend **HB 3928** on 3rd reading by adding a new section and renumbering the subsequent sections appropriately:

Section 33: No entity covered by this Chapter 171 Tax Code may separately state any reductions in price on a customer's bill, ~~nor may any entity separately state any reductions in property taxes on a customer's bill pursuant to this Chapter.~~

Amendment No. 4 was adopted.

A record vote was requested.

HB 3928, as amended, was passed by (Record 871): 138 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Creighton;

Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Elkins; Merritt; Talton.

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

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Crabb; Flynn; Riddle; Vaught.

STATEMENTS OF VOTE

When Record No. 871 was taken, I was temporarily out of the house chamber. I would have voted yes.

Crabb

When Record No. 871 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

HB 626 ON THIRD READING

(by P. King, Christian, Macias, Paxton, Crabb, et al.)

HB 626, A bill to be entitled An Act relating to the procedures for registering to vote.

Amendment No. 1

Representative P. King offered the following amendment to **HB 626**:

Amend **HB 626** (second reading engrossment) on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 406.024, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), a [A] notary public or its employer may charge the following fees:

- (1) for protesting a bill or note for nonacceptance or nonpayment, register and seal, a fee of \$4;
- (2) for each notice of protest, a fee of \$1;
- (3) for protesting in all other cases, a fee of \$4;
- (4) for certificate and seal to a protest, a fee of \$4;

(5) for taking the acknowledgment or proof of a deed or other instrument in writing, for registration, including certificate and seal, a fee of \$6 for the first signature and \$1 for each additional signature;

(6) for administering an oath or affirmation with certificate and seal, a fee of \$6;

(7) for a certificate under seal not otherwise provided for, a fee of \$6;

(8) for a copy of a record or paper in the notary public's office, a fee of 50 cents for each page;

(9) for taking the deposition of a witness, 50 cents for each 100 words;

(10) for swearing a witness to a deposition, certificate, seal, and other business connected with taking the deposition, a fee of \$6; and

(11) for a notarial act not provided for, a fee of \$6.

(c) A notary public or its employer may not charge a fee for the notarization of an affidavit required under Section 13.072(e), Election Code.

Amendment No. 1 was adopted.

A record vote was requested.

HB 626, as amended, was passed by (Record 872): 88 Yeas, 56 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Farabee; Flores; Gattis; Geren; Giddings; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hodge; Hopson; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; McClendon; McReynolds; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Quintanilla; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farias; Farrar; Frost; Gallego; Garcia; Gonzales; Gonzalez Toureilles; Hernandez; Herrero; Hochberg; Homer; Howard, D.; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; Menendez; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Raymond; Rodriguez; Rose; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

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

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Flynn.

STATEMENTS OF VOTE

When Record No. 872 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

I was shown voting yes on Record No. 872. I intended to vote no.

Giddings

When Record No. 872 was taken, I was temporarily out of the house chamber. I would have voted no.

Guillen

I was shown voting yes on Record No. 872. I intended to vote no.

Hodge

I was shown voting yes on Record No. 872. I intended to vote no.

McClendon

I was shown voting yes on Record No. 872. I intended to vote no.

Quintanilla

HB 2173 ON THIRD READING

(by B. Cook, Truitt, Flynn, McClendon, and Kolkhorst)

HB 2173, A bill to be entitled An Act relating to the continuation and functions of the Prepaid Higher Education Tuition Board.

A record vote was requested.

HB 2173 was passed by (Record 873): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Brown, F.; Guillen; Moreno.

Absent — Flynn; Hochberg.

STATEMENT OF VOTE

When Record No. 873 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

POSTPONED BUSINESS

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

(Guillen now present)

HB 489 ON THIRD READING

(by Berman)

HB 489, A bill to be entitled An Act relating to the duty of a passenger involved in certain accidents to render aid.

HB 489 was read third time on May 1, amendments were offered and disposed of, and **HB 489** was postponed until this time.

Amendment No. 2

Representative Gonzalez Toureilles offered the following amendment to **HB 489**:

Amend **HB 489** on third reading as follows:

(1) Strike added Section 550.021(d), Transportation Code, and substitute the following:

(d) Subsections (b-1) and (b-2) do not apply to a passenger:

- (1) who is younger than 17 years of age or older than 80 years of age;
- (2) who is mentally incapacitated at the time of the accident; or
- (3) riding in a seat other than the front seat of a vehicle.

(2) Strike added Section 550.023(c), Transportation Code, and substitute the following:

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

- (1) who is younger than 17 years of age or older than 80 years of age;
- (2) who is mentally incapacitated at the time of the accident; or
- (3) riding in a seat other than the front seat of a vehicle.

Amendment No. 2 was adopted.

A record vote was requested.

HB 489, as amended, failed to pass by (Record 874): 38 Yeas, 100 Nays, 3 Present, not voting.

Yeas — Allen; Anderson; Berman; Callegari; Christian; Cohen; Cook, R.; Corte; Crabb; Crownover; Darby; Delisi; Driver; Eissler; Farias; Garcia; Goolsby; Hartnett; Herrero; Hilderbran; Jackson; Jones; King, P.; King, S.; Latham; Leibowitz; Macias; Miller; Parker; Riddle; Smith, T.; Smithee; Solomons; Swinford; Vaught; West; Woolley; Zedler.

Nays — Alonzo; Anchia; Aycocck; Bailey; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Castro; Chavez; Chisum; Coleman; Cook, B.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Elkins; England; Escobar;

Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Keffer; King, T.; Kolkhorst; Kuempel; Laubenberg; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, W.; Strama; Straus; Talton; Taylor; Thompson; Truitt; Van Arsdale; Veasey; Villarreal; Vo; Zerwas.

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

Absent, Excused — Brown, F.; Moreno.

Absent — Creighton; Flynn; Gattis; Giddings; Gonzalez Toureilles; Hughes; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 874. I intended to vote no.

R. Cook

When Record No. 874 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 874 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 874 was taken, I was in the house but away from my desk. I would have voted no.

Gattis

I was shown voting yes on Record No. 874. I intended to vote no.

T. Smith

HB 922 ON THIRD READING (by Truitt)

HB 922, A bill to be entitled An Act relating to the power of a municipality to enforce compliance with speed limits by an automated traffic control system.

HB 922 was read third time on May 1 and was postponed until this time.

Representative Truitt moved to postpone consideration of **HB 922** until 3:30 p.m. today.

The motion prevailed.

GENERAL STATE CALENDAR HOUSE BILLS THIRD READING

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

HB 620 ON THIRD READING
(by Puente)

HB 620, A bill to be entitled An Act relating to retroactive child support and notification in cases involving an anticipated adoption that is not completed.

Representative Puente moved to postpone consideration of **HB 620** until 11:59 p.m. Thursday, May 10.

The motion prevailed.

MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING

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

(Speaker in the chair)

CSHB 12 ON SECOND READING
(by Hilderbran, Guillen, Chisum, Turner, B. Cook, et al.)

CSHB 12, A bill to be entitled An Act relating to the funding, powers, and duties of the Parks and Wildlife Department and the Texas Historical Commission.

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. 30).

CSHB 12 - (consideration continued)

Amendment No. 1

Representative Hilderbran offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) as follows:

(1) On page 1, line 6, strike "442.0051 and 442.0052" and substitute "442.0051, 442.0052, and 442.0053".

(2) One page 1, between lines 16 and 17, insert the following:

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property donated to the commission for inclusion in the historic sites system.

(b) The commission may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The commission may renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

(3) On page 4, between lines 22 and 23 insert the following:

(e) The legislature may adjust the percentages allocated to the commission and the Parks and Wildlife Department under Section 151.801(c), Tax Code, in future appropriations to reflect the transfer of a site under this section and the

~~associated savings or costs to each agency. Future appropriations to the commission under Section 151.801(e), Tax Code, may not exceed 10 percent of the proceeds.~~

(4) On page 9, line 26, strike "LAND" and substitute "REAL PROPERTY".

(5) On page 9, line 27, between "SYSTEM." and "The", insert "(a)".

(6) On page 10, line 1, strike "land" and substitute "real property".

(7) On page 10, between lines 2 and 3, insert the following:

(b) The department may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The department may renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

(8) On page 27, between lines 22 and 23 insert the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Any restrictions on the allocation of money in the state parks account under Section 11.035, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas parks and wildlife conservation and capital account under Section 11.043, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas parks and wildlife recreation account under Section 24.002, Parks and Wildlife Code, as amended by this Act, or on the allocation of that money under Section 24.003, Parks and Wildlife Code, as amended by this Act, do not apply to a one-time appropriation of the unencumbered balances of those accounts on August 31, 2007, made by a rider to the General Appropriations Act that:

(1) is contingent on the enactment of this or a similar Act by the 80th Legislature; and

(2) provides for the one-time allocation of that money to the Parks and Wildlife Department and the Texas Historical Commission to be used for the repair, renovation, maintenance, and other one-time costs associated with state historic sites and state parks.

SECTION _____. (a) In this section, "nonprofit corporation" has the meaning assigned by Section 24.001, Parks and Wildlife Code.

(b) The Texas Historical Commission shall accept bids to partner with a Texas nonprofit corporation to build, administer, and operate a museum and education center in Texas. The corporation must have been established prior to 1975 and must have as its mission historical education and the preservation of Texas history. The goal of the museum must be to preserve and convey Texas history from approximately 1820 to the present. The agreement between the corporation and the Texas Historical Commission concerning the museum must be modeled on the agreement between the commission and the Admiral Nimitz Foundation for the administration and operation of the Admiral Nimitz Museum in Fredericksburg. A qualified bidder, at the time of the bid submission, must be a nonprofit corporation as described by this section, that:

(1) agrees to donate land to the Texas Historical Commission that is not less than 14 acres and has a fair market value of at least \$1 million; and

(2) has an endowment of at least:

(A) \$4 million to operate and maintain the museum;

(B) \$4 million to build the museum exhibits; and

(C) \$1 million for miscellaneous museum preparation and planning.

(c) All bids for the museum under this section must be received by the Texas Historical Commission not later than September 31, 2007. The commission may extend that deadline if the commission considers it necessary.

SECTION _____. The name of the Peach Point Wildlife Management Area is changed to the Justin Hurst Wildlife Management Area.

Amendment No. 1 was adopted. (Anderson and Dunnam recorded voting no.) (The vote was reconsidered later today, and Amendment No. 1, as amended was adopted).

Amendment No. 2

Representative Burnam offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) as follows:

(1) Strike SECTIONS 2 and 3 of the bill (page 1, line 17, through page 4, line 22), and renumber subsequent SECTIONS accordingly.

(2) On page 25, lines 2-3, strike "and deposited as specified in Section 442.073, Government Code".

(3) Strike SECTION 28 of the bill (page 25, line 14, through page 27, line 13) and renumber subsequent SECTIONS accordingly.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Dunnam offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) by striking SECTION 13 of the bill (page 11, line 15, through page 12, line 4), and renumbering subsequent SECTIONS of the bill accordingly.

(F. Brown now present)

Representative Hilderbran moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 875): 77 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Delisi; Driver; Eissler; Elkins; England; Farabee; Frost; Gallego; Gattis; Geren; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Riddle; Smith, T.; Smith, W.; Smithee; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farias; Farrar; Flores; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Hernandez; Herrero; Hochberg; Hodge; Homer; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solomons; Strama; Talton; Thompson; Turner; Vaught; Veasey; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Moreno.

Absent — Anderson; Flynn; King, S.; Madden; Pickett; Straus.

STATEMENTS OF VOTE

When Record No. 875 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 875 was taken, my vote failed to register. I would have voted yes.

S. King

LEAVE OF ABSENCE GRANTED

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

Gattis on motion of Homer.

CSHB 12 - (consideration continued)

Amendment No. 4

Representative D. Howard offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) as follows:

(1) On page 26, strike lines 23-25 and substitute the following:

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

(1) a mission statement outlining the goals for the site;

(2) an interpretive plan showing how the mission is to be accomplished;

(3) an operational plan, including:

(A) facilities, documents, records, and other assets to be transferred;

(B) parties responsible for daily site management, including staff that will be transferred;

(C) off-site support structure;

(D) plans for artifact and archival curation;

(E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and

(F) emergency plans;

(4) a maintenance plan, including maintenance and repair needs;

(5) a marketing plan;

(6) a business plan, including revenue and visitation goals;

(7) a plan for compliance with:

(A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and

(B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and

(8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) An independent committee shall review and provide comments to the Texas State Historical Commission on each base operating plan described by Subsection (f) of this section before the transfer of the site for which the plan was prepared. The Texas State Historical Commission shall give due consideration to the comments provided by the independent committee. The committee shall be appointed by the chair of the House Committee on Culture, Recreation, and Tourism not later than July 1, 2007, if this Act takes immediate effect, or not later than September 10, 2007, if this Act does not take immediate effect. The committee shall be composed of individuals who are each professionally qualified in history, archeology, architecture, acting as a curator, park planning, natural resources, or marketing, and shall be appointed as follows:

(1) one member of the Historic Sites Advisory Committee of the Parks and Wildlife Department;

(2) one member of the Texas Historical Commission subcommittee on historic sites;

(3) one person who works for or has worked for the National Park Service;

(4) one member of a current state park or historic site friends group;

(5) one member of the Council of Texas Archeologists;

(6) one professional archivist;

(7) one current or former professional park manager who does not work for the department or commission;

(8) one person involved in the tourism business or marketing business; and

(9) one person who is a certified collections manager.

(h) The independent committee appointed in Subsection (g) of this section shall keep the House Committee on Culture, Recreation, and Tourism informed of the progress of the transfer of each historic site under this Act.

(i) The independent committee appointed in Subsection (g) of this section shall elect from among its members a presiding officer, a vice presiding officer, and a secretary.

(j) A member of the independent committee appointed in Subsection (g) of this section serves without compensation but is entitled to reimbursement of actual expenses incurred in the performance of committee duties from funds appropriated to the Texas Historical Commission.

(k) The committee appointed in Subsection (g) of this section shall meet as necessary. The committee is dissolved on June 1, 2009, unless otherwise directed by the chair of the House Committee on Culture, Recreation, and Tourism.

(2) On page 26, line 26, strike "(g)" and substitute "(l)".

(3) On page 27, strike lines 3-6.

(4) On page 27, line 7, strike "(i)" and substitute "(m)".

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Castro offered the following amendment to **CSHB 12**:

Amend **CSHB 12** on page 12, between lines 4 and 5, by inserting the following:

(d) The department may not use the labor of an inmate convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Burnam offered the following amendment to **CSHB 12**:

Amend **CSHB 12** on page 12, between lines 4 and 5, by inserting the following:

(d) The department may not use the labor an inmate convicted of any violent offense.

Amendment No. 6 was adopted.

Amendment No. 7

Representative T. King offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) on page 27, between lines 22 and 23, by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS appropriately:

SECTION _____. (a) The Parks and Wildlife Department shall accept the gift of a 16-acre tract of land currently owned by Zavala County that is located adjacent to the Nueces River and United States Highway 83 intersection north of La Pryor, Texas.

(b) The department shall develop the land as a state park or fund the development of a park on that property.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Giddings offered the following amendment to **CSHB 12**:

Amend **CSHB 12** by adding the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION _____. The Parks and Wildlife Department and the Texas Historical Commission shall designate the city of Lancaster as a visitor center. The department and commission shall make the designation required by this section without the expenditure of state funds.

Amendment No. 8 was withdrawn.

MESSAGE FROM THE SENATE

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

CSHB 12 - (consideration continued)

Amendment No. 9

Representative Smithee offered the following amendment to **CSHB 12**:

Amend **CSHB 12** by adding an appropriately numbered section and renumbering the remaining sections of the bill appropriately:

SECTION _____. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0044 to read as follows:

Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In selecting parks for capital improvements, the department shall give a preference to programs in which the department matches locally-raised money on a dollar for dollar basis.

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative D. Howard offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) as follows:

(1) On page 26, strike lines 23-25 and substitute the following:

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

(1) a mission statement outlining the goals for the site;

(2) an interpretive plan showing how the mission is to be accomplished;

(3) an operational plan, including:

(A) facilities, documents, records, and other assets to be transferred;

(B) parties responsible for daily site management, including staff that will be transferred;

(C) off-site support structure;

(D) plans for artifact and archival curation;

(E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and

(F) emergency plans;

(4) a maintenance plan, including maintenance and repair needs;

(5) a marketing plan;

(6) a business plan, including revenue and visitation goals;

(7) a plan for compliance with:

(A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and

(B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and

(8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) An independent committee shall review and provide comments to the Texas State Historical Commission on each base operating plan described by Subsection (f) of this section before the transfer of the site for which the plan was prepared. The Texas State Historical Commission shall give due consideration to the comments provided by the independent committee. The committee shall be appointed by the chair of the House Committee on Culture, Recreation, and Tourism not later than July 1, 2007, if this Act takes immediate effect, or not later than September 10, 2007, if this Act does not take immediate effect. The committee shall be composed of individuals who are each professionally qualified in history, archeology, architecture, acting as a curator, park planning, natural resources, or marketing, and shall be appointed as follows:

(1) one member of the Historic Sites Advisory Committee of the Parks and Wildlife Department;

(2) one member of the Texas Historical Commission subcommittee on historic sites;

(3) one person who works for or has worked for the National Park Service;

(4) one member of a current state park or historic site friends group;

(5) one member of the Council of Texas Archeologists;

(6) one professional archivist;

(7) one current or former professional park manager who does not work for the department or commission;

(8) one person involved in the tourism business or marketing business; and

(9) one person who is a certified collections manager.

(h) The independent committee appointed in Subsection (g) of this section shall keep the House Committee on Culture, Recreation, and Tourism informed of the progress of the transfer of each historic site under this Act.

(i) The independent committee appointed in Subsection (g) of this section shall elect from among its members a presiding officer, a vice presiding officer, and a secretary.

(j) A member of the independent committee appointed in Subsection (g) of this section serves without compensation but is entitled to reimbursement of actual expenses incurred in the performance of committee duties from funds appropriated to the Texas Historical Commission.

(k) The committee appointed in Subsection (g) of this section shall meet as necessary. The committee is dissolved on June 1, 2009, unless otherwise directed by the chair of the House Committee on Culture, Recreation, and Tourism.

(2) On page 26, line 26, strike "(g)" and substitute "(l)".

(3) On page 27, strike lines 3-6.

(4) On page 27, line 7, strike "(i)" and substitute "(m)".

Amendment No. 10 was withdrawn.

Amendment No. 11

Representative T. King offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) on page 27, between lines 22 and 23, by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS appropriately:

SECTION ____ (a) The Parks and Wildlife Department shall accept the gift of a 16-acre tract of land currently owned by Zavala County that is located adjacent to the Nueces River and United States Highway 83 intersection north of La Pryor, Texas.

(b) The department shall develop the land as a state park or fund the development of a park on that property.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Smithee offered the following amendment to **CSHB 12**:

Amend **CSHB 12** by adding an appropriately numbered section and renumbering the remaining sections of the bill appropriately:

SECTION ____ . Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0044 to read as follows:

Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In selecting parks for capital improvements, the department may give a preference to programs in which the department matches locally-raised money on a dollar for dollar basis.

Amendment No. 12 was adopted.

Amendment No. 13

Representative D. Howard offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (House Committee Printing) as follows:

(1) On page 26, strike lines 23-25 and substitute the following:

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

- (1) a mission statement outlining the goals for the site;
- (2) an interpretive plan showing how the mission is to be accomplished;
- (3) an operational plan, including:
 - (A) facilities, documents, records, and other assets to be transferred;
 - (B) parties responsible for daily site management, including staff that will be transferred;
 - (C) off-site support structure;
 - (D) plans for artifact and archival curation;
 - (E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and
 - (F) emergency plans;
- (4) a maintenance plan, including maintenance and repair needs;
- (5) a marketing plan;
- (6) a business plan, including revenue and visitation goals;
- (7) a plan for compliance with:
 - (A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and
 - (B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and
- (8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) An independent committee shall review and provide comments to the Texas State Historical Commission on each base operating plan described by Subsection (f) of this section before the transfer of the site for which the plan was prepared. The Texas State Historical Commission shall give due consideration to the comments provided by the independent committee. The committee shall be appointed by the chair of the House Committee on Culture, Recreation, and Tourism not later than July 1, 2007, if this Act takes immediate effect, or not later than September 10, 2007, if this Act does not take immediate effect. The committee shall be composed of individuals who are each professionally qualified in history, archeology, architecture, acting as a curator, park planning, natural resources, or marketing, and shall be appointed as follows:

- (1) one member of the Historic Sites Advisory Committee of the Parks and Wildlife Department;
- (2) one member of the Texas Historical Commission subcommittee on historic sites;
- (3) one person who works for or has worked for the National Park Service;
- (4) one member of a current state park or historic site friends group;

- (5) one member of the Council of Texas Archeologists;
 - (6) one professional archivist;
 - (7) one current or former professional park manager who does not work for the department or commission;
 - (8) one person involved in the tourism business or marketing business;
- and

(9) one person who is a certified collections manager.

(h) The independent committee appointed in Subsection (g) of this section shall keep the House Committee on Culture, Recreation, and Tourism informed of the progress of the transfer of each historic site under this Act.

(i) The independent committee appointed in Subsection (g) of this section shall elect from among its members a presiding officer, a vice presiding officer, and a secretary.

(j) A member of the independent committee appointed in Subsection (g) of this section serves without compensation but is entitled to reimbursement of actual expenses incurred in the performance of committee duties from funds appropriated to the Texas Historical Commission.

(k) The committee appointed in Subsection (g) of this section shall meet as necessary. The committee is dissolved on June 1, 2009, unless otherwise directed by the chair of the House Committee on Culture, Recreation, and Tourism.

(2) On page 26, line 26, strike "(g)" and substitute "(l)".

(3) On page 27, strike lines 3-6.

(4) On page 27, line 7, strike "(i)" and substitute "(m)".

Amendment No. 14

Representative D. Howard offered the following amendment to Amendment No. 13:

Amend Amendment No. 13 by D. Howard to **CSHB 12** as follows:

(1) Strike page 2, line 10, through page 3, line 25, and substitute the following:

(g) An interim study committee shall review the base operating plan described by Subsection (f) of this section. The members of the interim committee shall be a subcommittee of the House Committee on Culture, Recreation, and Tourism appointed not later than September 1, 2007, by the chair of that House Committee. The interim committee shall obtain feedback and information from professionals familiar with the work of the Parks and Wildlife Department, Texas Historical Commission, National Park Service, Council of Texas Archeologists, professional archivists, park managers, and the tourism industry. The interim study committee shall report to the House Committee on Culture, Recreation, and Tourism on the results of the study conducted under this subsection not later than September 1, 2008.

(2) On page 3, strike line 28.

(3) Renumber the items of the amendment accordingly.

Amendment No. 14 was adopted.

AMENDMENT NO. 13 - STATEMENT OF LEGISLATIVE INTENT

Members, I voted against this bill as a member of the Culture, Recreation, and Tourism Committee due to concerns I have had about the transfer of state historic sites from one state agency to another. When the original bill regarding transfer of historic sites was heard in our committee, the only person to testify in support of the idea was the chairman of the Texas Historic Commission. Many citizens who care deeply about both our parks and historic sites testified against the transfer at that hearing. Since then, Chairman Hilderbran introduced **HB 12**, which essentially combines **HB 6**, authorizing full funding of our state park system; and **HB 7**, mandating the transfer of 18 historic sites to the Texas Historical Commission. A hearing before the committee on this bill was somewhat more balanced.

For the past two months, I have advocated that the legislature not rush to transfer historic sites without knowing the true costs of that action. I still believe this decision should be made separately from the Parks Department funding authorization, and that the transfer issue should be addressed in an Interim Committee Charge to the Culture, Recreation, and Tourism Committee in order to provide the two state agencies the opportunity to complete an implementation plan for the transfers; provide a reasonable timeline for implementing the plan; and provide a full analysis of the true costs that will be incurred by both agencies in implementing the transfers according to the plan. I offered such an amendment in committee but was the only member to support it.

Today I am offering a different amendment that is acceptable to the chairman and that I hope everyone who cares about our state's historic sites and the fiscal responsibility we share as elected officials can support as well. My amendment will require that before any historic sites can be transferred to the Texas Historical Commission the THC will be required to submit a base operating plan for each of the 18 sites to an independent committee for review and comment. These plans will be required to include the very details I have been waiting to see since December. The base operating plans for each site must include at a minimum:

1. a mission statement outlining the goals for the site;
2. an interpretive plan showing how the mission is to be accomplished;
3. an operational plan, including but not limited to:
 - a. facilities, documents, records, and other assets to be transferred;
 - b. parties responsible for daily site management, including staff that will be transferred;
 - c. off-site support structure;
 - d. plans for artifact and archival curation;
 - e. signed MOUs/MOAs with appropriate friends groups and volunteer organizations; and
 - f. emergency plans;
4. a maintenance plan, including maintenance and repair needs;
5. a marketing plan;
6. a business plan including revenue and visitation goals;

7. a plan for compliance with the Antiquities Code of Texas and the National Historic Preservation Act; and

8. fiscal plans and budgets associated with (1) through (7) above.

This amendment would also require the chair of the House Culture, Recreation, and Tourism Committee to appoint an independent committee to review and provide comments on these plans, as well as to keep our committee informed of issues pertaining to the implementation of these transfers. The committee would be made up of nine professionals with experience working on historic properties and park sites, and would include:

1. one member of the Historic Sites Advisory Committee of the Parks and Wildlife Department;

2. one member of the Texas Historical Commission subcommittee on historic sites;

3. one person who works for or has worked for the National Park Service;

4. one member of current state park or historic site friends groups;

5. one member of the Council of Texas Archaeologists;

6. one professional archivist;

7. one certified collections manager;

8. one current or former professional park manager who does not work for the department or commission; and

9. one person involved in the tourism business or marketing business.

I appreciate the work that Senator Montford and the State Parks Advisory Committee did last year to provide the legislature with a comprehensive set of recommendations on how to move forward to address the inadequacies in the state park system, which the committee concluded are essentially due to a lack of funding. I would like to see the Texas Historical Commission and the Texas Parks and Wildlife Department work together in the best interests of the state's historic sites, while also ensuring that Texas taxpayers do not pay for duplicative infrastructure that is unnecessary, or worse, unworkable. Members, please remember that after the 1,600 acres and 100 archaeological sites associated with the transferred historic sites takes place, the Parks and Wildlife Department will still be responsible for the maintenance and operation of almost 600,000 acres and an estimated 17,000 archaeological sites.

I remain concerned that **HB 12** will unnecessarily increase the costs to the state to care for these sites and to make them available to the public. But I also appreciate Chairman Hilderbran's efforts to work with me and others to make sure we provide accountability to Texas citizens who have entrusted us with the responsible management of their tax dollars and their beloved parks and historic sites.

D. Howard

Amendment No. 13, as amended, was adopted.

Amendment No. 15

Representative Truitt offered the following amendment to **CSHB 12**:

Amend **CSHB 12** by striking page 27, lines 14-17, and substituting:

SECTION 29. (a) At least 90 percent of the money from the Texas recreation and parks account must be granted to support the funding for a local park if the procedural requirements under Chapter 24, Parks and Wildlife Code, have been met.

Amendment No. 15 was withdrawn.

Amendment No. 16

Representative Chisum offered the following amendment to **CSHB 12**:

Amend **CSHB 12** by striking SECTION 29 of the bill (House Committee Report, page 27, lines 14-22), and renumbering subsequent SECTIONS appropriately.

Representative Hilderbran moved to table Amendment No. 16.

A record vote was requested.

The motion to table was lost by (Record 876): 49 Yeas, 86 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Bonnen; Branch; Cook, R.; Corte; Crabb; Davis, Y.; Deshotel; Driver; England; Farabee; Farrar; Frost; Gallego; Garcia; Geren; Gonzalez Toureilles; Haggerty; Hartnett; Heflin; Hernandez; Hilderbran; Homer; Hopson; Howard, D.; Krusee; Kuempel; Macias; Mallory Caraway; McCall; McReynolds; O'Day; Oliveira; Ortiz; Pickett; Puente; Riddle; Ritter; Rose; Smith, T.; Strama; Straus; Thompson; Truitt; Turner; Veasey; Villarreal; Vo.

Nays — Allen; Aycocck; Berman; Bohac; Bolton; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Creighton; Crownover; Darby; Davis, J.; Delisi; Dukes; Dunnam; Eiland; Eissler; Elkins; Farias; Flores; Giddings; Gonzales; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Herrero; Hodge; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Latham; Laubenberg; Leibowitz; Lucio; Madden; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; Olivo; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pierson; Pitts; Raymond; Rodriguez; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Van Arsdale; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gattis; Moreno.

Absent — Anderson; Bailey; Cohen; Dutton; Escobar; Flynn; Hill; Hochberg; Mowery; Peña; Quintanilla; Vaught.

STATEMENTS OF VOTE

When Record No. 876 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

I was shown voting no on Record No. 876. I intended to vote yes.

Burnam

I was shown voting yes on Record No. 876. I intended to vote no.

Deshotel

I was shown voting no on Record No. 876. I intended to vote yes.

Elkins

When Record No. 876 was taken, I was absent, however my absence was mistakenly not excused. I would have voted no.

Flynn

I was shown voting no on Record No. 876. I intended to vote yes.

T. King

I was shown voting no on Record No. 876. I intended to vote yes.

Noriega

When Record No. 876 was taken, I was in the house but away from my desk. I would have voted no.

Peña

I was shown voting no on Record No. 876. I intended to vote yes.

Pierson

When Record No. 876 was taken, I was temporarily out of the house chamber. I would have voted no.

Quintanilla

Amendment No. 16 was adopted.

Amendment No. 1 - Vote Reconsidered

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

The motion to reconsider prevailed.

Amendment No. 17

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

Amend Amendment No. 1 by Hilderbran to **CSHB 12** by striking page 3, lines 2-29.

Amendment No. 17 was adopted.

Amendment No. 1, as amended, was adopted.

A record vote was requested.

CSHB 12, as amended, was passed to engrossment by (Record 877): 139 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver;

Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Elkins; Hodge; Merritt; Miles.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gattis; Moreno.

Absent — Flynn; Mowery; Swinford; Talton.

STATEMENTS OF VOTE

When Record No. 877 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

I was shown voting no on Record No. 877. I intended to vote yes.

Miles

LEAVE OF ABSENCE GRANTED

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

Eiland on motion of McCall.

CSHB 3057 ON SECOND READING (by Callegari)

CSHB 3057, A bill to be entitled An Act relating to the acquisition of real property for public use.

Amendment No. 1

Representative Callegari offered the following amendment to **CSHB 3057**:

Amend **CSHB 3057** (House Committee Printing) as follows:

(1) On page 4, line 27, between "means" and "property", insert "tract or unit of".

(2) On page 5, line 1, strike "two" and substitute "three".

(3) On page 5, line 20, strike "or".

(4) On page 5, lines 21-~~22~~, between "of" and "repeated", insert "substantiated and".

(5) On page 5, line 23, strike "and".

(6) On page 5, between lines 23 and 24, insert the following:

(vi) the maintenance of the property is below county or municipal standards; or

(vii) the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the structure has been disconnected, destroyed, removed, or rendered ineffective; or

(viii) the property presents an economic liability to the immediate area due to deteriorating structures or hazardous conditions.

(7) On page 5, lines 24-26, strike "(B) is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property".

(8) On page 6, line 7, strike the period.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Y. Davis and Callegari offered the following amendment to **CSHB 3057**:

Amend **CSHB 3057** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 21.041, Property Code, is amended to read as follows:

Sec. 21.041. EVIDENCE. As the basis for assessing actual damages to a property owner from a condemnation, the special commissioners shall admit evidence on:

(1) the value of the property being condemned;

(2) the injury to the property owner, including the financial damages associated with the cost of relocating from the condemned property, if the property was habitable, to another property that allows the property owner to have a standard of living comparable to the property owner's standard of living before the condemnation of the property;

(3) the benefit to the property owner's remaining property; and

(4) the use of the property for the purpose of the condemnation.

SECTION _____. Section 21.042(d), Property Code, is amended to read as follows:

(d) In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner, including the property owner's financial damages described by Section 21.041(2), and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, but they may not consider an injury or benefit that the property owner experiences in common with the general community.

Amendment No. 2 was adopted.

Amendment No. 3

Representatives Y. Davis and Callegari offered the following amendment to **CSHB 3057**:

Amend **CSHB 3057** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 21.046(a) and (b), Property Code, are amended to read as follows:

(a) A department, agency, instrumentality, or political subdivision of this state shall ~~may~~ provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that ~~[if the service]~~ is compatible with the Federal Uniform Relocation Assistance Advisory Program, 23 U.S.C.A. 501, et seq.

(b) This state or a political subdivision of this state shall ~~may~~, as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

Amendment No. 3 was adopted.

(Taylor in the chair)

Amendment No. 4

Representative Callegari offered the following amendment to **CSHB 3057**:

Amend **CSHB 3057** (House Committee Printing) as follows:

(1) On page 4, line 27, between "means" and "property", insert "a tract or unit of".

(2) On page 4, line 27, strike the colon.

(3) On page 5, line 1, strike "(A)".

(4) On page 5, line 1, strike "two" and substitute "four".

(5) On page 5, line 5, strike "(i)" and substitute "(A)".

(6) On page 5, line 7, strike "(ii)" and substitute "(B)".

(7) On page 5, line 9, strike "(iii)" and substitute "(C)".

(8) On page 5, line 15, strike "(iv)" and substitute "(D)".

(9) On page 5, line 20, strike "or".

(10) On page 5, line 21, strike "(v)" and substitute "(E)".

(11) On page 5, lines 21-22, between "of" and "repeated", insert "substantiated and".

(12) On page 5, line 23, strike "and".

(13) On page 5, between lines 23 and 24, insert the following:

(F) the maintenance of the property is below county or municipal standards;

(G) the property is abandoned and contains a structure that is not fit for its intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the structure has been disconnected, destroyed, removed, or rendered ineffective; or

(H) the property presents an economic liability to the immediate area because of deteriorating structures or hazardous conditions

(14) On page 5, lines 24-26, strike "(B) is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Y. Davis offered the following amendment to **CSHB 3057**:

Amend **CSHB 3057** (House Committee Printing) on page 4, line 27, between "means" and "property", by inserting "a tract or unit of".

Amendment No. 5 was withdrawn.

CSHB 3057, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Latham and McCall recorded voting no.)

POSTPONED BUSINESS

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

HB 922 ON THIRD READING **(by Truitt)**

HB 922, A bill to be entitled An Act relating to the power of a municipality to enforce compliance with speed limits by an automated traffic control system.

HB 922 was read third time on May 1, postponed until earlier today, and was again postponed until this time.

Amendment No. 1

Representative Isett offered the following amendment to **HB 922**:

Amend **HB 922** on third reading, on page 1, between lines 20 and 21, by inserting the following:

(c) Notwithstanding Section 730.007 or any other law to the contrary, personal information obtained by an agency in connection with a motor vehicle record may not be disclosed to a person if the personal information in the record is to be used for the purpose of enforcing or collecting a civil or administrative penalty against an individual, including the owner or operator of a motor vehicle for the purpose of enforcing compliance with posted speed limits by an automated traffic control system or any other automated traffic control device, imposed under a municipal ordinance regulating traffic, regardless of whether the person is an officer or employee of the municipality or an individual acting in a

private capacity for, on behalf of, or as the agent of the municipality. In this subsection "agency," "disclose," "motor vehicle record," "personal information," and "record" have the meanings assigned by Section 730.003.

Representative Truitt moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 878): 75 Yeas, 67 Nays, 3 Present, not voting.

Yeas — Allen; Anchia; Bailey; Berman; Branch; Brown, B.; Brown, F.; Castro; Chavez; Cohen; Cook, B.; Cook, R.; Creighton; Crownover; Davis, J.; Delisi; Driver; Eissler; England; Escobar; Farabee; Frost; Garcia; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Harper-Brown; Hartnett; Hernandez; Hill; Hochberg; Homer; Hopson; Howard, D.; Jackson; King, P.; Krusee; Latham; Laubenberg; Madden; Mallory Caraway; McCall; McClendon; McReynolds; Menendez; Morrison; Mowery; Murphy; Naishtat; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Ritter; Smith, T.; Solomons; Strama; Truitt; Vaught; Villarreal; West; Woolley; Zedler; Zerwas.

Nays — Alonzo; Anderson; Aycock; Bohac; Bolton; Bonnen; Burnam; Callegari; Chisum; Christian; Coleman; Corte; Crabb; Darby; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Elkins; Farias; Farrar; Flores; Gallego; Giddings; Guillen; Hardcastle; Harless; Heflin; Herrero; Hodge; Howard, C.; Hughes; Isett; Jones; Keffer; King, T.; Kolkhorst; Kuempel; Leibowitz; Lucio; Macias; Martinez; Martinez Fischer; Merritt; Miles; Miller; Noriega; O'Day; Oliveira; Olivo; Phillips; Puente; Raymond; Riddle; Rodriguez; Rose; Smith, W.; Smithee; Straus; Swinford; Talton; Thompson; Turner; Van Arsdale; Veasey; Vo.

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

Absent, Excused — Eiland; Gattis; Moreno.

Absent — Flynn; King, S.

STATEMENTS OF VOTE

When Record No. 878 was taken, I was absent, however my not excused. I would have voted yes.

Flynn

I was shown voting yes on Record No. 878. I intended to vote no.

Naishtat

A record vote was requested.

HB 922 was passed by (Record 879): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver;

Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Eiland; Gattis; Moreno.

Absent — Flynn; Jackson; Olivo.

STATEMENTS OF VOTE

When Record No. 879 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 879 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

MAJOR STATE CALENDAR

(consideration continued)

CSHB 2006 ON SECOND READING

(by Woolley, Corte, Callegari, R. Cook, Orr, et al.)

CSHB 2006, A bill to be entitled An Act relating to the use of eminent domain authority.

CSHB 2006 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 2006** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Woolley moved to postpone consideration of **CSHB 2006** until after the second reading of **CSHB 1495**.

The motion prevailed.

(Speaker in the chair)

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
RULES SUSPENDED**

Representative C. Howard moved to suspend all necessary rules in order for the house to consider the local, consent, and resolutions calendar set for 9 a.m. Friday, May 4.

A record vote was requested.

The motion prevailed by (Record 880): 132 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Davis, Y.; Gallego; Talton; Thompson.

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

Absent, Excused — Eiland; Gattis; Moreno.

Absent — Brown, B.; Chavez; Creighton; Flynn; Hochberg; Murphy; Noriega; Pierson; Zedler.

STATEMENTS OF VOTE

When Record No. 880 was taken, I was in the house but away from my desk. I would have voted yes.

B. Brown

I was shown voting present, not voting on Record No. 880. I intended to vote yes.

Corte

When Record No. 880 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 880 was taken, my vote failed to register. I would have voted yes.

Hochberg

When Record No. 880 was taken, I was in the house but away from my desk. I would have voted yes.

Zedler

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).

CSHB 1495 ON SECOND READING (by Callegari, Flynn, Murphy, et al.)

CSHB 1495, A bill to be entitled An Act relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

Amendment No. 1

Representative Callegari offered the following amendment to **CSHB 1495**:

Amend **CSHB 1495** (House Committee Printing) as follows:

(1) On page 2, line 24, strike "send or", and substitute "send by first-class mail or otherwise".

(2) On page 2, line 26, between "the" and "person", insert "last known address of the".

Amendment No. 1 was adopted.

CSHB 1495, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Jones recorded voting no.)

CSHB 3426 ON SECOND READING (by Flynn, B. Cook, Truitt, Kolkhorst, and McClendon)

CSHB 3426, A bill to be entitled An Act relating to the continuation and functions of the Texas Veterans Commission.

Representative Berman moved to postpone consideration of **CSHB 3426** until 7 a.m. Friday, May 4.

The motion prevailed.

POSTPONED BUSINESS

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

CSHB 2006 ON SECOND READING (by Woolley, Corte, Callegari, R. Cook, Orr, et al.)

CSHB 2006, A bill to be entitled An Act relating to the use of eminent domain authority.

CSHB 2006 was read second time earlier today and was postponed until this time.

Representative Woolley moved to postpone consideration of **CSHB 2006** until after the second reading of **CSHB 3560**.

The motion prevailed.

**MAJOR STATE CALENDAR
(consideration continued)**

**CSHB 3560 ON SECOND READING
(by Swinford)**

CSHB 3560, A bill to be entitled An Act relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities.

CSHB 3560 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHB 3560** under Rule 4, Section 32(c)(2) and Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report is incomplete and the bill analysis is incorrect.

The point of order was withdrawn.

Representative Swinford moved to postpone consideration of **CSHB 3560** until 7:10 p.m. today.

The motion prevailed.

**CONSTITUTIONAL AMENDMENTS CALENDAR
HOUSE JOINT RESOLUTIONS
SECOND READING**

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

**HJR 30 ON SECOND READING
(by Jackson, Mowery, and Flynn)**

HJR 30, A joint resolution proposing a constitutional amendment to allow the repurchase of real property acquired by a governmental entity through eminent domain.

A record vote was requested.

HJR 30 was adopted by (Record 881): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Frost; Gallego; Garcia; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless;

Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Gattis; Moreno.

Absent — Burnam; Creighton; Farrar; Flynn; Lucio; Macias; Mallory Caraway; O'Day; Otto; Pierson.

STATEMENTS OF VOTE

When Record No. 881 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 881 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 881 was taken, I was in the house but away from my desk. I would have voted yes.

Macias

When Record No. 881 was taken, I was in the house but away from my desk. I would have voted yes.

Otto

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

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

**CSHB 1411 ON SECOND READING
(by West, Goolsby, Bonnen, and Menendez)**

CSHB 1411, A bill to be entitled An Act relating to the unlawful restraint of dogs; providing penalties.

Amendment No. 1

Representative Menendez offered the following amendment to **CSHB 1411**:

Amend **CSHB 1411** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 42.10(a), (c), (d), and (e), Penal Code, are amended to read as follows:

- (a) A person commits an offense if he intentionally or knowingly:
- (1) causes a dog to fight with another dog;
 - (2) ~~for a pecuniary benefit causes a dog to fight with another dog;~~
[~~3~~] participates in the earnings of or operates a facility used for dog fighting;
 - (3) [~~4~~] uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;
 - (4) [~~5~~] owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or
 - (5) [~~6~~] attends as a spectator an exhibition of dog fighting.
- (c) A conviction under [~~Subdivision (2), (3), or (4) of~~] Subsection (a)(2) or (3) [~~4~~] may be had upon the uncorroborated testimony of a party to the offense.
- (d) It is a defense to prosecution under [~~Subdivision (1) or (2) of~~] Subsection (a)(1) [~~4~~] that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.
- (e) An offense under [~~Subdivision (1) or (5) of~~] Subsection (a)(4) or (5) [~~4~~] is a Class A misdemeanor. An offense under [~~Subdivision (2), (3), or (4) of~~] Subsection (a)(1), (2), or (3) [~~4~~] is a state jail felony. [~~An offense under Subdivision (6) of Subsection (a) is a Class C misdemeanor.~~]

Amendment No. 1 was withdrawn.

A record vote was requested.

CSHB 1411 was passed to engrossment by (Record 882): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Garcia; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Gattis; Moreno.

Absent — Aycock; Coleman; Flynn; Gallego; Pierson.

STATEMENTS OF VOTE

When Record No. 882 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 882 was taken, my vote failed to register. I would have voted yes.

Gallego

CSHB 1226 ON SECOND READING (by Smithee)

CSHB 1226, A bill to be entitled An Act relating to the subrogation interests of certain political subdivisions or insurance carriers providing reinsurance for subdivisions.

Representative T. Smith moved to postpone consideration of **CSHB 1226** until 7 a.m. Monday, May 7.

The motion prevailed.

CSHB 1290 ON SECOND READING (by Macias, et al.)

CSHB 1290, A bill to be entitled An Act relating to the appeal of a decision of the Texas Ethics Commission.

Amendment No. 1

Representative Macias offered the following amendment to **CSHB 1290**:

Amend **CSHB 1290** (House Committee Printing) as follows:

(1) On page 1, line 7, strike "complainant, if any, the respondent, or the party's agent" and substitute "respondent or the respondent's agent".

(2) On page 1, line 11, strike "party" and substitute "respondent".

Amendment No. 1 was adopted.

CSHB 1290, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1561 ON SECOND READING (by Bailey)

HB 1561, A bill to be entitled An Act relating to the investigation of a firefighter in certain municipalities.

HB 1561 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1423 ON SECOND READING

(by Driver)

CSHB 1423, A bill to be entitled An Act relating to exemption from application of the Private Security Act of certain peace officers employed by a law enforcement agency.

CSHB 1423 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1545 ON SECOND READING

(by Peña)

HB 1545, A bill to be entitled An Act relating to competency to be executed in a capital case.

Amendment No. 1

Representative Peña offered the following amendment to **HB 1545**:

Amend **HB 1545** (house committee printing) as follows:

- (1) On page 1, line 6, strike "(m)" and substitute "(l-1), (m)".
- (2) On page 2, between lines 6 and 7, insert the following:

(l-1) Notwithstanding Subsection (l), the court of criminal appeals may not review any finding of the defendant's competency made by a trial court as a result of a motion filed under this article if the motion is filed on or after the 20th day before the defendant's scheduled execution date.

Amendment No. 1 was adopted.

HB 1545, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

(Gattis now present)

HB 1213 ON SECOND READING

(by Pitts, Branch, Goolsby, Anchia, Crownover, et al.)

HB 1213, A bill to be entitled An Act relating to mutual assistance agreements entered into by certain municipalities and private institutions of higher education for the purpose of enforcing state law and to additional powers, privileges, and immunities of peace officers employed by private institutions of higher education.

Amendment No. 1

Representative Pitts offered the following amendment to **HB 1213**:

Amend **HB 1213** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 51.212, Education Code, is amended to read as follows:

Sec. 51.212. PEACE [~~SECURITY~~] OFFICERS AT PRIVATE INSTITUTIONS. (a) The governing boards of private institutions of higher education, including private junior colleges, are authorized to employ and commission peace officers [~~campus security personnel~~] for the purpose of enforcing:

(1) state law [~~the law of this state~~] on the campuses of private institutions of higher education; and

(2) state and local law, including applicable municipal ordinances, at other locations, as permitted by Subsection (b) or Section 51.2125.

(b) Any officer commissioned under the provisions of this section is vested with all the powers, privileges, and immunities of peace officers if the officer:

(1) is [~~while~~] on the property under the control and jurisdiction of the respective private institution of higher education or is otherwise performing [~~in the performance of his assigned~~] duties assigned to the officer by the institution, regardless of whether the officer is on property under the control and jurisdiction of the institution; or

(2) to the extent authorized by Section 51.2125, is:

(A) requested by another law enforcement agency to provide assistance in enforcing state or local law, including a municipal ordinance, and is acting in response to that request; or

(B) otherwise assisting another law enforcement agency in enforcing a law described by Paragraph (A).

(c) Any officer assigned to duty and commissioned shall take and file the oath required of peace officers, and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer [~~he~~] will fairly, impartially, and faithfully perform the duties as may be required of the officer [~~him~~] by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.

(d) [~~(b)~~] The governing boards of private institutions of higher education are authorized to hire and pay on a regular basis peace [~~law enforcement~~] officers commissioned by an incorporated city. The officers shall be under the supervision of the hiring institution, but shall be subject to dismissal and disciplinary action by the city. An incorporated city is authorized to contract with a private institution of higher education for the use and employment of its commissioned officers in any manner agreed to, provided that there is no expense incurred by the city.

(e) [~~(e)~~] In this section, "private institution of higher education" means a private or independent institution of higher education as defined [~~has the meaning assigned~~] by Section 61.003 [~~61.003(15) of this code~~].

SECTION 2. Subchapter E, Chapter 51, Education Code, is amended by adding Sections 51.2125 and 51.2126 to read as follows:

Sec. 51.2125. PRIVATE INSTITUTIONS: AUTHORITY TO ENTER INTO MUTUAL ASSISTANCE AGREEMENT. (a) This section applies only to a private institution of higher education, as defined by Section 61.003, with a fall headcount enrollment of more than 10,000 students.

(b) If the institution has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a municipality with a population of more than one million, in addition to exercising the authority provided under Section 51.212(d), the governing board of a private institution of higher education to which this section applies and the governing body of each municipality, regardless of the municipality's population, that is contiguous to, or the boundaries of which contain any part of, property under the control and jurisdiction of the private institution of higher education may enter into a written mutual assistance agreement in which peace officers commissioned by the institution or the applicable municipality serve the public interest by assisting, without any form of additional compensation or other financial benefit, the peace officers of the other party to the agreement in enforcing state or local law, including applicable municipal ordinances. The agreement must be reviewed at least annually by the institution and the municipality and may be modified at that time by a written agreement signed by each party. The agreement may be terminated at any time by a party to the agreement on the provision of reasonable notice to the other party to the agreement.

(c) A mutual assistance agreement authorized by this section may designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality.

(d) This section does not affect a municipality's duty to provide law enforcement services to any location within the boundaries of the municipality.

(e) A peace officer providing assistance under a mutual assistance agreement authorized by this section may make arrests and exercise all other authority given to peace officers under other state law. The municipal law enforcement agency has exclusive authority to supervise any campus peace officer operating under the agreement to assist the peace officers of the municipality. A municipal peace officer operating under the agreement to assist the campus peace officers remains under the supervision of the municipal law enforcement agency.

(f) In the same manner and to the same extent as a municipality is liable for an act or omission of a peace officer employed by the municipality, a private institution of higher education is liable for an act or omission of a campus peace officer operating under a mutual assistance agreement authorized by this section at a location other than property under the control and jurisdiction of the institution.

(g) This section does not limit the authority of a campus peace officer to make a warrantless arrest outside the officer's jurisdiction as described by Article 14.03(d), Code of Criminal Procedure.

Sec. 51.2126. APPEAL BY CAMPUS PEACE OFFICER OF DISCIPLINARY ACTION OR PROMOTIONAL BYPASS RELATED TO PROVISION OF ASSISTANCE UNDER MUTUAL ASSISTANCE AGREEMENT. (a) A campus peace officer acting under a mutual assistance agreement authorized by Section 51.2125 who is demoted, suspended, or terminated by the applicable private institution of higher education or who experiences a promotional bypass by the institution may elect to appeal the institution's action to an independent third party hearing examiner under this section.

(b) To elect to appeal to an independent third party hearing examiner under this section, the campus peace officer must submit to the head of the institution's law enforcement agency not later than the 30th day after the date of the action being appealed a written request stating the officer's decision to appeal to such a hearing examiner.

(c) The hearing examiner's decision is final and binding on all parties. If a campus peace officer elects to appeal the institution's action to an independent third party hearing examiner under this section, the officer or institution may appeal the examiner's decision to a district court only as provided by Subsection (j).

(d) If a campus peace officer elects to appeal to a hearing examiner, the officer and the head of the institution's law enforcement agency or their designees shall attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner before the 10th day after the date the appeal is filed, the parties immediately shall request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The officer and the agency head or their designees may agree on one of the seven neutral arbitrators on the list. If the parties do not agree before the fifth business day after the date the parties receive the list, the parties or their designees shall alternate striking a name from the list, and the single name remaining after all other names have been struck is selected as the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(e) The appeal hearing must begin as soon as an appearance by the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing before the 45th day after the date of selection, the campus peace officer may, within 48 hours after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d).

(f) In a hearing conducted under this section, the hearing examiner has the same duties and powers that a civil service commission has in conducting a hearing or hearing an appeal under Chapter 143, Local Government Code, including the right to issue subpoenas. The hearing examiner may:

(1) order that the campus peace officer be reinstated to the same position or status in which the officer was employed immediately before the demotion, suspension, or termination or, in the case of a promotional bypass, to the position or status with respect to which the officer experienced the bypass; and

(2) award the officer lost wages and any other compensation lost as a result of the disciplinary action or promotional bypass, as applicable.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall issue a decision on the appeal not later than the 10th day after the date the hearing is completed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall make a reasonable effort to issue a decision on the appeal not later than the 30th day after the later of the date the hearing is completed or the briefs are filed. The hearing examiner's inability to meet the time requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action or promotional bypass, or the hearing examiner's final decision.

(i) The hearing examiner's fees and expenses shall be paid in equal amounts by the parties. The costs of a witness shall be paid by the party who calls the witness.

(j) A district court may hear an appeal of a hearing examiner's decision only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the decision was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the institution is located.

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, 2007.

Amendment No. 1 was adopted.

HB 1213, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

POSTPONED BUSINESS

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

CSHB 1467 ON SECOND READING (by Deshotel)

CSHB 1467, A bill to be entitled An Act relating to reservations of the state ceiling and priority carryforward classifications for certain projects under the private activity bond allocation program.

CSHB 1467 was read second time on April 30 and was postponed until this time.

CSHB 1467 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1467** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Deshotel moved to postpone consideration of **CSHB 1467** until the end of today's calendar.

The motion prevailed.

GENERAL STATE CALENDAR
(consideration continued)
CSHB 485 ON SECOND READING
(by Van Arsdale)

CSHB 485, A bill to be entitled An Act relating to the collection and amount of restitution authorized to be collected from persons charged with or convicted of certain misdemeanor offenses.

CSHB 485 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2247 ON SECOND READING
(by Van Arsdale, Flynn, et al.)

HB 2247, A bill to be entitled An Act relating to the cancellation of the voter registration of persons who are deceased or not citizens of the United States.

A record vote was requested.

HB 2247 was passed to engrossment by (Record 883): 138 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Lucio; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Davis, Y.; Herrero; Leibowitz; Mallory Caraway.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Moreno.

Absent — Corte; Flynn; Macias; O'Day; Pierson.

STATEMENT OF VOTE

When Record No. 883 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

SB 1470 ON SECOND READING (Dukes - House Sponsor)

SB 1470, A bill to be entitled An Act relating to certain notifications required for persons convicted of a misdemeanor involving family violence.

SB 1470 was considered in lieu of **HB 3021**.

SB 1470 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3021 - LAID ON THE TABLE SUBJECT TO CALL

Representative Dukes moved to lay **HB 3021** on the table subject to call.

The motion prevailed.

CSHB 3068 ON SECOND READING (by Guillen)

CSHB 3068, A bill to be entitled An Act relating to the authority of certain municipalities and counties to regulate subdivisions near an international border.

Amendment No. 1

Representative Guillen offered the following amendment to **CSHB 3068**:

Amend **CSHB 3068** as follows:

(1) On page 7, line 24, strike "municipality" and substitute "political subdivisions".

(2) On page 7, line 26, strike "has" and substitute "have".

(3) On page 15, line 26, strike "municipality" and substitute "political subdivisions".

(4) On page 16, line 1, strike "has" and substitute "have".

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

SECTION _____. Subchapter A, Chapter 232, Local Government Code, is amended by adding Section 232.011 to read as follows:

Sec. 232.011. AMENDING PLAT. (a) The commissioners court may approve and issue an amending plat, if the amending plat is signed by the applicants and filed for one or more of the following purposes:

(1) to correct an error in a course or distance shown on the preceding plat;

(2) to add a course or distance that was omitted on the preceding plat;

(3) to correct an error in a real property description shown on the preceding plat;

(4) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(5) to correct any other type of scrivener or clerical error or omission of the previously approved plat, including lot numbers, acreage, street names, and identification of adjacent recorded plats; or

(6) to correct an error in courses and distances of lot lines between two adjacent lots if:

(A) both lot owners join in the application for amending the plat;

(B) neither lot is abolished;

(C) the amendment does not attempt to remove recorded covenants or restrictions; and

(D) the amendment does not have a material adverse effect on the property rights of the other owners of the property that is the subject of the plat.

(b) The amending plat controls over the preceding plat without the vacation, revision, or cancellation of the preceding plat.

(c) Notice, a hearing, and the approval of other lot owners are not required for the filing, recording, or approval of an amending plat.

SECTION _____. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.044 to read as follows:

Sec. 232.044. AMENDING PLAT. The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.

SECTION _____. Section 81.033(b), Local Government Code, is amended to read as follows:

(b) If approved at an election held in the county for that purpose, the commissioners court has, in addition to the powers given to it under this code or other law, all the powers of the governing body of a Type A general-law municipality, including the powers contained in Subtitle A, Title 7, except that:

(1) the commissioners court may not regulate an activity outside the county;

(2) the commissioners court may not regulate a tract of land that is appraised as agricultural or open-space land by the appraisal district; and

(3) ~~the commissioners court may not exercise the powers of a municipality under Chapter 211 or 213; and~~

~~(4)~~ if this code or other law provides for a procedure by which a county exercises a power, the commissioners court must use that procedure.

SECTION _____. Subchapter C, Chapter 232, Local Government Code, is amended by adding Section 232.081 to read as follows:

Sec. 232.081. AMENDING PLAT. The commissioners court may approve and issue an amending plat under this subchapter in the same manner, for the same purposes, and subject to the same related provisions as provided by Section 232.011.

SECTION ____ . Section 16.344, Water Code, is amended by adding Subsections (d), (e), (f), (g) and (h) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or waste water services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d) through (f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), (h) and this subsection expire September 1, 2009.

Amendment No. 1 was adopted.

CSHB 3068, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1188 ON SECOND READING
(by Morrison)

CSHB 1188, A bill to be entitled An Act relating to the Texas emerging technology fund.

Amendment No. 1

Representative Morrison offered the following amendment to **CSHB 1188**:

Amend **CSHB 1188** on page 7, line 11, by striking "center" and substituting "centers".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Burnam offered the following amendment to **CSHB 1188**:

Amend **CSHB 1188** as follows:

- (1) On page 5, line 14, strike "490.102(a)" and substitute "490.102".
- (2) On page 5, line 16, between "amended" and "to read", insert "by amending Subsection (a) and adding Subsection (c)".
- (3) On page 5, between lines 25 and 26, insert the following:
 - (c) At least 15 percent of the total amount of awards made from the fund under Subchapter D, E, or F must be to fund the establishment and expansion of emerging technologies in this state that have as their primary purpose the provision of energy derived from renewable energy technology, as defined by Section 39.904(d), Utilities Code.

AMENDMENT NO. 2 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PATRICK: Chairman Morrison, many of us received a number of e-mails, earlier regarding this issue with the emerging technology funds and it was suggested that the Teacher Retirement System was somehow connected to this. Do you have some information to clarify that for us?

REPRESENTATIVE MORRISON: Yes, the Teacher Retirement System is not connected to this at all. There was one aspect in the bill that was stricken in the bill, when we did the substitute, where we would have been able to look at the availability to invest the funds where the teacher retirement or employment funds could be invested, but this bill has nothing to do with that. It is not in the bill.

PATRICK: So that has been stricken from the bill.

MORRISON: It has been stricken from the bill.

Representative Morrison moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 884): 84 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Anderson; Aycocock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Puente; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Truitt; Turner; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Escobar; Farabee; Farias; Farrar; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Noriega; Olivo; Ortiz; Peña; Quintanilla; Raymond; Rodriguez; Strama; Thompson; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Moreno.

Absent — Dutton; Flores; Flynn; Martinez; Oliveira; Pierson; Smithee; Taylor.

STATEMENT OF VOTE

When Record No. 884 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

REMARKS ORDERED PRINTED

Representative Patrick moved to print remarks between Representative Morrison and Representative Patrick.

The motion prevailed.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

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. 31).

CSHB 1188 - (consideration continued)**Amendment No. 3**

Representatives Strama and Hartnett offered the following amendment to **CSHB 1188**:

Amend **CSHB 1188** (House Committee Printing) on page 6, line 27, between "breakthrough" and the semicolon, by inserting "or a breakthrough in the area of clean energy".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Gallego offered the following amendment to **CSHB 1188**:

Amend **CSHB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 490, Government Code, as added by Chapter 280, Acts of the 79th Legislature, Regular Session, 2005, is amended by adding Section 490.004 to read as follows:

Sec. 490.004. CONTROL OF FUND. (a) Except as provided by Subsection (b) and notwithstanding this chapter or any other law, the duties and functions assigned to the governor under this chapter are assigned to the comptroller.

(b) This section does not apply to Section 490.052.

Representative Morrison moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 885): 79 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Eissler; England; Farabee; Gattis; Geren; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Riddle; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Elkins; Escobar; Farias; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Haggerty; Heflin; Hernandez; Herrero; Hochberg;

Hodge; Homer; Hopson; Howard, D.; Jones; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Merritt; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Talton; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Moreno.

Absent — Driver; Dutton; Farrar; Flores; Flynn; Frost; Howard, C.; King, T.; Menendez; Peña; Pickett; Pierson; Smith, W.

STATEMENTS OF VOTE

I was shown voting no on Record No. 885. I intended to vote yes.

Anchia

When Record No. 885 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 885 was taken, I was in the house but away from my desk. I would have voted no.

Frost

A record vote was requested.

CSHB 1188, as amended, was passed to engrossment by (Record 886): 109 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Dukes; Dutton; Eissler; Elkins; England; Escobar; Farabee; Farrar; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Latham; Laubenberg; Lucio; Macias; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Miller; Morrison; Mowery; Murphy; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Rose; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Burnam; Coleman; Davis, Y.; Dunnam; Farias; Gallego; Gonzalez Tourelles; Haggerty; Herrero; Homer; Hopson; Hughes; Leibowitz; Mallory Caraway; Martinez Fischer; Merritt; Miles; Naishtat; Olivo; Ritter; Rodriguez; Talton; Thompson; Vaught; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Moreno.

Absent — Branch; Driver; Flores; Flynn; Howard, C.; Krusee; Noriega; Paxton; Phillips; Pierson; Smith, W.

STATEMENTS OF VOTE

When Record No. 886 was taken, I was absent, however my absence was mistakenly not excused. I would have voted yes.

Flynn

When Record No. 886 was taken, my vote failed to register. I would have voted no.

Paxton

POSTPONED BUSINESS

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

CSHB 2006 ON SECOND READING

(by Woolley, Corte, Callegari, R. Cook, Orr, et al.)

CSHB 2006, A bill to be entitled An Act relating to the use of eminent domain authority.

CSHB 2006 was read second time earlier today and was postponed until this time.

CSHB 2006 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHB 2006** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The speaker sustained the point of order.

CSHB 2006 was returned to the Committee on Land and Resource Management.

CSHB 3560 ON SECOND READING

(by Swinford)

CSHB 3560, A bill to be entitled An Act relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities.

CSHB 3560 was read second time earlier today and was postponed until this time.

CSHB 3560 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHB 3560** under Rule 4, Section 32(c)(2) and Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report is incomplete and the bill analysis is incorrect.

The speaker overruled the point of order.

HB 1467 - RECOMMITTED

Representative Deshotel moved to recommit **HB 1467** to the Committee on Economic Development.

The motion prevailed.

**HR 1867 - ADOPTED
(by Zedler)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1867**.

The motion prevailed.

The following resolution was laid before the house:

HR 1867, Commemorating the 50th anniversary of the founding of Fielder Road Baptist Church.

HR 1867 was adopted.

**HR 1870 - ADOPTED
(by Berman)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1870**.

The motion prevailed.

The following resolution was laid before the house:

HR 1870, In memory of Corporal Ryan Alan Bishop of Tyler.

HR 1870 was unanimously adopted by a rising vote.

**HR 1865 - ADOPTED
(by Thompson)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1865**.

The motion prevailed.

The following resolution was laid before the house:

HR 1865, In memory of Dorothy Pujoue of Houston.

HR 1865 was unanimously adopted by a rising vote.

FIVE DAY POSTING RULE SUSPENDED

Representative Peña moved to suspend the five day posting rule to allow the Committee on Criminal Jurisprudence to consider **SB 867** at 8:30 a.m. tomorrow in E2.010.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Branch moved to print yesterday's remarks between Representative Keffer and Representative Branch on **CSHB 3928** and Friday's remarks between Representative Turner and Representative Branch on **CSSB 483**.

The motion prevailed.

FIVE DAY POSTING RULE SUSPENDED

Representative Bailey moved to suspend the five day posting rule to allow the Committee on Urban Affairs to consider **SB 772** and **SB 1123** upon final adjournment today in E1.026.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Land and Resource Management, upon final adjournment today, 3W.9, for a formal meeting, to consider pending business.

Calendars, upon final adjournment today, 3W.9, for a formal meeting, to consider a calendar.

Appropriations, upon final adjournment today, E1.030, for a formal meeting, to consider **HB 52**, **HB 2227**, **HB 2241**, **HB 3107**, **HB 3778**, and **SB 947**.

Local and Consent Calendars, upon final adjournment today, Desk 95, for a formal meeting.

FIVE DAY POSTING RULE SUSPENDED

Representative Gonzalez Tourelles moved to suspend the five day posting rule to allow the Committee on Juvenile Justice and Family Issues to consider **SB 1295** upon adjournment tomorrow in E2.026.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, 8:30 a.m. tomorrow, E2.010, for a public hearing, to consider **SB 867**.

Juvenile Justice and Family Issues, upon adjournment tomorrow, E2.026, for a public hearing, to consider posted business.

Juvenile Justice and Family Issues meeting scheduled for today is cancelled.

ADJOURNMENT

Representative Solomons moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

The house accordingly, at 8:43 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

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

House List No. 29

HB 76, HB 178, HB 313, HB 368, HB 374, HB 423, HB 481, HB 484, HB 504, HB 622, HB 889, HB 1308, HB 1379, HB 1562, HB 1676, HB 1763, HCR 204, HJR 36

House List No. 30

HCR 139, HCR 226

House List No. 31

HCR 173

Senate List No. 32

SB 584, SB 904, SB 1012, SB 1315

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 2, 2007

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 1344 Villarreal SPONSOR: Van de Putte
 Relating to the regulation of refund anticipation loans; providing an administrative penalty.
 (Committee Substitute)

HCR 9 Homer SPONSOR: Eltife
 In memory of Cecil B. "Poss" Long of Paris, Texas.

HCR 10 Homer SPONSOR: Eltife
 In memory of Mattie Katherine Bills of Paris, Texas.

HCR 123 McCall SPONSOR: Nelson
 In memory of successful businessman and Dallas Holocaust Museum cofounder Martin Donald.

- HCR 160** Homer SPONSOR: Eltife
In memory of Robert Bruce Staples, Jr., of Paris, Texas.
- HCR 168** Strama SPONSOR: Watson
Extending appreciation to the professionals of the juvenile probation system on Texas Juvenile Probation Day at the State Capitol.
- HCR 171** Homer SPONSOR: Eltife
In memory of Zane Daniel Newsom of Paris, Texas.
- HCR 173** Corte, Frank SPONSOR: Wentworth
Expressing support for bids by the Texas Bio- and Agro-Defense Consortium and the Texas A&M NBAF Consortium to locate the U.S. Department of Homeland Security's National Bio and Agro-Defense Facility in Texas.
- HCR 174** Homer SPONSOR: Eltife
In memory of Leonard Boone of Paris, Texas.
- HCR 175** Homer SPONSOR: Eltife
Commemorating the 173rd anniversary of Shiloh Cumberland Presbyterian Church in 2007.
- HCR 178** Craddick SPONSOR: Fraser
Congratulating the Honorable Reuben Senterfitt of San Saba on the occasion of his 90th birthday.
- HCR 179** Homer SPONSOR: Eltife
In memory of Madison Hope Nation of Paris.
- HCR 182** Homer SPONSOR: Deuell
Honoring Rachel Ming of Sulphur Springs on qualifying for the Business Professionals of America National Leadership Conference and Contest.
- HCR 183** Homer SPONSOR: Deuell
Honoring the members of the Sulphur Springs Middle School academic team for their victory at the UIL district competition.
- HCR 185** Bohac SPONSOR: Whitmire
Congratulating Patricia Montgomery on being named Outstanding Juvenile Probation Officer of the Year for 2006 by the Harris County Juvenile Probation Department.
- HCR 188** Merritt SPONSOR: Eltife
Honoring the 60th anniversary of Skeeter Products of Kilgore.
- SB 1317** Jackson, Mike
Relating to prohibiting a municipality from enacting regulations on air pollution that apply outside its corporate limits.
- SB 1436** West, Royce
Relating to the transfer of responsibility for the National Flood Insurance Program from the Texas Commission on Environmental Quality to the Texas Water Development Board and the administration and funding of the program.
- SB 1510** Lucio
Relating to the time for preparing an annual budget in certain counties.
- SB 1617** Harris
Relating to the collection of motor vehicle sales taxes on seller-financed sales by dealers and the registration of finance companies related to those dealers.
- SB 1836** Jackson, Mike
Relating to the management and control of certain port improvements and facilities.

SCR 70 Watson
 Congratulating Lawrence Wright for being awarded the 2007 Pulitzer Prize for General Nonfiction.

SJR 61 Duncan
 Proposing a constitutional amendment increasing dedicated funding for the major repair or rehabilitation of buildings and other permanent improvements of institutions of higher education that were not created as a part of The University of Texas System or The Texas A&M University System.

Respectfully,
 Patsy Spaw
 Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Wednesday, May 2, 2007 - 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:

SB 217 Shapiro
 Relating to the penalty for a parent who fails to require a child to attend school.

SB 1105 Watson
 Relating to the Texas Economic Development Act, including the eligibility of property for economic benefits authorized by that Act.

SB 1115 Deuell
 Relating to the regulation of independent emergency medical care facilities; providing penalties; creating an offense.

SB 1252 Averitt
 Relating to an electronic fingerprint verification system used by a seller to confirm the age of a purchaser of certain products; providing a criminal penalty.

SB 1846 Duncan
 Relating to funding for, and benefits provided under, the Teacher Retirement System of Texas.

SB 1985 Averitt
 Relating to the creation of the McLennan County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

SB 2000 Eltife
 Relating to a program to reduce the emissions of nitrogen oxides from certain stationary compressor engines.

SB 2016 Eltife
 Relating to the compensation paid to a statutory county court judge in Gregg County.

SB 2038

Averitt

Relating to the creation of the Tablerock Groundwater Conservation District; providing authority to impose a tax and issue bonds.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 2, 2007 - 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 704

Lucio

Relating to the small contractor participation assistance program for certain state construction projects.

SB 2033

Williams

Relating to the issuance of general obligation bonds by the Texas Public Finance Authority for certain maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

SJR 65

Williams

Proposing a constitutional amendment authorizing the issuance of general obligation bonds for maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 1

Agriculture and Livestock - **HB 2543, HB 2671**

Business and Industry - **HB 9, HB 1285, HB 1662, HB 3553**

Civil Practices - **HB 3377, HCR 138, HCR 155, SB 763, SB 1781**

Corrections - **HB 428, HB 430, HB 435, HB 927, HB 1276, HB 2100, HB 2389, HB 2498, HB 2699, HB 3521, HB 3736, SB 1580**

Criminal Jurisprudence - **HB 1267, HB 1810, HB 3247, HB 3561, HB 3659, HJR 23**

Culture, Recreation, and Tourism - **HB 3764**

Defense Affairs and State-Federal Relations - **HB 3396**

Elections - **HB 498, HB 3907, SB 493**

Government Reform - **HB 2443**

Higher Education - **HB 1330, HB 1493, HB 3291, HB 3443, HB 3826**

Human Services - **HB 1715, HB 1984, HB 2256, HB 2580, SB 318**

Insurance - **HB 1919**

Judiciary - **HB 3413**

Juvenile Justice and Family Issues - **HB 319, HB 525, HB 773, HB 774, HB 777, HB 778, HB 779, HB 781, HB 949, HB 1113, HB 1500, HB 1747, HB 1756, HB 2030, HB 2043, HB 2291, HB 3187, HB 3537, HB 3593, HB 3746, HB 4040**

Law Enforcement - **HB 586, HB 977, SB 835, SB 1354**

Licensing and Administrative Procedures - **HB 3069, HB 3978, SB 1287, SB 1634**

Local Government Ways and Means - **HB 2687, HB 2909, SB 1063, SB 1463, SB 1501, SB 1502**

Natural Resources - **HB 147, HB 1020, HB 2561, HB 3475, HB 3770, HB 4028, HB 4031, HB 4074, SB 688**

Pensions and Investments - **SB 1447**

Public Health - **HB 332, HB 1896, HB 2602, HB 2993, HB 3237, HB 3473, SB 1694**

State Affairs - **HB 159, HB 1131, HB 1604, HB 2935, HCR 11, HR 97, SB 1832**

Transportation - **SB 1267**

Ways and Means - **HB 593, HB 3431**

ENGROSSED

May 1 - **HB 4, HB 75, HB 155, HB 312, HB 323, HB 429, HB 462, HB 567, HB 568, HB 662, HB 755, HB 772, HB 1031, HB 1086, HB 1090, HB 1473, HB 1572, HB 1586, HB 1656, HB 1657, HB 1759, HB 1910, HB 1988, HB 2108, HB 2115, HB 2950, HB 3678, HB 3698, HB 3900, HJR 39**

ENROLLED

May 1 - **HB 76, HB 178, HB 313, HB 368, HB 374, HB 423, HB 481, HB 484, HB 504, HB 622, HB 889, HB 1308, HB 1379, HB 1562, HB 1676, HB 1763, HCR 204**