

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTY-THIRD DAY — THURSDAY, MAY 24, 2007

The house met at 9:15 a.m. and, at the request of the speaker, was called to order by Representative P. King.

The roll of the house was called and a quorum was announced present (Record 1692).

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; Moreno; 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.

The invocation was offered by Dr. Kevin McCallon, senior pastor, Kingwood First Baptist Church.

### CAPITOL PHYSICIAN

The chair recognized Nurse Tim Flynn who presented Dr. Joane Baumer of Fort Worth as the "Doctor for the Day."

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

### HOUSE AT EASE

At 9:21 a.m., the chair announced that the house would stand at ease until 9:30 a.m. today.

The speaker called the house to order at 9:30 a.m.

**TRIBUTE IN MEMORY OF FALLEN TEXANS  
IN THE GLOBAL WAR ON TERROR  
(The House of Representatives and Senate in Joint Session)**

In accordance with the provisions of **HCR 261**, providing for a joint memorial session of the house of representatives and senate at 9:30 a.m. today, for the purpose of a tribute to fallen soldiers of the Global War on Terrorism, the Honorable Rick Perry, governor of the State of Texas, the Honorable David Dewhurst, lieutenant governor of the State of Texas, and the honorable senators were announced at the door of the house and were admitted.

The senators occupied seats arranged for them.

Lieutenant Governor Dewhurst called the senate to order and announced a quorum of the senate was present.

The Honorable Tom Craddick, speaker of the house, stated that a quorum of the house was present.

Speaker Craddick stated that the two houses were in joint memorial session pursuant to **HCR 261** in honor of all Texans killed during the Global War on Terrorism and welcomed Governor Perry, Lieutenant Governor Dewhurst, and members of the senate.

The house and gallery rose for the posting of the colors.

The National Anthem Choir of Castle Hills First Baptist Church sang the national anthem.

Speaker Craddick presented Major Craig Combs, chaplain, who offered the invocation.

Speaker Craddick recognized Representative Berman who led the pledges of allegiance to the United States and Texas flags.

Speaker Craddick requested the reading clerk to read **HCR 257**, honoring Texans who have died while serving in the Global War on Terrorism and all men and women who have served in the United States armed forces.

**HCR 257**

WHEREAS, On this day, the Texas Legislature pauses to honor those whose patriotism has called them to duty in our nation's armed forces, and we also join together in solemn remembrance of those Texans who have been killed while serving in the Global War on Terrorism; and

WHEREAS, Texas servicemen and servicewomen have long distinguished themselves as individuals of remarkable courage, dedication, and determination, and today we are proud to honor all the men and women from our state who have ever left behind their loved ones and the comfort and security of their homes to heed our country's call to arms; and

WHEREAS, During these difficult times, as U.S. forces continue to prosecute the Global War on Terrorism, we are reminded anew of the tenacious resolve of our military personnel and the immeasurable debt that we owe to those who have given their lives in this country's behalf; to date, the United States

Department of Defense has confirmed the deaths of more than 3,300 American men and women who have served in this war, including at least 300 individuals with immediate ties to Texas; and

WHEREAS, Our state and nation are fortunate to have sons and daughters whose love of country leads them to military service, yet the deaths of these heroic Texans is a sobering reminder that armed conflict is not without great and terrible cost; their deaths represent a tremendous loss to their families and friends, the members of their units, and the State of Texas, and their sacrifice in the service of our nation will not soon be forgotten; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby pay special tribute to the memory of those Texans who have died while serving in the Global War on Terrorism and honor with gratitude their selfless and steadfast valor; and, be it further

RESOLVED, That the Texas Legislature express its heartfelt appreciation to all the brave men and women who have ever served in the United States armed forces.

The service medley was played.

Lieutenant Governor Dewhurst addressed the joint session and assemblage, as follows:

It's an honor to join you this morning to pay tribute to all of our brave Texas soldiers who've made the ultimate sacrifice to preserve our freedom. I want all of you, the families who've waited with patience and fear for your loved ones' safe return, and now endure the pain of your loss, to know that the thoughts, prayers, and gratitude of all Texans are with you.

I stand with you today, not just as lieutenant governor, but as the son of a WWII Army Air Corps B-26 bomber pilot, the grandson of two WWI army captains, and a veteran myself. That's why I'm unwavering in my support for our soldiers and their families.

Since 9-11 the strength and courage of America's character has been repeatedly tested on our own shores, in Afghanistan, in Iraq, and in other countries. In the face of conflict we've stood strong, and stand strong we must.

This war we face has not been easy, but then again, nothing worth defending ever is. We are a nation that believes in the God-given right to freedom for every man, woman, and child on the face of earth. And for these beliefs we pay an enormous price.

Today and every day we have a duty to honor and remember those who've made the ultimate sacrifice for our freedom. The Book of John speaks of this sacrifice. In Chapter 15, Verse 13, we read, "Greater love has no man than to lay down his life for a friend." And from the bottom of my heart, I thank all of you. And I can assure you that in Texas we will never forget the sacrifices made by your loved ones and your families. To all the men and women who've proudly worn the American uniform we will never forget your call to duty, your unyielding courage, and your allegiance to this "one nation under God." May

God bless you and may God keep safe our soldiers who are protecting our freedom around the world. May he continue to bless the land of the free and the home of the brave.

And now, I'd like to introduce someone else who truly understands your sacrifice, a veteran who's served our nation in the United States Air Force, my good friend, Governor Rick Perry.

Governor Perry addressed the joint session and assemblage, as follows:

We come to this chamber on many a morning to engage in the democratic process. We come here today to pay tribute to those who gave their lives in protecting it. Today our hearts are heavy not only for the lives lost, but the dreams extinguished, and no one feels more sorrow than the loved ones who have suffered such profound loss. When you waved them off for their last tour of duty, you knew such a day like this might be possible. And I know, as proud as you are today of the one whose life you mourn, you would trade every recognition ceremony in order to have them back to share one more smile and one more "I love you."

That has all been taken away, as has a future that once was bright with possibility. As with previous American wars, so often the ones who die on foreign soil were in the dawn of their lives when they departed this earth. Some too young to have children, some before they ever had a chance to see their children graduate from school or get married to the love of their life. Instead, they surrendered their every dream so children thousands of miles away might one day be free. The war on terror, or more specifically, the terrorists' war on us, reminds us that freedom is not free. In the 20th Century, this lesson was learned by generation after generation that fought in the trenches of Europe, that rolled back the Nazi forces of oppression and the Japanese threat in the Pacific, who fought the communists in Korea and Vietnam, and who drove a dictator out of a small Muslim country in the Persian Gulf. Today, the threat comes from a new kind of enemy, but the cost of defending freedom remains great. These Texans we remember today are the heroes of freedom who responded to the call of their country to make the world safer for democracy. We can in no way measure the depth of their devotion in giving up their every tomorrow for our today. Their sacrifice is beyond any words glorious enough to describe it. And while we would all wish that such ceremonies like this would never be needed, as long as they are, we have a solemn duty as a people to never forget what was offered on the altar of sacrifice so that we might be free. We must never forget who they were, or the heroism of their deeds. Nor must we forget the loved ones they leave behind who will live the rest of their lives with a void that can never be filled.

To each of you here today who mourn for such great loss, we offer not only our gratitude, but our prayers, that the God of comfort might console you. Though their lives were taken, the virtue of their lives and the heroism of their deeds can never be erased. They died as they lived—as heroes. And America will always be indebted to them. Thank you, and God bless you all.

Governor Perry presented flags flown over the Capitol to family members as Representatives Corte and Chavez and Senators Van de Putte and Estes read the names of the following fallen soldiers:

Corporal Andres Aguilar, Jr., Marine; Lance Corporal Anthony Aguirre, Marine; Specialist Nathaniel A. Aguirre, Army; Staff Sergeant George T. Alexander, Jr., Army; Lance Corporal Joshua C. Alonzo, Marine; Sergeant Roberto Arizola, Jr., Army; Petty Officer 1st Class Howard E. Babcock IV, Navy; Private First Class Paul Balint, Jr., Army; Specialist John Barta, Army; Private First Class Ryan R. Berg, Army; Sergeant First Class Sean B. Berry, Army National Guard; Corporal Ray M. Bevel, Army; Specialist Ryan A. Bishop, Army; Sergeant First Class Russell P. Borea, Army; Specialist Joshua M. Boyd, Army; Specialist Hoby F. Bradfield, Jr., Army; Corporal Anthony Bradshaw, Army; Sergeant Emerson Brand, Army; First Lieutenant Benjamin T. Britt, Army; Sergeant First Class William Brown, Army; Private First Class Travis W. Buford, Army; Specialist Willlliam J. Byler, Army; Staff Sergeant Eric Caban, Army; Specialist Rafael A. Carrillo, Army; Lance Corporal Mario A. Castillo, Marine; Lance Corporal Roger D. Castleberry, Jr., Marine Reserve; Specialist Ryan Collins, Army; Private Troy D. Cooper, Army; First Lieutenant Simon T. Cox, Jr., Army; Second Lieutenant Johnny K. Craver, Army; Specialist Ernest W. Dallas, Jr., Army; Corporal Jason B. Daniel, Army; Sergeant Jacob "JJ" Dones, Army; Specialist Dustin R. Donica, Army; Staff Sergeant Terrence D. Dunn, Army; Staff Sergeant Jerry M. Durbin, Jr., Army; Specialist Carl A. Eason, Army; Staff Sergeant Christopher L. Everett, Army; Lance Corporal Jonathan R. Flores, Marine; Staff Sergeant Omar D. Flores, Army; Staff Sergeant Tommy I. Folks, Jr., Army; Specialist Philip C. Ford, Army; First Lieutenant David M. Fraser, Army; Gunnery Sergeant John D. Fry, Marine; Captain James A. Funkhouser, Army; Corporal Jose A. Galvan, Marine; Major Anthony R. Garcia, Army; Sergeant Israel Devora Garcia, Army; Specialist J. Adan Garcia, Army; Corporal Rojelio R. Garza, Jr, Army; Specialist Damian J. Garza, Army; Lance Corporal Phillip C. George, Marine; Major Troy L. Gilbert, Army; Corporal Steven P. Gill, Marine Reserve; Private First Class Nathaniel A. Given, Army; Sergeant Shawn A. Graham, Texas National Guard; Sergeant Ryan P. Green, Army; Specialist Marieo Guerreo, Army; Private First Class Larry I. Guyton, Army; Sergeant Donald J. Hasse, Army; Chief Warrant Officer Miles P. Henderson, Army; Staff Sergeant Bryant A. Herlem, Army; Private First Class Thomas J. Hewett, Army; Sergeant Glenn D. Hicks, Jr., Army; Specialist Dominic J. Hinton, Army; Lieutenant Colonel Daniel E. Holland, Army; Lance Corporal Luke B. Holler, Marine Reserve; Sergeant First Class Robert M. Horrigan, Army; Private First Class Allen Brenton Jaynes, Army; Master Sergeant Ivica Jerak, Army; Sergeant Gary S. Johnston, Marine; Private First Class Roy L. Jones III, Army; Specialist Hatim S. Kathiria, Army; Specialist James C. Kesinger, Army; Private First Class Christopher R. Kilpatrick, Army; Petty Officer Second Class Charles V. Komppa, Navy; Private First Class Cory C. Kosters, Army; Lieutenant Colonel Eric J. Kruger, Army; Private First Class Brian J. Kubik, Army; Staff Sergeant Jose A. Lanzarin, Army; Specialist Aaron P. Latimer, Army; Corporal Michael C. Ledsome, Marine; Staff Sergeant Hector

Leija, Army; Staff Sergeant Michael C. Lloyd, Army; Corporal John M. Longoria, Marine; Captain Sean E. Lyerly, Army National Guard; Master Sergeant Kenneth N. Mack, Marine; Seaman Apprentice Robert D. Macrum, Navy; Captain Shane R. Mahaffee, Army Reserve; Lance Corporal Robert A. Martinez, Marine; Staff Sergeant Johnnie V. Mason, Army; Lance Corporal Christopher M. McCrackin, Marine; Sergeant Robert M. McDowell, Army; Staff Sergeant Brian McElroy, Army; First Sergeant Ricky L. McGinnis, Army; Sergeant Rhonald E. Meeks, Army; Sergeant William B. Meeuwssen, Army; Private First Class Kristian Menchaca, Army; Major Ramon J. Mendoza, Jr., Marine; Lance Corporal Ryan A. Miller, Marine; Petty Officer 1st Class Gilbert Minjares, Jr., Navy; Staff Sergeant Brian L. Mintzloff, Army; Specialist Yari Mokri, Army; Sergeant Steve Morin, Texas National Guard; Staff Sergeant Christopher R. Morningstar, Army; Lance Corporal Stephen L. Morris, Marine; Tech Sergeant Walter M. Moss, Jr., Air Force; Sergeant First Class Allen Mosteiro, Army; Sergeant James P. Muldoon, Army; Specialist Mitchel T. Mutz, Army; Specialist Russell H. Nahvi, Army; Staff Sergeant Joe A. Narvaez, Army; Corporal Jacob H. Neal, Marine; First Sergeant Phillip I. Neel, Army; Staff Sergeant Clinton T. Newman, Army; First Lieutenant Gwilym J. Newman, Army; Specialist Dan H. Nguyen, Army; Hospitalman Kyle A. Nolen, Marine; Captain Travis L. Patriquin, Army; Sergeant Roger P. Peña, Jr., Army; Sergeant Johnny J. Peralez, Jr., Army; Second Lieutenant Emily J.T. Perez, Army; Lance Corporal Stephen J. Perez, Marine; Sergeant Lorenzo Ponce Ruiz, Army; Specialist Aaron L. Preston, Army; Private First Class Tina M. Priest, Army; Staff Sergeant Kenneth I. Pugh, Army; Lance Corporal Benito A. Ramirez, Marine; Sergeant Reyes Ramirez, Army; Staff Sergeant Edward C. Reynolds, Jr., Army; Staff Sergeant William D. Richardson, Marine; Staff Sergeant Timothy J. Roark, Army; Sergeant Michael T. Robertson, Army; Corporal Benjamin S. Rosales, Marine; Captain Blake H. Russell, Army; Chief Warrant Officer Richard M. Salter, Army; Staff Sergeant Alberto V. Sanchez, Army; Sergeant Paul T. Sanchez, Army; First Lieutenant Ryan T. Sanders, Army; Oscar Saucedo, Jr., Army; Specialist Collin R. Schockmel, Army; Staff Sergeant Michael A. Shank, Army; Private First Class Darrell W. Shipp, Army; Sergeant Jonathan J. Simpson, Marine; Lieutenant Colonel Albert E. Smart II, Army Reserve; Sergeant Aaron A. Smith, Army; Corporal Richard A. Smith, Army; Private Clarence Spencer, Army; Specialist Lance C. Springer, Army; Corporal John R. Stalvey, Marine; Sergeant First Class John S. Stephens, Army; Corporal Timothy A. Swanson, Army; Specialist Eddie D. Tamez, Army; Private First Class Nickolas A. Tanton, Lance Corporal Samuel Tapia, Marine; Sergeant Michael C. Taylor, Army; Lance Corporal Miguel Terrazas, Marine; Sergeant James R. Tijerina, Marine; Chief Warrant Officer Eric W. Totten, Army; Private First Class Brett L. Tribble, Army; Corporal Tyler S. Trovillion, Marine; Private First Class Steven C. Tucker, Army; Sergeant George M. Ulloa, Jr., Marine; Specialist Andrew Velez, Army; Sergeant First Class Ruben J. Villa, Jr., Army; Specialist Javier A. Villanueva, Army; Specialist Robert J. Volker, Army; First Lieutenant Laura M. Walker, Army; Corporal Richard P. Waller, Marine; Specialist Forrest J. Waterbury, Army; Colonel Theodore S. Westhusing, Army; Sergeant Jeffery S. Wiekamp, Army;

Staff Sergeant Benjamin D. Williams, Marine; Specialist Daniel W. Winegeart, Army; Major Matthew W. Worrel, Army; Lance Corporal Luke Carney Yepsen, Marine; Sergeant Christopher M. Zimmerman, Marine.

The joint session and assemblage observed a moment of silence.

A cannon salute was offered by the Texas Army National Guard Salute Battery.

"Amazing Grace" was played by Highland Bagpipe Band of El Paso.

"Taps" was played by Specialist Roger Williams.

Speaker Craddick thanked the attendees of today's service and introduced Major Craig Combs who offered the benediction.

### **HOUSE AT EASE**

At 11:16 a.m., the speaker stated that the purpose of the joint session having been concluded, the house would stand at ease pending the departure of guests.

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

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

(Anderson in the chair)

### **RECESS**

At 11:33 a.m., the chair announced that the house would stand recessed until 1 p.m. today.

### **AFTERNOON SESSION**

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

### **RESOLUTIONS REFERRED TO COMMITTEES**

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Paxton in the chair)

### **HCR 240 - READ**

**(by Homer)**

The chair laid out and had read the following previously adopted resolution:

**HCR 240**, In memory of Robert Kim Brown of Austin.

### **HCR 240 - MOTION TO ADD NAMES**

On motion of Representative Hodge, the names of all the members of the house were added to **HCR 240** as signers thereof.

**LEAVES OF ABSENCE GRANTED**

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

Bailey on motion of Gonzalez Toureilles.

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

Gonzales on motion of D. Howard.

**HR 1677 - READ  
(by Callegari)**

The chair laid out and had read the following previously adopted resolution:

**HR 1677**, In memory of Michelle Lynette Schulle of San Marcos.

**HR 1677 - MOTION TO ADD NAMES**

On motion of Representative Thompson, the names of all the members of the house were added to **HR 1677** as signers thereof.

(Otto in the chair)

**INTRODUCTION OF GUESTS**

The chair recognized Representative Callegari who introduced family members of Michelle Lynette Schulle.

(Solomons in the chair)

**HR 1914 - ADOPTED  
(by Callegari)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 1914**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1914**, Honoring Roosevelt Alexander of Katy on his contributions to his community.

**HR 1914** was read and was adopted.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Callegari who introduced Roosevelt Alexander and members of his family.

**HR 2611 - ADOPTED  
(by Craddick)**

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 2611**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2611**, Congratulating Larry Taylor on his appointment as the student regent of the Texas Southern University Board of Regents.

**HR 2611** was read and was adopted.

On motion of Representative Taylor, the names of all the members of the house were added to **HR 2611** as signers thereof.

(Bailey now present)

**HR 2041 - ADOPTED**  
**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 2041**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2041**, Honoring U.S. Air Force Staff Sergeant Brian D. Borrero on his receipt of the Bronze Star.

**HR 2041** was read and was adopted.

On motion of Representative Macias, the names of all the members of the house were added to **HR 2041** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representative S. King who introduced U.S. Air Force Staff Sergeant Brian D. Borrero.

**HR 2040 - ADOPTED**  
**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 2040**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2040**, Honoring U.S. Air Force Staff Sergeant Glenn A. Wright on his receipt of the Bronze Star.

**HR 2040** was read and was adopted.

On motion of Representative Macias, the names of all the members of the house were added to **HR 2040** as signers thereof.

**HR 2142 - ADOPTED**  
**(by S. King)**

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 2142**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2142**, Commending U.S. Air Force Staff Sergeant John R. Hoover for his heroic actions during combat in Iraq and congratulating him on his receipt of the Bronze Star Medal.

**HR 2142** was read and was adopted.

On motion of Representative Macias, the names of all the members of the house were added to **HR 2142** as signers thereof.

#### **INTRODUCTION OF GUEST**

The chair recognized Representative S. King who introduced U.S. Air Force Staff Sergeant John R. Hoover.

#### **HR 2265 - ADOPTED (by Hodge)**

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **HR 2265**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2265**, Commending Rachel T. Hall for her service as a legislative intern in the office of State Representative Terri Hodge.

**HR 2265** was read and was adopted.

On motion of Representative McClendon, the names of all the members of the house were added to **HR 2265** as signers thereof.

#### **HR 2473 - ADOPTED (by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2473**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2473**, Recognizing the McClendon Legislative Service Scholars Program interns of the 80th Texas Legislature.

**HR 2473** was read and was adopted.

On motion of Representative McReynolds, the names of all the members of the house were added to **HR 2473** as signers thereof.

#### **INTRODUCTION OF GUESTS**

The chair recognized Representatives McClendon, Pitts, Dukes, McReynolds, and Menendez who introduced members of the McClendon Legislative Service Scholars Program.

**HR 2530 - ADOPTED**  
**(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2530**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2530**, Honoring McClendon Legislative Scholar Joel Tabar for his acceptance into The University of Texas School of Law.

**HR 2530** was read and was adopted.

On motion of Representative McClendon, the names of all the members of the house were added to **HR 2530** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representative McClendon who introduced Joel Tabar.

**MESSAGES FROM THE SENATE**

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

**HCR 56 - READ**  
**(by Guillen)**

The chair laid out and had read the following previously adopted resolution:

**HCR 56**, Honoring J. O. Barrera for his many years of service as Duval County Veterans Service Officer.

**HCR 56 - MOTION TO ADD NAMES**

On motion of Representative Raymond, the names of all the members of the house were added to **HCR 56** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representatives Guillen and Raymond who introduced J. O. Barrera who briefly addressed the house.

**HR 2635 - ADOPTED**  
**(by Kuempel)**

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 2635**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2635**, Honoring Pebbles Wadsworth on her retirement as director of the Performing Arts Center at The University of Texas at Austin and recognizing her as an honorary Texan.

**HR 2635** was read and was adopted.

On motion of Representative Thompson, the names of all the members of the house were added to **HR 2635** as signers thereof.

### INTRODUCTION OF GUEST

The chair recognized Representative Kuempel who introduced Pebbles Wadsworth.

### HR 2522 - READ (by Dutton)

The chair laid out and had read the following previously adopted resolution:

**HR 2522**, Congratulating the Texas Attorney General's Office–Child Support Division on its receipt of the 2007 Outstanding Program Award from the National Child Support Enforcement Association.

### INTRODUCTION OF GUESTS

The chair recognized Representatives Dutton, Morrison, and Burnam who introduced staff from the Texas Attorney General's Office–Child Support Division.

### HB 1038 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 1038**, A bill to be entitled An Act relating to the operation of the Texas Residential Construction Commission; providing penalties.

Representative Ritter moved to concur in the senate amendments to **HB 1038**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1693): 136 Yeas, 2 Nays, 3 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; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson;

Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Gattis; Harper-Brown.

Present, not voting — Mr. Speaker; McClendon; Mowery.

Absent, Excused — Gonzales.

Absent — Hernandez; Kolkhorst; Merritt; Moreno; Parker; Puente; Straus; Turner.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1693. I intended to vote no.

Hodge

When Record No. 1693 was taken, I was in the house but away from my desk. I would have voted yes.

Parker

When Record No. 1693 was taken, I was in the house but away from my desk. I would have voted yes.

Straus

### Senate Committee Substitute

**CSHB 1038**, A bill to be entitled An Act relating to the operation of the Texas Residential Construction Commission; providing penalties.

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

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.016 to read as follows:

Sec. 5.016. DISCLOSURE OF ABSENCE OF CERTAIN WARRANTIES.

(a) A seller of residential real property that is exempt from Title 16 under Section 401.005 shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF NONAPPLICABILITY OF CERTAIN WARRANTIES  
AND BUILDING AND PERFORMANCE STANDARDS

The property that is subject to this contract is exempt from Title 16, Property Code, including the provisions of that title that provide statutory warranties and building and performance standards.

(b) A notice required by this section shall be delivered by the seller to the purchaser on or before the effective date of an executory contract binding the purchaser to purchase the property. If a contract is entered into without the seller providing the notice, the purchaser may terminate the contract for any reason on or before the seventh day after the date the purchaser receives the notice.

(c) This section does not apply to a transfer:

(1) under a court order or foreclosure sale;

(2) by a trustee in bankruptcy;

(3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;

(5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

(6) from one co-owner to another co-owner of an undivided interest in the real property;

(7) to a spouse or a person in the lineal line of consanguinity of the seller;

(8) to or from a governmental entity; or

(9) of only a mineral interest, leasehold interest, or security interest.

SECTION 2. Section 27.002(b), Property Code, is amended to read as follows:

(b) Except as provided by this subsection, to ~~[To]~~ the extent of conflict between this chapter and any other law, including the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) or a common law cause of action, this chapter prevails. To the extent of conflict between this chapter and Title 16, Title 16 prevails.

SECTION 3. Section 27.004(d), Property Code, is amended to read as follows:

(d) The court or arbitration tribunal shall abate ~~[dismiss]~~ an action governed by this chapter if Subsection (c) does not apply and the court or tribunal, after a hearing, finds that the contractor is entitled to abatement ~~[dismissal]~~ because the claimant failed to comply with the requirements of Subtitle D, Title 16, if applicable, failed to provide the notice or failed to give the contractor a reasonable opportunity to inspect the property as required by Subsection (a), or failed to follow the procedures specified by Subsection (b). An action is automatically abated ~~[dismissed]~~ without the order of the court or tribunal beginning on the 11th day after the date a motion to abate ~~[dismiss]~~ is filed if the motion:

(1) is verified and alleges that the person against whom the action is pending did not receive the written notice required by Subsection (a), the person against whom the action is pending was not given a reasonable opportunity to inspect the property as required by Subsection (a), or the claimant failed to follow the procedures specified by Subsection (b) or Subtitle D, Title 16; and

(2) is not controverted by an affidavit filed by the claimant before the 11th day after the date on which the motion to abate ~~[dismiss]~~ is filed.

SECTION 4. Section 27.007, Property Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a contract relating to a home required to be registered under Section 426.003.

SECTION 5. Section 41.007, Property Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) A contract for improvements to an existing residence described by Section 41.001(b)(3) must contain:

(1) the contractor's certificate of registration number from the Texas Residential Construction Commission if the contractor is required to register as a builder with the commission;

(2) the address and telephone number at which the owner may file a complaint with the Texas Residential Construction Commission about the conduct of the contractor if the contractor is required to register as a builder with the commission; and

(3) the following warning conspicuously printed, stamped, or typed in a size equal to at least 10-point bold type or computer equivalent~~[- next to the owner's signature line on the contract]:~~

"IMPORTANT NOTICE: You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW."

(c) A provision of a contract for improvements to an existing residence described by Section 41.001(b)(3) that requires the parties to submit a dispute arising under the contract to binding arbitration must be conspicuously printed or typed in a size equal to at least 10-point bold type or the computer equivalent.

(d) A provision described by Subsection (c) is not enforceable against the owner unless the requirements of Subsection (c) are met.

SECTION 6. Section 401.002, Property Code, is amended by adding Subdivisions (7-a) and (8-a) to read as follows:

(7-a) "Improvement to the interior of an existing home" means any modification to the interior living space of a home, which includes the addition or installation of permanent fixtures inside the home. An improvement to the interior of an existing home does not include improvements to an existing home if the improvements are designed primarily to repair or replace the home's component parts.

(8-a) "Material improvement" means a modification to an existing home that either increases or decreases the home's total square footage of living space that also modifies the home's foundation, perimeter walls, or roof. A material improvement does not include modifications to an existing home if the modifications are designed primarily to repair or replace the home's component parts.

SECTION 7. Section 401.003, Property Code, is amended to read as follows:

Sec. 401.003. DEFINITION OF BUILDER. (a) In this title, "builder" means any person ~~[business entity or individual]~~ who, for a fixed price, commission, fee, wage, or other compensation, sells, constructs, or supervises or manages the construction of, or contracts for the construction of or the supervision or management of the construction of:

(1) a new home;

(2) a material improvement to a home, other than an improvement solely to replace or repair a roof of an existing home; or

(3) an improvement to the interior of an existing home when the cost of the work exceeds \$10,000 [~~\$20,000~~].

(b) The term includes:

(1) an owner, officer, director, shareholder, partner, affiliate, subsidiary, or employee of the builder;

(2) a risk retention group governed by Article 21.54, Insurance Code, that insures all or any part of a builder's liability for the cost to repair a residential construction defect; and

(3) a third-party warranty company and its administrator.

(c) The term does not include any person [~~business entity or individual~~] who:

(1) has been issued a license by this state or an agency [~~or political subdivision~~] of this state to practice a trade or profession related to or affiliated with residential construction if the work being done by the entity or individual to the home is solely for the purpose for which the license was issued; or

(2) sells a new home and:

(A) does not construct or supervise or manage the construction of the home; and

(B) holds a license issued under Chapter 1101, Occupations Code, or is exempt from that chapter under Section 1101.005, Occupations Code.

SECTION 8. Section 401.005, Property Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This title does not apply to a homeowner or to a homeowner's real estate broker, agent, interior designer registered under Chapter 1053, Occupations Code, interior decorator, or property manager who supervises or arranges for the construction of an improvement to a home owned by the homeowner.

(c) An individual who builds a home or a material improvement to a home and sells the home immediately following completion of the building or remodeling and does not live in the home for at least one year following completion of the building or remodeling is responsible as a builder under the warranty obligation created by this title for work completed by the individual. Responsibility under this subsection does not automatically require an individual to register under Section 416.001.

SECTION 9. Chapter 401, Property Code, is amended by adding Section 401.007 to read as follows:

Sec. 401.007. INJUNCTION; APPEAL. (a) If the commission has reasonable cause to believe that a person is violating a statute to which this chapter applies, the commission, in addition to any other authorized action, may issue an order to cease and desist from the violation or an order to take affirmative action, or both, to enforce compliance. A person may appeal the order directly to district court in accordance with Chapter 2001, Government Code.

(b) Before issuing an order under this section, the commission shall set and give notice of a hearing before a hearings officer. The hearing is governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commission by order may find whether a violation has occurred.

(c) The commission, after providing notice and an opportunity to appear for a hearing, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of violation. In addition to any other remedy provided by law, the attorney general or the commission may institute in district court a suit for injunctive relief and to collect an administrative penalty. A bond is not required of the commission with respect to injunctive relief granted under this section. In the action, the court may enter as proper an order awarding a preliminary or final injunction.

(d) A suit by the attorney general under this section must be brought in Travis County.

(e) The attorney general and the commission may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(f) If a party seeks review of the order by the commission, the party shall file a petition initiating judicial review not later than the 30th day after the date of the issuance of the decision.

SECTION 10. Section 406.001, Property Code, is amended by adding Subsections (a-1) and (c) to read as follows:

(a-1) In making appointments under Subsection (a)(2), the governor shall consider individuals who can represent the interests of homeowners, including individuals who have experience representing consumer or homeowner interests.

(c) A person may not be a public member of the commission if the person or the person's spouse:

(1) is a builder registered with the commission, or is otherwise registered, certified, or licensed by a regulatory agency in the field of residential construction;

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

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

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

SECTION 11. Sections 406.004(b) and (c), Property Code, are amended to read as follows:

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

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

(2) the person's spouse is an officer, ~~[a]~~ manager, or paid consultant of a Texas trade association or consumer association in the field of residential construction.

(c) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code~~], because of the person's activities for compensation on behalf of a profession related to the operation of the commission].~~

SECTION 12. Section 408.002, Property Code, is amended to read as follows:

Sec. 408.002. FEES. (a) The commission shall adopt fees as required by this title in amounts that are reasonable and necessary to provide sufficient revenue to cover the costs of administering this title.

(b) The commission may charge a late fee for late payment of any fee due to the commission. The late fee may be any amount that does not exceed the amount of the fee due.

(c) The commission may charge a reasonable fee for:

(1) a homeowner to submit a request for state-sponsored inspection under Subtitle D;

(2) providing public information requested under Chapter 552, Government Code, excluding information requested from the commission under Section 409.001; or

(3) producing, mailing, and distributing special printed materials and publications generated in bulk by the commission for use and distribution by builders.

(d) The commission may waive or reduce the fee for an inspection under Subtitle D for a homeowner who demonstrates an inability to pay the fee.

SECTION 13. Section 408.003, Property Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may procure and distribute to consumers informational materials and promotional items that contain commission contact details and outreach information.

SECTION 14. Chapter 408, Property Code, is amended by adding Section 408.005 to read as follows:

Sec. 408.005. COLLECTION OF AMOUNTS DUE. The commission may seek reimbursement of any amounts due to the commission and restitution for any dishonored payment instrument presented for payment to the commission.

SECTION 15. Chapter 409, Property Code, is amended by adding Section 409.0011 to read as follows:

Sec. 409.0011. BUILDER LIST. (a) In this section, "volume builder" means a builder who registers at least 100 homes each year as provided by Section 426.003.

(b) The commission shall create and make accessible to the public an electronic list and a hard-copy list of builders who:

(1) are registered with the commission; and

(2) provide in this state building services, including accessible floor plans, to persons with mobility-related special needs.

(c) The electronic list required under Subsection (b) shall provide, if available, the following information with respect to each listed builder:

(1) a link to the builder's website; and

(2) contact information for the builder, including the municipalities where the builder provides building services described by Subsection (b)(2).

(d) The commission shall contact all volume builders in this state and encourage those builders to develop floor plans that are designed to be accessible for persons with mobility-related special needs.

(e) The Veterans' Land Board shall make accessible to the public on its Internet website and in hard-copy format the electronic list required under Subsection (b).

SECTION 16. Section 409.003, Property Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The commission shall make available to the public information about each complaint that resulted in disciplinary action by the commission.

(e) The commission may not disclose the address of any individual home registered with the commission when making information available to the public under this title, except as necessary to implement this title.

(f) Notwithstanding Subsections (d) and (e), the commission may not disclose the address of an individual home registered with the commission:

(1) on the commission's Internet website; or

(2) in connection with an open records request under Chapter 552, Government Code.

SECTION 17. Chapter 409, Property Code, is amended by adding Section 409.004 to read as follows:

Sec. 409.004. DIRECTORY OF BUILDERS. The commission shall make available to the public a list of each builder who holds a certificate of registration issued under Chapter 416.

SECTION 18. Section 416.002, Property Code, is amended by adding Subsection (e) to read as follows:

(e) Based on a commission investigation of an alleged violation of Sections 418.001(a)(14)-(20), the commission may require an applicant for renewal of a certificate of registration to disclose to the commission every person with an ownership interest in the applicant's business as a builder. This subsection does not apply to a publicly traded company.

SECTION 19. Section 416.004, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The commission shall charge and collect:

(1) a filing fee for an application for an original certificate of registration that does not exceed \$500; ~~and~~

(2) a fee for renewal of a certificate of registration that does not exceed \$300; and

(3) a late fee that does not exceed the amount of the fee due if payment of a registration application or renewal fee due under this title is late.

(c) All fees paid to the commission under this section are nonrefundable.

SECTION 20. Sections 416.008(d) and (e), Property Code, are amended to read as follows:

(d) The hearing officer may grant a motion for continuance of the hearing on the request of the commission or either party ~~[may be continued from time to time with the consent of the applicant].~~

(e) The hearing shall be held before a hearings officer appointed by the commission. After the hearing, the hearings officer shall enter an appropriate order. ~~[The order of the hearings officer under this subsection is a final decision.]~~

SECTION 21. Section 416.010, Property Code, is amended by adding Subsection (e) to read as follows:

(e) A builder may designate a United States Postal Service postal box for use in correspondence. The builder may not use the box as the builder's principal place of business for purposes of this section.

SECTION 22. Section 416.011(d), Property Code, is amended to read as follows:

(d) The certification issued by the commission as a "Texas Star Builder" is valid for at most one year and renewable on a date to be determined at the commission's discretion ~~[shall be for the same period of time as the builder's registration under this chapter].~~

SECTION 23. Chapter 416, Property Code, is amended by adding Section 416.012 to read as follows:

Sec. 416.012. CONTINUING EDUCATION PROGRAMS. (a) The commission shall recognize or administer continuing education programs for builders registered by the commission. A registered builder must participate in the programs to the extent required by this section to maintain the builder's registration.

(b) A builder who registers for the first time on or after September 1, 2007, must complete, during the first year the builder is registered with the commission, five hours of continuing education, one hour of which must address ethics.

(c) A builder who is registered before September 1, 2007, and all other builders who register for the first time on or after September 1, 2007, and satisfy the requirements of Subsection (b), must complete five hours of continuing education every five years, one hour of which must address ethics.

(d) The commission shall permit a registered builder to receive continuing education credit for educational, technical, ethical, or professional management activities related to the practice of residential construction, including:

(1) successfully completing or auditing a course sponsored by an institution of higher education;

(2) successfully completing a course certified by a professional or trade organization;

(3) attending a seminar, tutorial, short course, correspondence course, videotaped course, or televised course on the practice of residential construction;

(4) participating in an in-house course sponsored by a corporation or other business entity;

(5) teaching a course described by Subdivisions (1)-(4);

(6) publishing an article, paper, or book on the practice of residential construction;

(7) making or attending a presentation at a meeting of a residential or builder association or organization or writing a paper presented at the meeting;

(8) participating in the activities of a residential or builder association, including serving on a committee of the organization; and

(9) engaging in self-directed study on the practice of residential construction.

(e) A registered builder may not receive more than two continuing education credit hours during each five-year period for engaging in self-directed study.

(f) At least two hours of the continuing education requirement under this section must address:

(1) limited statutory warranties;

(2) building and performance standards; and

(3) requirements of the International Residential Code as adopted under Section 430.001 and other statutes and rules that apply to builders under this title.

(g) A builder's agent or other designated individual may satisfy the requirements of this section for the builder if the builder is a corporation or other business entity.

SECTION 24. Section 417.003, Property Code, is amended to read as follows:

Sec. 417.003. FEES. (a) The commission shall charge and collect:

(1) a filing fee for an application for certification under this chapter that does not exceed \$100; ~~and~~

(2) a fee for renewal of a certification under this chapter that does not exceed \$50; and

(3) a late fee that does not exceed the amount of the fee due if payment of a registration or application fee due under this title is late.

(b) All fees paid to the commission under this section are nonrefundable.

SECTION 25. Sections 418.001 and 418.002, Property Code, are amended to read as follows:

Sec. 418.001. GROUNDS FOR DISCIPLINARY ACTION. A person, including a builder or a person who is designated as a builder's agent under Section 416.006, or a person who owns or controls a majority ownership interest in the builder is subject to disciplinary action under this chapter for:

(1) fraud or deceit in obtaining a registration or certification under this subtitle;

(2) misappropriation or misapplication of trust funds in the practice of residential construction, including a violation of Chapter 32, Penal Code, or Chapter 162, if found by a final nonappealable court judgment;

(3) naming false consideration in a contract to sell a new home or in a construction contract;

(4) discriminating on the basis of race, color, religion, sex, national origin, or ancestry;

(5) publishing a false or misleading advertisement;

(6) failure to honor, within a reasonable time, a check issued to the commission, or any other instrument of payment, including a credit or debit card or electronic fund transfer, after the commission has sent by certified mail a request for payment to the person's last known business address, according to commission records;

(7) failure to pay an administrative penalty assessed by the commission under Chapter 419 or a fee due under Chapter 426;

(8) failure to pay ~~[nonpayment of]~~ a final nonappealable court judgment arising from a construction defect or other transaction between the person and a homeowner;

(9) failure to register a home as required by Section 426.003;

(10) failure to remit the fee for registration of a home under Section 426.003; ~~[or]~~

(11) failure to reimburse a homeowner the amount ordered by the commission as provided by ~~[in]~~ Section 428.004(d);

(12) engaging in statutory or common-law fraud or misappropriation of funds, as determined by the commission after a hearing under Section 418.003;

(13) a repeated failure to participate in the state-sponsored inspection and dispute resolution process if required by this title;

(14) failure to register as a builder as required under Chapter 416;

(15) using or attempting to use a certificate of registration that has expired or that has been revoked;

(16) falsely representing that the person holds a certificate of registration issued under Chapter 416;

(17) acting as a builder using a name other than the name or names disclosed to the commission;

(18) aiding, abetting, or conspiring with a person who does not hold a certificate of registration to evade the provisions of this title or rules adopted under this title, if found by a final nonappealable court judgment;

(19) allowing the person's certificate of registration to be used by another person;

(20) acting as an agent, partner, or associate of a person who does not hold a certificate of registration with the intent to evade the provisions of this title or rules adopted under this title;

(21) a failure to reasonably perform on an accepted offer to repair or a repeated failure to make an offer to repair based on:

(A) the recommendation of a third-party inspector under Section 428.004; or

(B) the final holding of an appeal under Chapter 429;

(22) a repeated failure to respond to a commission request for information;

(23) a failure to obtain a building permit required by a political subdivision before constructing a new home or an improvement to an existing home;

(24) abandoning, without justification, any home improvement contract or new home construction project engaged in or undertaken by the person, if found to have done so by a final, nonappealable court judgment; or

(25) otherwise violating this title or a commission rule adopted under this title.

Sec. 418.002. DISCIPLINARY POWERS OF COMMISSION. (a) On a determination that a ground for disciplinary action under Section 418.001 exists, the commission may:

(1) revoke or suspend a registration or certification in the event of repeated prior violations that have resulted in disciplinary action;

(2) probate the suspension of a registration or certification; [~~or~~]

(3) formally or informally reprimand a registered or certified person; or

(4) impose an administrative penalty under Chapter 419.

(b) The commission must consider the factors described by Section 419.002(b) before taking disciplinary action under this chapter.

(c) For purposes of Section 418.001(12), the commission may not conduct a hearing, revoke, or suspend a registration or certification unless the determination of statutory or common-law fraud or misappropriation of funds has been made in a final nonappealable judgment by a court.

(d) Prior to imposing disciplinary action under Subsection (a)(1) based upon grounds that involve a transaction between a builder and a homeowner, there must be repeated prior violations that have resulted in disciplinary action that involve the greater of:

(1) at least three homes registered by the builder under Section 426.003; or

(2) at least one percent of the homes registered by the builder under Section 426.003 during the preceding 12 months.

(e) When the commission has information that a matter may be criminal in nature, the commission may refer the matter to a local district attorney or county attorney for investigation.

SECTION 26. Section 418.004, Property Code, is amended by adding Subsection (c) to read as follows:

(c) An appeal to a district court of a final decision of the commission under this section regarding a revocation or suspension of a registration or certification is determined by substantial evidence.

SECTION 27. Chapter 418, Property Code, is amended by adding Section 418.005 to read as follows:

Sec. 418.005. RESPONSIBILITY FOR ADMINISTRATIVE ACTIONS.

(a) The commission may simultaneously take administrative action under this chapter against:

(1) a builder; and

(2) a person who owns or controls a majority ownership interest in the builder.

(b) A builder and a person who owns or controls a majority ownership interest in the builder are jointly and severally liable for any amounts due to the commission under this title.

SECTION 28. Section 419.001, Property Code, is amended to read as follows:

Sec. 419.001. IMPOSITION OF ADMINISTRATIVE PENALTY. ~~The [in a contested case involving disciplinary action, the] commission may [as part of the commission's order,] impose an administrative penalty on a [registered or certified] person who violates this title or a rule adopted or order issued by the commission under this title.~~

SECTION 29. Section 419.002, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), an ~~[An]~~ administrative penalty imposed under this chapter may not exceed \$10,000 ~~[\$5,000]~~ for each violation.

(c) A violation of Section 418.001(a)(2) or (12) is punishable by a penalty not to exceed \$100,000.

SECTION 30. Subtitle C, Title 16, Property Code, is amended by adding Chapter 420 to read as follows:

#### CHAPTER 420. BUILDING CONTRACT PROVISIONS

Sec. 420.001. REQUIRED WRITTEN DISCLOSURE. In a contract for the construction of a new home or an improvement to an existing home required to be registered under Section 426.003, the contract must contain a notice to the consumer in at least 10-point bold type or the computer equivalent that gives the telephone number of the commission and states:

STATE LAW REQUIRES THAT A PERSON HOLD A CERTIFICATE OF REGISTRATION FROM THE TEXAS RESIDENTIAL CONSTRUCTION COMMISSION IF THE PERSON CONTRACTS TO CONSTRUCT A NEW HOME OR IF THE PERSON CONTRACTS TO CONSTRUCT A MATERIAL IMPROVEMENT TO AN EXISTING HOME OR CERTAIN IMPROVEMENTS TO THE INTERIOR OF AN EXISTING HOME AND THE TOTAL COST OF THE IMPROVEMENT IS \$10,000 OR MORE (INCLUDING LABOR AND MATERIALS).

YOU MAY CONTACT THE COMMISSION AT [insert commission's telephone number] TO FIND OUT WHETHER THE BUILDER HAS A VALID CERTIFICATE OF REGISTRATION. THE COMMISSION HAS INFORMATION AVAILABLE ON THE HISTORY OF BUILDERS, INCLUDING SUSPENSIONS, REVOCATIONS, COMPLAINTS, AND RESOLUTION OF COMPLAINTS.

This contract is subject to Chapter 426, Property Code. The provisions of that chapter govern the process that must be followed in the event a dispute arises out of an alleged construction defect. If you have a complaint concerning a construction defect you may contact the Commission at the toll-free telephone number to learn how to proceed under the State-Sponsored Inspection and Dispute Resolution Process.

Sec. 420.002. REQUIRED CONTRACT PROVISIONS. In a contract for the construction of a new home or an improvement to an existing home required to be registered under Section 426.003, the contract is not enforceable against a homeowner unless the contract:

(1) contains the builder's name and certificate of registration number;  
and

(2) contains the notice required by Section 420.001.

Sec. 420.003. BINDING ARBITRATION CONTRACT PROVISION.

(a) In a contract for the construction of a new home or the improvement of an existing home required to be registered under Section 426.003 and that contains a provision requiring the parties to submit a dispute arising under the contract to binding arbitration, the provision must be conspicuously printed or typed in a size equal to at least 10-point bold type or the computer equivalent.

(b) A provision described by Subsection (a) is not enforceable against the homeowner unless the requirements of Subsection (a) are met.

SECTION 31. Section 426.003(b), Property Code, is amended to read as follows:

(b) A builder who enters ~~[into]~~ a transaction governed by this title, other than the transfer of title of a new home from the builder to the seller, shall register the home involved in the transaction with the commission. The registration must:

(1) include the information required by the commission by rule;

(2) be accompanied by the fee required by Subsection (c); and

(3) be delivered to the commission not later than the 15th day after the earlier of:

(A) the date of the substantial completion of the home or other residential construction project ~~[of the agreement that describes the transaction between the homeowner and the builder]; [or]~~

(B) the date the new home is occupied; or

(C) the date of issuance of a certificate of occupancy or a certificate of completion ~~[commencement of the work on the home].~~

SECTION 32. Section 426.001(a), Property Code, is amended to read as follows:

(a) This subtitle applies to a dispute between a builder and a homeowner if:

(1) the dispute arises out of an alleged construction defect, other than a claim solely for:

(A) personal injury, survival, or wrongful death; or

(B) damage to goods; and

(2) a request is submitted to the commission not later than the 30th day after ~~[on or before]~~ the 10th anniversary of:

(A) the date of the initial transfer of title from the builder to the initial owner of the home or the improvement that is the subject of the dispute; or

(B) ~~;~~ if there is not a closing in which title is transferred, the date on which the ~~[contract for]~~ construction of the improvement was substantially completed ~~[entered into].~~

SECTION 33. Section 426.004, Property Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If the transfer of the title of the home from the builder to the initial homeowner occurred before January 1, 2004, or if the contract for improvements or additions between the builder and homeowner was entered into before January 1, 2004, the commission shall register the home and the builder ~~[the person who~~

~~submits a request involving the home] shall pay[, in addition to the inspection expenses required by this section,] the registration fee required by Section 426.003.~~

(d) The commission may reimburse an inspector for travel expenses incurred to complete an inspection regardless of whether the expenses exceed the amount collected under this section.

SECTION 34. Section 426.005, Property Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) A homeowner or builder must comply with this subtitle before initiating an action for damages or other relief arising from an alleged construction defect.

(f) A homeowner is not required to comply with this subtitle if, at the time a homeowner and a builder enter into a contract covered by this title:

(1) the builder was not registered; or

(2) the certificate of registration of the builder has been revoked.

SECTION 35. Section 426.006, Property Code, is amended to read as follows:

Sec. 426.006. TIME FOR REQUESTING INSPECTION AND DISPUTE RESOLUTION. (a) For an alleged defect discovered during an applicable warranty period, the [The] state-sponsored inspection and dispute resolution process must be requested on or before the second anniversary of the date of discovery of the conditions claimed to be evidence of the construction defect but not later than the 90th [30th] day after the date the applicable warranty period expires.

(b) If the alleged defect would violate the statutory warranty of habitability and was not discoverable by a reasonable, prudent inspection or examination of the home or improvement within the applicable warranty period, the state-sponsored inspection and dispute resolution process must be requested:

(1) on or before the second anniversary of the date of discovery of the conditions claimed to be evidence of the construction defect; and

(2) not later than the 10th anniversary of the date of the initial transfer of title from the builder to the initial owner of the home or improvement that is the subject of the dispute or, if there is not a closing, the date on which the contract for construction of the improvement is entered into.

SECTION 36. Section 426.007, Property Code, is amended to read as follows:

Sec. 426.007. ADMISSIBILITY OF CERTAIN EVIDENCE. A person who submits a request for state-sponsored inspection and dispute resolution or responds to a request under Chapter 428 must disclose in the request or response the name of any expert [person] who, before the request is submitted, inspected the home on behalf of the requestor or respondent in connection with the construction defect alleged in the request or response. If an expert's [a person's] name is known to the requestor or respondent at the time of the request or response and is not disclosed as required by this section, the requestor or respondent may not designate the person as an expert or use materials prepared by that person in:

(1) the state-sponsored inspection and dispute resolution process arising out of the request; or

(2) any action arising out of the construction defect that is the subject of the request or response.

SECTION 37. Section 426.008, Property Code, is amended by adding Subsection (c) to read as follows:

(c) For the purposes of admissibility of a third-party inspector's recommendation or a ruling by a panel of state inspectors, the recommendation or ruling shall be considered a business record under Rule 902, Texas Rules of Evidence.

SECTION 38. Section 427.001, Property Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (c-1) to read as follows:

(b) A third-party inspector who inspects an issue involving workmanship and materials must:

(1) have a minimum of three [~~five~~] years' experience in the residential construction industry; and

(2) be certified as a residential combination inspector by the International Code Council.

(c) A third-party inspector who inspects an issue involving a structural matter or involving workmanship, materials, and a structural matter must:

(1) be an approved structural engineer or approved architect; and

(2) have a minimum of five [~~+0~~] years' experience in residential construction.

(c-1) A third-party inspector who inspects an issue involving a structural matter and an unrelated issue involving workmanship and materials matters must meet the requirements of Subsections (b) and (c).

(d) Each third-party inspector [~~who inspects an issue involving a structural matter~~] must receive, in accordance with commission rules:

(1) initial training regarding the state-sponsored inspection and dispute resolution process and this subtitle; and

(2) annual continuing education in the inspector's area of practice.

SECTION 39. Chapter 427, Property Code, is amended by adding Section 427.003 to read as follows:

Sec. 427.003. NO CIVIL LIABILITY. (a) A person who performs services for the commission as a third-party inspector or a state inspector who does not act with wanton and wilful disregard for the rights, safety, or property of another is not liable for civil damages for any act or omission within the course and scope of carrying out the person's duties or functions as a third-party inspector or state inspector.

(b) This section does not apply to an intentional act of misconduct or gross negligence.

SECTION 40. Sections 428.001(d) and (g), Property Code, are amended to read as follows:

(d) At the time a ~~[A]~~ person ~~[who]~~ submits a request under this section, the person must send by certified mail, return receipt requested, a copy of the request, including evidence submitted with the request, to each other party involved in the dispute.

(g) The commission by rule shall establish a standard form for submitting a request under this section ~~[and provide a means to submit a request electronically].~~

SECTION 41. Section 428.003(a), Property Code, is amended to read as follows:

(a) On or before the 30th ~~[15th]~~ day after the date the commission receives a request, the commission shall appoint the next available third-party inspector from the applicable lists of third-party inspectors maintained by the commission under Subsection (c).

SECTION 42. Section 428.004, Property Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) If the dispute involves workmanship and materials in the home of a nonstructural matter, the third-party inspector shall issue a recommendation not later than the 30th ~~[15th]~~ day after the date the third-party inspector receives the appointment from the commission.

(e) The commission may not require a builder to reimburse fees or inspection expenses under this section if, before the inspection, the builder offered to make repairs or have repairs made substantially equivalent to those required by the findings of the final report confirming the defect requiring repair.

(f) If, before the inspection, the builder has made or offered to make repairs substantially equivalent to those required by the findings of the final report confirming the defect, the agency may not list the finding on the commission's Internet website.

SECTION 43. Section 429.001(c), Property Code, is amended to read as follows:

(c) The panel shall:

(1) review the recommendation for compliance with this title as ~~[without a hearing unless a hearing is otherwise]~~ required by rules adopted by the commission;

(2) approve, reject, or modify the recommendation of the third-party inspector or remand the dispute for further action by the third-party inspector; and

(3) issue written findings of fact and a ruling on the appeal not later than the 30th day after the date the notice of appeal is filed with the commission.

SECTION 44. Section 430.005, Property Code, is amended to read as follows:

Sec. 430.005. ALTERNATIVE STANDARDS FOR CERTAIN CONSTRUCTION. (a) For the purpose of this title, the only statutory warranty and building and performance standards that apply to residential construction in unincorporated areas of counties that are considered economically distressed areas as defined by Section 15.001(11) of the Water Code and located within 50 miles of an international border are the standards established for colonia housing

programs administered by the Texas Department of Housing and Community Affairs, unless a county commissioners court has adopted other building and performance standards authorized by statute.

(b) This section does not exempt a builder in an area described by Subsection (a) from the registration requirements imposed by this title, including the requirements of Sections 416.001 and 426.003.

(c) An allegation of a postconstruction defect in a construction project in an area described by Subsection (a) is subject to the state-sponsored inspection and dispute resolution process described by this subtitle.

SECTION 45. Section 430.006, Property Code, is amended to read as follows:

Sec. 430.006. STATUTORY WARRANTIES EXCLUSIVE. The warranties established under this chapter supersede all implied warranties. The only warranties that exist for residential construction or residential improvements are:

- (1) warranties created by this chapter;
- (2) warranties created ~~[or]~~ by other statutes expressly referring to residential construction or residential improvements;
- (3) ~~[, or]~~ any express, written warranty acknowledged by the homeowner and the builder; and
- (4) warranties that apply to an area described by Section 430.005(a) as described by that section.

SECTION 46. Subchapter Z, Chapter 214, Local Government Code, is amended by adding Section 214.906 to read as follows:

Sec. 214.906. VERIFICATION OF BUILDER REGISTRATION. A municipality may not issue a building permit to a builder, as defined by Section 401.003, Property Code, for construction described by Section 401.003(a), Property Code, unless the municipality has verified that the builder is registered with the Texas Residential Construction Commission under Chapter 416, Property Code, or is exempt from registration under Section 401.005, Property Code.

SECTION 47. (a) The House Committee on State Affairs shall conduct an interim study regarding the feasibility of creating a fund designed to reimburse aggrieved persons who experience actual damages from a builder's actions in violation of Title 16, Property Code. The speaker of the house of representatives shall appoint two additional members of the house of representatives who have expressed an interest in this issue as voting adjunct members of the committee for the purpose of participating in the study.

(b) The committee shall investigate:

- (1) potential methods for payments into the fund, procedures for managing the fund, and methods for making claims to the fund; and
- (2) similar funds created by other states and jurisdictions of the United States and the relative successes or failures of those funds.

(c) Not later than September 1, 2008, the committee shall submit to the speaker of the house of representatives and the members of the house of representatives:

- (1) the results of the study; and

(2) any recommendations for statutory changes resulting from the findings of the study.

(d) This section expires October 1, 2008.

SECTION 48. (a) This Act applies only to the following that are filed on or after September 1, 2007:

(1) an application for a building permit or certification as a builder or a Texas Star Builder; or

(2) a request for state-sponsored inspection and dispute resolution.

(b) An application for a building permit or for certification as a builder or a Texas Star Builder or a request for state-sponsored inspection and dispute resolution that was filed before September 1, 2007, is governed by the law as it existed immediately before September 1, 2007, and that law is continued in effect for that purpose.

SECTION 49. Section 5.016, Property Code, as added by this Act, applies only to a transfer of residential property in which the improvements to the property commenced on or after September 1, 2007. A transfer of residential property in which the improvements commenced before September 1, 2007, is governed by the law in effect at the time the improvements were commenced, and the former law is continued in effect for that purpose.

SECTION 50. Section 416.012, Property Code, as added by this Act, applies only to work performed by a builder on or after September 1, 2007. Work performed by a builder before that date is governed by the law in effect when the work is performed, and the former law is continued in effect for that purpose.

SECTION 51. The changes in law made by this Act by the amendment of Section 418.001, Property Code, apply only to conduct that occurs on or after September 1, 2007. Conduct that occurs before that date is governed by the law in effect when the conduct occurs, and the former law is continued in effect for that purpose.

SECTION 52. This Act takes effect September 1, 2007.

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

Amend **CSHB 1038** (Senate committee printing) in SECTION 34 of the bill by striking added Subsection (f), Section 426.005, Property Code (page 11, lines 14-19), and substituting the following:

(f) A homeowner is not required to comply with this subtitle if:

(1) at the time a homeowner and a builder enter into a contract covered by this title the builder was not registered; or

(2) the certificate or registration of the builder has been revoked.

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

Amend **CSHB 1038** (Senate committee printing) as follows:

(1) In SECTION 25 of the bill amend Section 418.001, Property Code (page 8, lines 50-51), by striking "or" at the end of the existing Subsection (24); renumbering the existing Subsection (25) as Subsection (26); and adding a new Subsection (25) as follows:

(25) a repeated failure to comply with the requirements of Subtitle F; or

(2) Add the appropriately numbered SECTIONS and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Title 16, Property Code, is amended by adding Subtitle F to read as follows:

SUBTITLE F. INSPECTION OF NEW RESIDENTIAL CONSTRUCTION  
CHAPTER 446. RESIDENTIAL CONSTRUCTION IN UNINCORPORATED  
AREAS AND OTHER AREAS NOT SUBJECT TO MUNICIPAL  
INSPECTIONS

Sec. 446.001. APPLICABILITY OF CHAPTER. This chapter applies to residential construction described by Section 401.003(a)(1), (2) and (3) in an unincorporated area and to other areas not subject to municipal inspections.

Sec. 446.002. INSPECTION REQUIRED. (a) A builder shall have a new home or other improvement to which this chapter applies inspected by a fee inspector.

(b) For new construction subject to this chapter, there shall be a minimum of three inspections performed during the project to ensure code compliance, as applicable, at the following stages of construction:

(i) foundation, prior to the placement of concrete;

(ii) framing and mechanical systems prior to being covered with sheetrock or other interior wall covering; and

(iii) final inspection when the home is completed.

(c) For improvements other than new construction, the inspections described in Subsection (b) shall occur as necessary based upon the scope of work of the project.

(d) The builder shall be responsible for contracting with a fee inspector authorized by this chapter to perform the inspections required by this section.

(e) The commission may establish fees necessary to administer this subtitle. Such fees may be included in the home registration fee required described in Section 426.003(c).

Sec. 446.003. ELECTRONIC REPORTING SYSTEM. (a) The commission shall establish an Internet based process to implement this subtitle. The process shall be password protected. Inspectors will use the Internet based process to report the satisfactory completion of the inspections required by Section 446.002 to the commission. Upon reporting of satisfactory completion of the inspections, the commission shall issue a certificate of completion which shall be forwarded to the homeowner within 30 days following the registration of a home, as required by Section 426.003.

(b) The commission shall allow for an alternative reporting system for persons who demonstrate to the commission an inability to comply with the electronic reporting requirements of Subsection (a).

Sec. 446.004. FEE INSPECTOR. A fee inspector must be either a licensed engineer, a registered architect, a professional inspector licensed by the Texas Real Estate Commission or a third party inspector qualified under Section 427.001(b). A builder may use the same or a different fee inspector for inspections required under this chapter.

Sec. 446.005. ELEMENTS OF INSPECTION. The commission by rule shall:

(1) establish the elements of the construction that must be inspected under this chapter in accordance with Section 446.002 to ensure compliance with the applicable code provisions as required by Section 430.001(d); and

(2) prescribe the form and the manner in which the results of the inspection will be reported in writing.

Sec. 446.006. CONSTRUCTION IN CERTAIN AREAS: ELIGIBILITY FOR CERTAIN WINDSTORM AND HAIL INSURANCE. (a) This section applies only to construction in an unincorporated area in which windstorm and hail insurance coverage is available under Chapter 2210, Insurance Code.

(b) In addition to an inspection required pursuant to Section 446.002, the builder must, if required by statute, obtain a certificate of compliance for the structure in the manner provided under Section 2210.251, Insurance Code.

SECTION \_\_\_\_. On or before June 1, 2008, the Texas Residential Construction Commission shall adopt all rules necessary to implement Subtitle F, Title 16, Property Code, as added by this Act.

SECTION \_\_\_\_. Subtitle F, Title 16, Property Code, as added by this Act, applies only to construction commenced on or after September 1, 2008. For the purposes of Subtitle F, Title 16, Property Code, as added by this Act, construction commenced before September 1, 2008, is governed by the law in effect immediately before the effective date of this Act and the former law is continued in effect for such construction.

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

Amend **CSHB 1038** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_.

 Subtitle D, Title 16, Property Code, is amended by adding Chapter 431 to read as follows:

#### CHAPTER 431. ENERGY-EFFICIENT BUILDING ACCREDITATION PROGRAM

Sec. 431.001. ENERGY-EFFICIENT BUILDING ACCREDITATION PROGRAM. (a) In this section, "National Housing Act" means Section 203(b), (i), or (k) of the National Housing Act (12 U.S.C. Sections 1709(b), (i), and (k)).

(b) The commission, in consultation with the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System, the Texas Commission on Environmental Quality, and an advisory committee appointed by the commission, may establish an energy-efficient building accreditation program for buildings that exceed the building energy performance standards under Section 388.003, Health and Safety Code, by 15 percent or more.

(c) If the commission establishes a program under this chapter, the commission, in consultation with the Energy Systems Laboratory, shall update the program on or before December 1 of each even-numbered year using the best available energy-efficient building practices.

(d) If the commission establishes a program under this chapter, the program must include a checklist system to produce an energy-efficient building scorecard to help:

(1) home buyers compare potential homes and, by providing a copy of the completed scorecard to a mortgage lender, qualify for energy-efficient mortgages under the National Housing Act; and

(2) communities qualify for emissions reduction credits by adopting codes that meet or exceed the energy-efficient building or energy performance standards established under Chapter 388, Health and Safety Code.

Sec. 431.002. PUBLIC INFORMATION PROGRAM. The commission may establish a public information program to inform homeowners, sellers, buyers, and others regarding energy-efficient building ratings.

Sec. 431.003. MEASUREMENT SYSTEM FOR REDUCTION IN ENERGY AND EMISSIONS. If the commission establishes a program under this chapter, the Energy Systems Laboratory shall establish a system to measure the reduction in energy and emissions produced under the energy-efficient building program and report those savings to the commission.

Sec. 431.004. CERTIFICATION FEE. If the commission establishes a program under this chapter, the commission may set a certification fee sufficient to cover the cost of administering the program and pay for any education efforts conducted under this chapter.

SECTION \_\_\_\_. Section 388.009, Health and Safety Code, is repealed.

### **HB 1977 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1977**, A bill to be entitled An Act relating to the Texas Health Insurance Risk Pool.

Representative Taylor moved to concur in the senate amendments to **HB 1977**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1694): 145 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; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Chavez; Moreno.

### Senate Committee Substitute

**CSHB 1977**, A bill to be entitled An Act relating to the Texas Health Insurance Risk Pool.

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

SECTION 1. Subchapter A, Chapter 1506, Insurance Code, is amended by adding Sections 1506.008 and 1506.009 to read as follows:

Sec. 1506.008. EXEMPTION FROM STATE TAXES AND FEES. The pool is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Sec. 1506.009. STUDY; REPORT. (a) The commissioner shall conduct a study concerning a program under which the pool would offer coverage to an individual who is also covered under a group health benefit plan that is provided or offered to the individual through an employer. Under the proposed program, pool coverage would be secondary to coverage provided under the group health benefit plan.

(b) The commissioner, using existing resources, may contract with actuaries and other experts as necessary to conduct the study.

(c) The commissioner shall report the results of the study in the biennial report under Section 32.022. The report must:

(1) include an analysis of the advantages and disadvantages of the proposed program and recommended minimum standards applicable to group health benefit plans that may be included in the program; and

(2) identify program components, requirements, or restrictions necessary for successful implementation of the program.

(d) This section expires September 1, 2009.

SECTION 2. Section 1506.251, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The regular assessment is the amount determined by the board under Section 1506.252 and recovered from health benefit plan issuers under Section 1506.253.

SECTION 3. Subchapter F, Chapter 1506, Insurance Code, is amended by adding Section 1506.2523 to read as follows:

Sec. 1506.2523. ANNUAL REPORT TO BOARD: GROSS PREMIUMS.

(a) Each health benefit plan issuer shall report to the board the gross premiums collected for the preceding calendar year for health benefit plans.

(b) For purposes of this section, gross health benefit plan premiums do not include premiums collected for:

(1) coverage under a Medicare supplement benefit plan subject to Chapter 1652;

(2) coverage under a small employer health benefit plan subject to Subchapters A-H, Chapter 1501; or

(3) coverage or insurance listed in Section 1506.002(b).

SECTION 4. Section 1506.253(b), Insurance Code, is amended to read as follows:

(b) The board shall use the total number of enrolled individuals reported by all health benefit plan issuers under Section 1506.2522 as of the preceding December 31 to ~~to~~ compute the amount of a health benefit plan issuer's assessment, if any, in accordance with this subsection. The ~~the~~ board shall allocate  $\div$

~~(1) divide~~ the total amount to be assessed based on ~~by~~ the total number of enrolled individuals covered by excess loss, stop-loss, or reinsurance policies and on the total number of other enrolled individuals as determined ~~reported by all health benefit plan issuers~~ under Section 1506.2522. To compute the amount of a health benefit plan issuer's assessment:

(1) for the issuer's enrolled individuals covered by an excess loss, stop-loss, or reinsurance policy, the board shall:

(A) divide the allocated amount to be assessed by the total number of enrolled individuals covered by excess loss, stop-loss, or reinsurance policies, as determined under Section 1506.2522, ~~as of the preceding December 31~~ to determine the per capita amount; and

(B) multiply the number of a health benefit plan issuer's enrolled individuals covered by an excess loss, stop-loss, or reinsurance policy, as determined under Section 1506.2522, by the per capita amount to determine the amount assessed to that health benefit plan issuer; and

(2) for the issuer's enrolled individuals not covered by excess loss, stop-loss, or reinsurance policies, the board, using the gross health benefit plan premiums reported for the preceding calendar year by health benefit plan issuers under Section 1506.2523, shall:

(A) divide the gross premium collected by a health benefit plan issuer by the gross premium collected by all health benefit plan issuers; and

(B) multiply the allocated amount to be assessed by the fraction computed under Paragraph (A) ~~number of enrolled individuals reported by the health benefit plan issuer under Section 1506.2522 as of the preceding December 31 by the per capita amount~~ to determine the amount assessed to that health benefit plan issuer.

SECTION 5. Section 1506.008, Insurance Code, as added by this Act, applies only to a state tax, regulatory fee, or surcharge that becomes due on or after the effective date of this Act.

SECTION 6. The change in law made by this Act to Section 1506.253, Insurance Code, applies to an assessment under Subchapter F, Chapter 1506, Insurance Code, for a calendar year or portion of a calendar year beginning on the effective date of this Act. An assessment for any portion of a calendar year before the effective date of this Act is governed by the law in effect during the period for which the assessment is made, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect June 30, 2007, 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 to take effect on that date, this Act takes effect September 30, 2007.

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

Amend **CSHB 1977** (Senate committee printing) as follows:

(1) Add the following new SECTIONS to the bill, appropriately numbered:

SECTION \_\_\_\_\_. Section 1506.001, Insurance Code, is amended by adding Subdivisions (1-a) through (1-e) and (8) to read as follows:

(1-a) "Church plan" has the meaning assigned by Section 3(33), Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002(33)).

(1-b) "Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

(A) a group health plan;

(B) health insurance coverage;

(C) Part A or Part B, Title XVIII, Social Security Act (42 U.S.C. Section 1395c et seq.);

(D) Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), other than coverage consisting solely of benefits under Section 1928 of that Act (42 U.S.C. Section 1396s);

(E) 10 U.S.C. Section 1071 et seq.;

(F) a medical care program of the Indian Health Service or a tribal organization;

(G) a state health benefits risk pool;

(H) a health benefits plan offered under 5 U.S.C. Section 8901 et seq.;

(I) a public health plan as defined in federal regulations;

(J) a health benefit plan under Section 5(e), Peace Corps Act (22 U.S.C. Section 2504(e)); or

(K) a state child health plan provided under Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.).

(1-c) "Federally defined eligible individual" means an individual:

(A) for whom, as of the date on which the individual seeks coverage under this chapter, the aggregate period of creditable coverage is 18 months or more;

(B) whose most recent prior creditable coverage was under:

(i) a group health plan, governmental plan, or church plan; or

(ii) health insurance coverage offered in connection with a plan described by Subparagraph (i);

(C) who is not eligible for coverage under a group health plan, Part A or Part B, Title XVIII, Social Security Act (42 U.S.C. Section 1395c et seq.), or a state plan under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), or any successor program, and who does not have other health benefit plan coverage;

(D) with respect to whom the most recent coverage within the aggregate creditable coverage was not terminated based on a factor relating to nonpayment of premiums or fraud;

(E) who, if offered the option of continuation coverage under a continuation provision required by Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA), or under a similar state program, elected that coverage; and

(F) who has exhausted continuation coverage, if elected, under Paragraph (E).

(1-d) "Governmental plan" has the meaning assigned by Section 3(32), Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002(32)), and includes any United States governmental plan.

(1-e) "Group health plan" means an employee welfare benefit plan as defined by Section 3(1), Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002(1)), to the extent that the plan provides health benefit plan coverage to employees or their dependents as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

(8) "Significant break in coverage" means a period of 63 consecutive days during all of which the individual does not have health benefit plan coverage, except that a waiting period or an affiliation period is not considered in determining a significant break in coverage.

SECTION \_\_\_\_\_. Section 1506.002, Insurance Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) In this chapter, "health benefit plan" does not include one or more or any combination of the following:

(1) coverage only for accident or disability income insurance or any combination of those coverages;

(2) credit-only [a plan providing coverage only for dental or vision care;

(3) fixed indemnity insurance, including hospital indemnity insurance;  
(4) credit] insurance;

(3) [(5) long term care insurance;

(6) disability income insurance;

(7) other limited benefit coverage, including specified disease coverage;

[(8)] coverage issued as a supplement to liability insurance;

(4) liability insurance, including general liability insurance and automobile liability insurance;

(5) ~~[(9) insurance arising out of a]~~ workers' compensation ~~[law]~~ or similar insurance ~~[law]~~;

(6) coverage for on-site medical clinics;

(7) ~~[(10)]~~ automobile medical payment insurance; ~~[or]~~

(8) ~~[(11)]~~ insurance coverage under which benefits are payable with or without regard to fault and that is statutorily required to be contained in a liability insurance policy or equivalent self-insurance; or

(9) other similar insurance coverage, specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) In this chapter, "health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the coverage:

(1) limited scope dental or vision benefits;

(2) benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these benefits; or

(3) other similar, limited benefits specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

(d) In this chapter, "health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor:

(1) coverage only for a specified disease or illness; or

(2) hospital indemnity or other fixed indemnity insurance.

SECTION \_\_\_\_\_. Subsection (a), Section 1506.151, Insurance Code, is amended to read as follows:

(a) The pool shall offer coverage consistent with major medical expense coverage to each eligible individual ~~[who is under the age of 65]~~.

SECTION \_\_\_\_\_. Subsection (a), Section 1506.152, Insurance Code, is amended to read as follows:

(a) An individual who is a legally domiciled resident of this state is eligible for coverage from the pool if the individual:

(1) provides to the pool evidence that the individual is a federally defined eligible individual who has not experienced a significant break in coverage ~~[maintained health benefit plan coverage for the preceding 18 months with no gap in coverage longer than 63 days and with the most recent coverage being provided through an employer sponsored plan, church plan, or government plan]~~;

(2) is younger than 65 years of age and provides to the pool evidence that the individual maintained health benefit plan coverage under another state's qualified Health Insurance Portability and Accountability Act health program that

was terminated because the individual did not reside in that state and submits an application for pool coverage not later than the 63rd day after the date the coverage described by this subdivision was terminated;

(3) is younger than 65 years of age and has been a legally domiciled resident of this state for the preceding 30 days, is a citizen of the United States or has been a permanent resident of the United States for at least three continuous years, and provides to the pool:

(A) a notice of rejection of, or refusal to issue, substantially similar individual health benefit plan coverage from a health benefit plan issuer, other than an insurer that offers only stop-loss, excess loss, or reinsurance coverage, if the rejection or refusal was for health reasons;

(B) certification from an agent or salaried representative of a health benefit plan issuer that states that the agent or salaried representative cannot obtain substantially similar individual coverage for the individual from any health benefit plan issuer that the agent or salaried representative represents because, under the underwriting guidelines of the health benefit plan issuer, the individual will be denied coverage as a result of a medical condition of the individual;

(C) an offer to issue substantially similar individual coverage only with conditional riders;

(D) a diagnosis of the individual with one of the medical or health conditions on the list adopted under Section 1506.154; or

(E) evidence that the individual is covered by substantially similar individual coverage that excludes one or more conditions by rider; or

(4) provides to the pool evidence that, on the date of application to the pool, the individual is certified as eligible for trade adjustment assistance or for pension benefit guaranty corporation assistance, as provided by the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. No. 107-210).

SECTION \_\_\_\_\_. Section 1506.153, Insurance Code, as amended by Chapters 728 and 824, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 1506.153. INELIGIBILITY FOR COVERAGE. Notwithstanding Section 1506.152 [~~Sections 1506.152(a)-(d)~~], an individual is not eligible for coverage from the pool if:

(1) on the date pool coverage is to take effect, the individual has health benefit plan coverage from a health benefit plan issuer or health benefit arrangement in effect, except as provided by Section 1506.152(a)(3)(E);

(2) at the time the individual applies to the pool, the individual is eligible for other health care benefits, including an offer of benefits from the continuation of coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.), as amended (COBRA), other than:

(A) coverage, including COBRA or other continuation coverage or conversion coverage, maintained for any preexisting condition waiting period under a pool policy or during any preexisting condition waiting period or other waiting period of the other coverage;

(B) employer group coverage conditioned by a limitation of the kind described by Section 1506.152(a)(3)(A) or (C); or

(C) individual coverage conditioned by a limitation described by Section 1506.152(a)(3)(C) or (D);

(3) within 12 months before the date the individual applies to the pool, the individual terminated coverage in the pool, unless the individual:

(A) demonstrates a good faith reason for the termination; or

(B) is a federally defined eligible individual;

(4) the individual is confined in a county jail or imprisoned in a state or federal prison;

(5) any of the individual's premiums are paid for or reimbursed under a government-sponsored program or by a government agency or health care provider [~~], other than as an otherwise qualifying full time employee of a government agency or health care provider or as a dependent of such an employee~~];

(6) the individual's prior coverage with the pool was terminated:

(A) during the 12-month period preceding the date of application for nonpayment of premiums; or

(B) for fraud; or

(7) the individual is eligible for health benefit plan coverage provided in connection with a policy, plan, or program paid for or sponsored by an employer, even though the employer coverage is declined.

SECTION \_\_\_\_\_. Subsection (a), Section 1506.154, Insurance Code, is amended to read as follows:

(a) The board shall adopt a list of medical or health conditions for which an individual is eligible for pool coverage under Section 1506.152(a)(3)(D) [~~1506.152(a)(3)(E)~~] without applying for health benefit plan coverage.

SECTION \_\_\_\_\_. Subsections (b) and (c), Section 1506.155, Insurance Code, are amended to read as follows:

(b) The exclusion provided by Subsection (a) does not apply to a federally defined eligible individual or an individual who:

(1) was continuously covered for a period of at least 12 months, excluding any waiting period, by creditable [~~health benefit plan~~] coverage that terminated not earlier than the 63rd day before the effective date of coverage under the pool; and

(2) applied for pool coverage not later than the 63rd day after the date the creditable [~~health benefit plan~~] coverage described by Subdivision (1) terminated.

(c) If an individual was covered by creditable [~~health benefit plan~~] coverage that was in effect at any time during the 12-month period preceding the effective date of the individual's coverage under the pool, the pool shall subtract from the exclusion period required under Subsection (a) the period that the individual was covered under that creditable coverage [~~health benefit plan~~] and any waiting period that applied before that creditable [~~health benefit plan~~] coverage became effective.

SECTION \_\_\_\_\_. Subsection (a), Section 1506.202, Insurance Code, is amended to read as follows:

(a) The board may, on a competitive bid basis, contract with [select] one or more health benefit plan issuers or [a] third-party administrators [administrator] authorized by the department to administer the pool. [The selection must be made under a competitive bidding process in accordance with the plan of operation.]

SECTION \_\_\_\_\_. Section 1506.203, Insurance Code, is amended to read as follows:

Sec. 1506.203. ADMINISTRATOR'S CONTRACT [~~TERM;~~ ~~SUCCEEDING TERM~~]. (a) A person selected as a pool administrator shall serve [serves] in that capacity for a period specified in the contract between the pool and the pool administrator, subject to removal for cause and subject to any terms, conditions, and limitations of the contract between the pool and the pool administrator. The term of the contract must be at least three years and may be extended, in the board's sole discretion, for up to a total term of six years [three year term beginning on the date the board issues its order making the selection].

(b) Not later than one year before the expiration date of a pool administrator's contract, including any board-authorized extensions of that contract [term], the board shall invite all health benefit plan issuers, including the pool administrator, to submit bids to serve as a pool administrator for the succeeding administration period. The selection of the succeeding pool administrator must be made not later than the sixth calendar month preceding the month in which the pool administrator's contract [term] expires.

SECTION \_\_\_\_\_. Subsection (b), Section 1506.254, Insurance Code, is amended to read as follows:

(b) Interest accrues on the unpaid amount of an assessment at a rate equal to the prime lending rate, as published in the most recent issue of the Wall Street Journal and determined as of the first day of each month during which [date] the assessment is [becomes] delinquent, plus three percent.

(2) In SECTION 6 of the bill, between "SECTION 6." and "The change" (page 2, line 36), insert "(a)".

(3) In SECTION 6 of the bill, at the end of that SECTION (page 2, between lines 43 and 44), insert:

(b) This Act applies only to an application for initial or renewal coverage through the Texas Health Insurance Risk Pool under Chapter 1506, Insurance Code, as amended by this Act, that is filed with the pool on or after January 1, 2008. An application filed before January 1, 2008 is governed by the law in effect on the date on which the application was filed, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Subsection (b), Section 1506.254, Insurance Code, applies to an assessment under Subchapter F, Chapter 1506, Insurance Code, for a calendar year beginning on or after January 1, 2008. An assessment for a calendar year before January 1, 2008, is governed by the law in effect during the period for which the assessment is made, and the former law is continued in effect for that purpose.

(4) In SECTION 7 of the bill, strike "This Act takes effect" (page 2, line 44) and substitute "(a) Except as provided by Subsection (b) of this section, this Act takes effect".

(5) In SECTION 7 of the bill, at the end of that SECTION (page 2, between lines 48 and 49), insert:

(b) The change in law made by this Act to Sections 1506.001, 1506.002, 1506.151, 1506.152, 1506.153, 1506.154, 1506.155, 1506.202, 1506.203, and 1506.254, Insurance Code, takes effect January 1, 2008.

**HB 550 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 550**, A bill to be entitled An Act relating to the eligibility of certain victims of family violence for unemployment compensation.

Representative Dukes moved to concur in the senate amendments to **HB 550**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1695):  
141 Yeas, 3 Nays, 2 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; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; 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; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Harper-Brown; Phillips.

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

Absent, Excused — Gonzales.

Absent — Darby; Flores; Moreno.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 1695. I intended to vote no.

Harless

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

Amend **HB 550** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Subsection (a), Section 204.022, Labor Code (page 2, line 4), strike "or" and substitute "[~~or~~]".

(2) In SECTION 1 of the bill, in amended Subsection (a), Section 204.022, Labor Code (page 2, line 8), between "423" and the period, insert the following:

": or

(14) resulted from the employee leaving the employee's workplace to care for the employee's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available".

(3) In SECTION 3 of the bill, in amended Subsection (a), Section 207.046, Labor Code (page 2, line 20), strike "or" and substitute "[~~or~~]".

(4) In SECTION 3 of the bill, in amended Subsection (a), Section 207.046, Labor Code (page 2, line 35), between "patient" and the period, insert the following:

": or

(3) the individual leaves the workplace to care for the individual's terminally ill spouse as evidenced by a physician's statement or other medical documentation, but only if no reasonable, alternative care was available".

**HB 1498 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1498**, A bill to be entitled An Act relating to the creation of the Panola County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

Representative Hopson 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 1498**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1498**: Hopson, chair; R. Cook, Frost, McReynolds, and Ritter.

**HB 1638 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1638**, A bill to be entitled An Act relating to enforcement of commercial motor vehicle safety standards in certain municipalities.

Representative Taylor 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 1638**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1638**: Taylor, chair; Eiland, Macias, Martinez, and Murphy.

**HB 1009 - HOUSE DISCHARGES CONFEREES  
HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1009**, A bill to be entitled An Act relating to the use of state hotel occupancy tax revenue to clean and maintain beaches in certain municipalities.

Representative Escobar moved to discharge the conferees and concur in the senate amendments to **HB 1009**.

A record vote was requested.

The motion to discharge conferees and concur in senate amendments prevailed by (Record 1696): 143 Yeas, 0 Nays, 3 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.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; Peña; Phillips; Pickett; Pierson; Pitts; Puente;

Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Elkins; Moreno; Paxton.

### Senate Committee Substitute

**CSHB 1009**, A bill to be entitled An Act relating to the use of state hotel occupancy tax revenue to clean and maintain beaches in certain municipalities.

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

SECTION 1. Section 156.2512, Tax Code, is amended to read as follows:

Sec. 156.2512. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue derived from the collection of taxes imposed under this chapter at a rate of one percent and received from hotels located in an eligible barrier island ~~[general law]~~ coastal municipality; and

(2) issue to the eligible barrier island ~~[general law]~~ coastal municipality a warrant drawn on the general revenue fund in the amount computed under Subdivision (1).

(b) An eligible barrier island ~~[general law]~~ coastal municipality may use money received under this section only:

(1) to clean and maintain public beaches in that municipality; and

(2) for an erosion response project in that municipality.

(c) In this section:

(1) "Eligible barrier island ~~[general law]~~ coastal municipality" means a ~~[general law]~~ municipality:

(A) that has a population of less than 10,000 ~~[5,000]~~;

(B) that borders on the Gulf of Mexico; ~~[and]~~

(C) that is located wholly on a barrier island; and

(D) the boundaries of which are within 30 miles of the United Mexican States.

(2) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

(3) "Erosion response project" has the meaning assigned by Section 33.601, Natural Resources Code.

SECTION 2. 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 1009** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 156.2512(a)(1), Tax Code (page 1, line 21), between "located" and "in", insert "on barrier islands".

(2) In SECTION 1 of the bill, strike amended Section 156.2512(c)(1), Tax Code (page 1, lines 33 through 41), and substitute the following:

(1) "Eligible barrier island [~~general law~~] coastal municipality" means a [~~general law~~] municipality:

(A) [~~that has a population of less than 5,000;~~

~~(B)~~ that borders on the Gulf of Mexico;

(B) that is located wholly or partly on a barrier island; and

(C) the boundaries of which are within 30 miles of the United Mexican States or include a portion of a national seashore.

### **HB 2399 - WITH SENATE AMENDMENTS**

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

**HB 2399**, A bill to be entitled An Act relating to teacher retention demonstration projects under the awards for student achievement program in public schools.

### **HB 2399 - POINT OF ORDER**

Representative Villarreal raised a point of order against further consideration of **HB 2399** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

The chair sustained the point of order.

### **HB 2542 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2542**, A bill to be entitled An Act relating to the continuation and functions of the Office of Rural Community Affairs.

Representative Truitt 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 2542**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2542**: Kolkhorst, chair; Aycock, R. Cook, Hardcastle, and Heflin.

(Speaker in the chair)

### **HB 2960 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2960**, A bill to be entitled An Act relating to the operation and funding of the Texas Windstorm Insurance Association.

Representative Smithee 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 2960**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2960**: Smithee, chair; Eiland, Hancock, Driver, and Taylor.

(Solomons in the chair)

### **HB 1290 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1290**, A bill to be entitled An Act relating to penalties imposed by and the appeal of a decision of the Texas Ethics Commission.

Representative Macias moved to concur in the senate amendments to **HB 1290**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1697): 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; 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; 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; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Chisum; Giddings; Moreno; Orr; Otto.

### Senate Committee Substitute

**CSHB 1290**, A bill to be entitled An Act relating to the appeal of a decision of the Texas Ethics Commission.

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

SECTION 1. Sections 571.133(a) and (b), Government Code, are amended to read as follows:

(a) To appeal a final decision of the commission, the respondent or the respondent's agent [~~a person~~] may file a petition in a district court in Travis County or in the county in which the respondent resides.

(b) The petition must be filed not later than the 30th business day after the date the respondent [~~person~~] received the decision.

SECTION 2. The change in law made by this Act applies only to a proceeding under Subchapter E, Chapter 571, Government Code, with respect to which a preliminary review was begun on or after September 1, 2007. A proceeding under Subchapter E, Chapter 571, Government Code, with respect to which a preliminary review was begun before September 1, 2007, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 1667 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1667**, A bill to be entitled An Act relating to the amount of the fee for issuing certain alcoholic beverage permits.

Representative Geren moved to concur in the senate amendments to **HB 1667**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1698): 140 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; 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; 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; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Christian; Phillips.

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

Absent, Excused — Gonzales.

Absent — Anchia; Giddings; Moreno; Otto.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1698. I intended to vote yes.

Aycock

### Senate Committee Substitute

**CSHB 1667**, A bill to be entitled An Act relating to the amount of the fee for issuing certain alcoholic beverage permits.

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

SECTION 1. Section 25.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 25.02. FEE. (a) Except as provided by Subsections (b) and (c) [~~in Subsection (b)~~] and Section 25.03, the annual state fee for a wine and beer retailer's permit is \$275 [~~\$175~~].

(b) The annual state fee for an original [~~a~~] wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more, other than a permit issued with a food and beverage certificate, is \$1,000 [~~\$750~~]. The annual state [~~original application~~] fee for a renewal of a wine and beer retailer's permit in connection with an establishment located in a county with a population of 1.4 million or more, other than a permit issued with a food and beverage certificate, is \$750 [~~\$1,000~~].

(c) The annual state fee for an original wine and beer retailer's permit issued to a fraternal organization or a veterans organization, as those terms are defined by Section 32.11, is \$175. The annual state fee for a renewal of a wine and beer retailer's permit issued to a fraternal organization or a veterans organization is \$175.

SECTION 2. Section 69.02, Alcoholic Beverage Code, is amended to read as follows:

Sec. 69.02. FEE. (a) Except as provided by Subsections (b) and (c) [~~in Subsection (b)~~] and Section 69.03, the annual state fee for a retail dealer's on-premise license is \$250 [~~\$150~~].

(b) The annual state fee for an original [~~a~~] retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more, other than a license issued with a food and beverage certificate, is \$1,000 [~~\$750~~]. The annual state [~~original application~~] fee for a renewal of a

retail dealer's on-premise license in connection with an establishment located in a county with a population of 1.4 million or more, other than a license issued with a food and beverage certificate, is \$750 [~~\$1,000~~].

(c) The annual state fee for an original retail dealer's on-premise license issued to a fraternal organization or a veterans organization, as those terms are defined by Section 32.11, is \$150. The annual state fee for a renewal of a retail dealer's on-premise license issued to a fraternal organization or a veterans organization is \$150.

SECTION 3. The change in law made by this Act applies only to a fee due on or after the effective date of this Act. A fee due before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

### **HB 492 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 492**, A bill to be entitled An Act relating to removal of territory from an emergency services district by a municipality.

Representative Orr moved to concur in the senate amendments to **HB 492**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1699): 143 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; 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; 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.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Cohen; Giddings; Moreno; Smith, W.

### Senate Committee Substitute

**CSHB 492**, A bill to be entitled An Act relating to the removal, transfer, or exclusion of territory in emergency services districts.

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

SECTION 1. Chapter 775, Health and Safety Code, is amended by adding Subchapter H to read as follows:

#### SUBCHAPTER H. CHANGE IN BOUNDARIES OF DISTRICT WITH PLANNED COMMUNITY

Sec. 775.201. DEFINITION. In this subchapter, "planned community" means a planned community of 25,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(1) located wholly or partly in a county with a population of 2.8 million or more; and

(2) subject to restrictive covenants containing ad valorem or annual variable budget-based assessments on real property for use in part to finance services of the same general type provided by the district.

Sec. 775.202. AGREEMENT ON BOUNDARIES WITH PROPERTY OWNERS IN PLANNED COMMUNITY. (a) After a hearing, a district located wholly in a county with a population of 2.8 million or more may exclude territory by making changes in the district's boundaries in accordance with an agreement among the district and the owners of two-thirds or more in acreage and two-thirds or more in taxable value, according to the most recent certified county property tax rolls, of a defined area of territory of a planned community.

(b) The agreement must be in writing and describe:

(1) the affected territory by metes and bounds, including the changes in the boundaries to be made;

(2) the amount of any compensation to be paid to the district under Section 775.205;

(3) the effective date for the changes in boundaries; and

(4) any other applicable terms.

Sec. 775.203. NOTICE OF HEARING. (a) The board secretary shall give notice of the hearing.

(b) The notice must contain the time and place for the hearing and a description of the territory proposed to be excluded.

(c) The secretary shall:

(1) post copies of the notice for at least 15 days before the date of the hearing in three public places in the district, one of which must be in the territory proposed to be excluded; and

(2) not later than the 16th day before the date on which the hearing is held, publish the notice once in a newspaper of general circulation in each county in which the excluded territory is located.

Sec. 775.204. ADOPTION OF AGREEMENT AND APPROVAL OF EXCLUSION. After the hearing, if the board finds that the exclusion of the territory would be feasible and would benefit the district, the board shall by a resolution entered in its minutes:

- (1) adopt the agreement; and
- (2) approve the exclusion.

Sec. 775.205. EFFECT OF ADOPTION OF AGREEMENT AND APPROVAL OF EXCLUSION. (a) After adoption and approval under Section 775.204, the district's tax on the property in the excluded territory continues until all agreed compensation has been paid in full.

(b) The district shall apply the compensation received under this section toward the payment of the obligations described by Subsection (c).

(c) The agreement must provide for the excluded territory to compensate the district in an amount equal to the excluded territory's pro rata share of the outstanding and unpaid bonds, warrants, or other direct and indirect obligations, including loans and lease-purchase agreements and written funding assistance agreements of the district and any not-for-profit fire departments and ambulance agencies or associations, for the financing and payment for firefighting, emergency medical service and emergency rescue equipment, fire and ambulance stations, or similar long-term capital assets to serve the district.

(d) The excluded territory's pro rata share is the unpaid principal balances of the outstanding loans and other obligations enumerated by Subsection (c) multiplied by a fraction, the numerator of which is the taxable value of the property in the excluded territory and the denominator of which is the taxable value of the entire district, including the excluded territory. The taxable value calculated under this subsection for property in the excluded territory, including as part of the entire district, does not include any special appraisal or exemptions for the property.

(e) The agreement to compensate the district does not include the following expenses incurred by the district after the boundaries change:

- (1) expenses for district operations and maintenance; and
- (2) expenses for district services.

(f) The agreement to compensate the district is required regardless of whether the loans and other obligations are subject to non-appropriation by the district or termination by either party before payment in full of the unpaid principal balance.

Sec. 775.206. NO EFFECT ON OUTSTANDING OBLIGATIONS. A change in boundaries under this subchapter does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations.

SECTION 2 Section 776.052(a), Health and Safety Code, is amended to read as follows:

(a) If territory in a municipality's limits [~~or extraterritorial jurisdiction~~] is included in a district, the municipality's governing body may remove that territory from the district if:

(1) the municipality agrees to provide emergency protection to the territory as prescribed by Section 776.014; or

(2) the territory is designated an industrial district under Section 42.044, Local Government Code.

SECTION 3. The change in law made by this Act applies only to a removal of territory that occurs, or a change in boundaries agreed to, on or after the effective date of this Act. A removal of territory that occurs, or a change in boundaries agreed to, before the effective date of this Act is governed by the law in effect on the date the territory is removed, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

**HB 892 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 892**, A bill to be entitled An Act relating to the timely deposit of, and depositories for, certain county funds and registry funds.

Representative Hilderbran 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 892**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 892**: Hilderbran, chair; Corte, Harless, Heflin, and Farabee.

**HB 1265 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1265**, A bill to be entitled An Act relating to the operations of the Task Force on Indigent Defense.

Representative Peña moved to concur in the senate amendments to **HB 1265**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1700): 138 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; 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; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen;

Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; 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; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaughn; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Christian; Corte; Gattis; Harper-Brown; Hilderbran; Phillips.

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

Absent, Excused — Gonzales.

Absent — Burnam; Jackson; Moreno.

### Senate Committee Substitute

**CSHB 1265.** A bill to be entitled An Act relating to the operations of the Task Force on Indigent Defense and a legal services fee for indigent persons paid by members of the state bar.

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

SECTION 1. Section 71.001(1), Government Code, is amended to read as follows:

(1) "Assigned [~~Ad hoc assigned~~] counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

SECTION 2. Section 71.055(a), Government Code, is amended to read as follows:

(a) The Task Force on Indigent Defense shall meet at least four times each year [~~quarterly~~] and at such other times as it deems necessary or convenient to perform its duties.

SECTION 3. Section 71.060(a), Government Code, is amended to read as follows:

(a) The Task Force on Indigent Defense shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent defendants;

(2) qualification standards under which attorneys may qualify for appointment to represent indigent defendants, including:

(A) qualifications commensurate with the seriousness of the nature of the proceeding;

(B) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(C) successful completion of relevant continuing legal education programs approved by the council; and

(D) testing and certification standards;

(3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent defendants;

(4) standards for determining whether a person accused of a crime or juvenile offense is indigent;

(5) policies and standards governing the organization and operation of an ~~ad hoc~~ assigned counsel program;

(6) policies and standards governing the organization and operation of a public defender consistent with recognized national policies and standards;

(7) standards for providing indigent defense services under a contract defender program consistent with recognized national policies and standards;

(8) standards governing the reasonable compensation of counsel appointed to represent indigent defendants;

(9) standards governing the availability and reasonable compensation of providers of indigent defense support services for counsel appointed to represent indigent defendants;

(10) standards governing the operation of a legal clinic or program that provides legal services to indigent defendants and is sponsored by a law school approved by the supreme court;

(11) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code; and

(12) other policies and standards for providing indigent defense services as determined by the task force to be appropriate.

SECTION 4. Section 81.054(j), Government Code, is amended to read as follows:

(j) The supreme court shall set an additional legal services fee in an amount of \$65 to be paid annually by each active member of the state bar except as provided by Subsection (k). Section 81.024 does not apply to a fee set under this subsection. ~~[This subsection expires on September 1, 2007.]~~

SECTION 5. This Act takes effect September 1, 2007.

## **HB 1086 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1086**, A bill to be entitled An Act relating to the discharge of an alternate juror in a criminal case.

### **HB 1086 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE MACIAS: I'd like to ask you a question for the purposes of legislative intent. Is it your intent that an alternate juror who does not replace a regular juror refrain from participating in any juror deliberations in the case?

REPRESENTATIVE HUGHES: Yes, sir. As you know, only the 12 jurors who are seated as regular jurors may participate in any jury deliberations. My intent is for alternate jurors who do not replace a regular juror to not participate in any deliberations—whether that be guilt or innocence or punishment—and that the court would direct the alternate jurors to be separated from the regular jurors and to refrain from deliberating or discussing the case unless they are seated as a regular juror.

### REMARKS ORDERED PRINTED

Representative Macias moved to print remarks between Representative Hughes and Representative Macias.

The motion prevailed.

Representative Hughes moved to concur in the senate amendments to **HB 1086**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1701): 141 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, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harcastle; 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; McReynolds; Menendez; Merritt; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Davis, J.; Flores; Hodge; McClendon; Miles; Moreno.

### Senate Committee Substitute

**CSHB 1086**, A bill to be entitled An Act relating to jurors and alternate jurors in a criminal case.

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

SECTION 1. Article 33.011(b), Code of Criminal Procedure, is amended to read as follows:

(b) Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury renders a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~retires to consider its verdict~~], become or are found to be unable or disqualified to perform their duties or are found by the court on agreement of the parties to have good cause for not performing their duties. Alternate jurors shall be drawn and selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, security, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~the jury retires to consider its verdict~~].

SECTION 2. Article 36.29(d), Code of Criminal Procedure, is amended to read as follows:

(d) After the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment [~~the charge of the court is read to the jury~~], the court shall discharge an alternate juror who has not replaced a juror.

SECTION 3. The change in law made by this Act applies only to a trial commenced on or after the effective date of this Act. A trial commenced before the effective date of this Act is covered by the law in effect when the trial was commenced, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

### **HB 1669 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative R. Cook called up with senate amendments for consideration at this time,

**HB 1669**, A bill to be entitled An Act relating to the authority of certain counties to impose a county hotel occupancy tax and to the rate of the tax.

Representative R. Cook moved to concur in the senate amendments to **HB 1669**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1702): 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; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Darby; Dutton; Farrar; Martinez Fischer; Moreno.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1702. I intended to vote no.

Aycock

### Senate Committee Substitute

**CSHB 1669**, A bill to be entitled An Act relating to the authority of certain counties to impose a county hotel occupancy tax and to the rate of the tax.

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

SECTION 1. Section 352.002(a), Tax Code, is amended to read as follows:

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping:

- (1) a county that has a population of more than 3.3 million;
- (2) a county that has a population of 90,000 or more, borders the United Mexican States, and does not have three or more cities that each have a population of more than 17,500;
- (3) a county in which there is no municipality;
- (4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;
- (5) a county that has a population of 30,000 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;
- (6) a county that borders the Gulf of Mexico;
- (7) a county that has a population of less than 5,000, that borders the United Mexican States, and in which there is located a major observatory;
- (8) a county that has a population of 12,000 or less and borders the Toledo Bend Reservoir;
- (9) a county that has a population of less than 12,000 and an area of less than 275 square miles;
- (10) a county that has a population of 30,000 or less and borders Possum Kingdom Lake;

(11) a county that borders the United Mexican States and has a population of more than 300,000 and less than 600,000;

(12) a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir;

(13) a county that borders the United Mexican States and in which there is located a national recreation area;

(14) a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres;

(15) a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(16) a county that has a population of 25,000 or less, whose territory is less than 750 square miles, and that has two incorporated municipalities, each with a population of 800 or less, located on the Frio River;

(17) a county that has a population of 34,000 or more and borders Lake Buchanan;

(18) a county that has a population of more than 45,000 and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake;

(19) a county with a population of 21,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 22,500 or less and that borders or contains a portion of Lake Livingston; ~~and~~

(21) a county that has a population of less than 22,000 and in which the birthplace of a president of the United States is located;

(22) a county that has a population of 16,000 or more and borders the entire north shore of Lake Somerville;

(23) a county that has a population of 20,000 or less and that is bordered by the Brazos and Navasota Rivers;

(24) a county that has a population of more than 15,000 and less than 25,000 and is located on the Trinity and Navasota Rivers; and

(25) a county that has a population of less than 15,000 and that is bordered by the Trinity and Navasota Rivers.

SECTION 2. Section 352.003, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The tax rate in a county authorized to impose the tax under Section 352.002(a)(22), (23), (24), or (25) may not exceed two percent of the price paid for a room in a hotel.

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.

**HB 2173 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative B. Cook called up with senate amendments for consideration at this time,

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

Representative B. Cook moved to concur in the senate amendments to **HB 2173**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1703): 144 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; 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; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Moreno; Ortiz; Rose.

**Senate Committee Substitute**

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

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

SECTION 1. Section 54.603, Education Code, is amended to read as follows:

Sec. 54.603. SUNSET PROVISION. The Prepaid Higher Education Tuition Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and the programs established under this subchapter and under Subchapter G terminate September 1, 2019 [2007].

SECTION 2. Sections 54.608(b), (c), and (f), Education Code, are amended to read as follows:

(b) A person ~~[An officer, employee, or paid consultant of a Texas trade association in the field of higher education]~~ may not be a member ~~[or employee]~~ of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the ~~[who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule]~~.

~~[(e) A]~~ person ~~[who]~~ is ~~[the spouse of]~~ an officer, employee ~~[manager]~~, or paid consultant of a Texas trade association in the field of higher education, banking, securities, or investments; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of higher education, banking, securities, or investments ~~[may not be a board member and may not be a board employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule]~~.

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

SECTION 3. Subchapter F, Chapter 54, Education Code, is amended by adding Section 54.6085 to read as follows:

Sec. 54.6085. PREPAID HIGHER EDUCATION TUITION BOARD ETHICS POLICY. (a) In addition to any other requirements provided by law, the board shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment decisions of the board. The ethics policy must include provisions that address the following issues as they apply to the management and investment decisions of the board:

- (1) general ethical standards;
- (2) conflicts of interest, including disclosure and recusal requirements;
- (3) the acceptance of gifts and entertainment; and
- (4) compliance with and enforcement of the ethics policy.

(b) The ethics policy must include provisions applicable to:

- (1) members of the board;
- (2) the comptroller; and
- (3) employees of the board.

SECTION 4. Section 54.609, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office the applicable qualifications required by Section 54.606(b);

(2) is ineligible for membership under ~~[violates a prohibition established by]~~ Section 54.608;

(3) ~~[(2)]~~ cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(4) ~~[(3)]~~ is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(c) If the staff of the board has knowledge that a potential ground for removal exists, the staff shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the staff of the board shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 5. Section 54.610, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person who is appointed to and qualifies for office as ~~[Before]~~ a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a ~~[assume the member's duties and before an appointed member may be confirmed by the senate, the member must complete at least one course of the]~~ training program that complies with ~~[established under]~~ this section.

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

SECTION 6. Section 54.617, Education Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition ~~[keep information about each complaint filed with the board. The information shall include:~~

~~[(1) the date the complaint is received;~~

~~[(2) the name of the complainant;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of all persons contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the~~

~~complaint; and~~

~~[(6) for complaints for which the board took no action, an explanation of the reason the complaint was closed without action].~~

~~(d) The board shall make information available describing its procedures for complaint investigation and resolution [keep a file for each written complaint filed with the board that the board has authority to resolve. The board shall provide to the person filing the complaint and the persons or entities complained about the board's policies and procedures pertaining to complaint investigation and resolution. The board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation].~~

~~(e) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.~~

SECTION 7. Subchapter F, Chapter 54, Education Code, is amended by adding Sections 54.6175 and 54.6185 to read as follows:

Sec. 54.6175. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the staff of the board on the Internet.

Sec. 54.6185. COMPLIANCE WITH SUNSET MANAGEMENT RECOMMENDATIONS. (a) The board shall:

(1) comply with and implement the management action recommendations regarding the board adopted by the Sunset Advisory Commission on January 10, 2007, as a result of its review of the board; and

(2) report to the Sunset Advisory Commission not later than November 1, 2008, the information the Sunset Advisory Commission requires regarding the board's implementation of the recommendations as required by Subdivision (1).

(b) This section expires June 1, 2009.

SECTION 8. Section 54.619, Education Code, is amended by adding Subsections (c-1) and (k) to read as follows:

(c-1) If the beneficiary of a prepaid tuition contract entered into after December 31, 2003, under Section 54.623, 54.624, or 54.625 enrolls in an institution of higher education, the board:

(1) shall pay to the institution the tuition and required fees of the institution; and

(2) may pay to the purchaser all or part of any amount paid or accrued under the contract that exceeds the tuition and required fees of the institution if the board determines that it may do so in a manner consistent with the actuarial soundness of the program.

(k) The board by rule shall establish criteria and procedures to guide the board in determining when and under what conditions to reopen new enrollment in the program in the event new enrollment in the program is suspended under Subsection (j). The procedure must require that, each year in which new enrollment in the program is suspended, the board consider the current structure

of the program and determine whether any statutory or administrative changes are needed to enable the board to reopen new enrollment in the program in an actuarially sound manner.

SECTION 9. Subchapter F, Chapter 54, Education Code, is amended by adding Section 54.6195 to read as follows:

Sec. 54.6195. APPLICATION FOR ENROLLMENT. (a) The board shall adopt a form for an application for enrollment in the program. The form must indicate the information that the applicant is required to provide in order for the application to be considered, including the information required by Subsection (b) and any other information the board considers appropriate.

(b) An application for enrollment in the program must include the following information:

- (1) the annual household income of the purchaser;
- (2) the highest educational level of the purchaser;
- (3) the race or ethnicity of the beneficiary;
- (4) how the purchaser first learned about the program; and
- (5) how the purchaser intends to finance the prepaid tuition contract.

SECTION 10. Section 54.621, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), the [The] beneficiary of a prepaid tuition contract must be younger than 18 years of age or 18 years of age or older and enrolled in high school at the time the purchaser enters into the contract and must be:

- (1) a resident of this state at the time the purchaser enters into the contract; or
- (2) a nonresident who is the child of a parent who is a resident of this state at the time that parent enters into the contract.

(d) In order to provide sufficient time for program investments to mature in an actuarially sound manner with regard to the amounts prepaid under a contract entered into after December 31, 2003, the board may require a maturity period between the time a purchaser enters into the contract and the time the board must act on its contractual obligation to pay any tuition or fees on behalf of the beneficiary.

SECTION 11. Section 54.624(b), Education Code, is amended to read as follows:

(b) When the beneficiary of a senior college plan prepaid tuition contract entered into on or before December 31, 2003, enrolls in a public senior college or university, the university shall accept as payment in full of the beneficiary's tuition and required fees the lesser of:

- (1) the amount of tuition and required fees charged by the institution; or
- (2) an amount paid by the board under the contract equal to the weighted average amount of tuition and required fees of all public senior colleges and universities for that semester or other academic period as determined by the board.

SECTION 12. Section 54.608(e), Education Code, is repealed.

SECTION 13. Not later than September 1, 2008, the Prepaid Higher Education Tuition Board shall conduct a study to determine the feasibility of the board and an institution of higher education entering into an agreement under which the institution offers tuition discounts or other benefits to beneficiaries of prepaid tuition contracts who enroll in the institution. The study must include an analysis of the benefits of such an agreement to the board and to institutions of higher education and an evaluation of the level of interest in such agreements on the part of institutions of higher education.

SECTION 14. 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.

### **HB 2438 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2438**, A bill to be entitled An Act relating to the allocation of revenue from the municipal hotel occupancy tax for certain transportation systems.

Representative Truitt moved to concur in the senate amendments to **HB 2438**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1704): 142 Yeas, 2 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; 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; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Aycock; Miller.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales.

Absent — Farrar; Moreno; Ortiz; Paxton.

### Senate Committee Substitute

**CSHB 2438**, A bill to be entitled An Act relating to the allocation of revenue from the municipal hotel occupancy tax for certain transportation systems.

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

SECTION 1. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.110 to read as follows:

Sec. 351.110. ALLOCATION OF REVENUE FOR CERTAIN TRANSPORTATION SYSTEMS. (a) Notwithstanding any other provision of this chapter, a municipality may use the revenue derived from the tax imposed under this chapter for a transportation system to transport tourists from hotels in and near the municipality to:

- (1) the commercial center of the municipality;
- (2) a convention center in the municipality;
- (3) other hotels in or near the municipality; and
- (4) tourist attractions in or near the municipality.

(b) The transportation system that transports tourists as described by Subsection (a) may be:

- (1) owned and operated by the municipality; or
- (2) privately owned and operated but partially financed by the municipality.

(c) This section does not authorize the use of revenue derived from the tax imposed under this chapter for a transportation system that serves the general public other than for a system that transports tourists as described by Subsection (a).

SECTION 2. 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.

**HB 3249 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE INSTRUCTED  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3249**, A bill to be entitled An Act relating to the powers and duties of, and the entities reviewed by, the Sunset Advisory Commission.

Representative Truitt 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 3249**.

The motion prevailed.

Representative Vo moved to instruct the conference committee on **HB 3249** to retain the sunset provisions for the Insurance Commission.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3249**: Truitt, chair; Flynn, B. Cook, Kolkhorst, and McClendon.

**HB 3672 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3672**, A bill to be entitled An Act relating to mobile food units in certain populous counties; providing a penalty.

Representative Bohac moved to concur in the senate amendments to **HB 3672**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1705): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Anchia; Cohen; Davis, J.; Flores; McClendon; Moreno; Noriega; Phillips.

**Senate Committee Substitute**

**CSHB 3672**, A bill to be entitled An Act relating to mobile food units in certain populous counties; providing a penalty.

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

SECTION 1. Chapter 437, Health and Safety Code, is amended by adding Section 437.0074 to read as follows:

Sec. 437.0074. MOBILE FOOD UNITS IN CERTAIN POPULOUS COUNTIES. (a) A county with a population of at least 2.8 million, or a municipality or public health district in the county, shall require a mobile food unit to:

(1) return to the food service establishment or commissary from which the unit operates within the 24-hour period preceding operation of the mobile food unit to have cleaning and other services performed on the unit; and

(2) obtain, on completion of an inspection following servicing, written documentation that the mobile food unit has been serviced daily as required by Subdivision (1).

(b) A county, municipality, or public health district that has installed an electronic tagging system shall register and record confirmation that the unit has been serviced as required by Subsection (a)(1).

SECTION 2. Section 37.01(2), Penal Code, is amended to read as follows:

(2) "Governmental record" means:

(A) anything belonging to, received by, or kept by government for information, including a court record;

(B) anything required by law to be kept by others for information of government;

(C) a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States;

(D) a standard proof of motor vehicle liability insurance form described by Section 601.081, Transportation Code, a certificate of an insurance company described by Section 601.083 of that code, a document purporting to be such a form or certificate that is not issued by an insurer authorized to write motor vehicle liability insurance in this state, an electronic submission in a form described by Section 502.153(i), Transportation Code, or an evidence of financial responsibility described by Section 601.053 of that code; ~~[or]~~

(E) an official ballot or other election record; or

(F) the written documentation a mobile food unit is required to obtain under Section 437.0074, Health and Safety Code.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 3876 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 3876**, A bill to be entitled An Act relating to access to the dental records of a dental clinic or organization; providing penalties.

Representative Menendez moved to concur in the senate amendments to **HB 3876**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1706):  
139 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.; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; 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; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Corte; Davis, J.; Flores; Howard, C.; McClendon; Moreno; Noriega; Pierson.

### Senate Committee Substitute

**CSHB 3876**, A bill to be entitled An Act relating to the regulation of the practice of dentistry; providing penalties.

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

SECTION 1. Subchapter B, Chapter 258, Occupations Code, is amended by adding Section 258.0511 to read as follows:

Sec. 258.0511. ACCESS TO DENTAL RECORDS. (a) An owner, shareholder, partner, or executive officer of a clinic or other entity that provides dental services for the public shall designate a license holder as the dental custodian of records to provide records to the board or a dentist who has provided dental treatment and to comply with other law regulating dental patient records.

(b) On demand, the dental custodian of records shall give access to the board and produce for the board all records or other evidence related to the investigation or prosecution of an alleged violation of this subtitle or another law regulating the practice of dentistry in this state.

(c) The board shall adopt rules regarding the designation and duties of a dental custodian of records.

(d) Section 264.101 applies to a violation of this section.

SECTION 2. Subchapter D, Chapter 264, Occupations Code, is amended by adding Section 264.152 to read as follows:

Sec. 264.152. CRIMINAL PENALTY: DENTAL RECORDS ACCESS. (a) A person commits an offense if the person violates Section 258.0511.

(b) Notwithstanding Section 264.151, an offense under this section is a Class B misdemeanor.

(c) If it is shown at the trial of an offense under this section that the defendant was previously convicted under this section, the offense is a Class A misdemeanor.

SECTION 3. Chapter 254, Occupations Code, is amended by adding Section 254.018 to read as follows:

Sec. 254.018. EXPERT TESTIMONY. A member of the board may not serve as an expert witness in a suit involving a health care liability claim against a dentist for injury to or death of a patient unless the member receives approval from the board or an executive committee of the board to serve as an expert witness.

SECTION 4. This Act takes effect September 1, 2007.

### **HB 4062 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4062**, A bill to be entitled An Act relating to certain administrative duties and responsibilities of the Department of Agriculture.

Representative Miller moved to concur in the senate amendments to **HB 4062**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1707): 141 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.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; 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; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Delisi; Hartnett; Moreno; Naishtat; Noriega; Smith, T.

**STATEMENT OF VOTE**

When Record No. 1707 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

**Senate Committee Substitute**

**CSHB 4062**, A bill to be entitled An Act relating to the enforcement and administration of certain programs by the Department of Agriculture.

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

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.0025 to read as follows:

Sec. 12.0025. NUTRITION PROGRAMS. The department shall administer the following federal and state nutrition programs:

(1) the commodity supplemental food program under 7 U.S.C. Section 612c;

(2) the food distribution program under 7 U.S.C. Section 612c;

(3) the emergency food assistance program under 7 U.S.C. Section 7501 et seq.;

(4) the school lunch program under 42 U.S.C. Section 1751 et seq.;

(5) the summer food service program under 42 U.S.C. Section 1761;

(6) the child and adult care food program under 42 U.S.C. Section 1766;

(7) the special milk program under 42 U.S.C. Section 1772; and

(8) the school breakfast program under 42 U.S.C. Section 1773.

SECTION 2. Section 12.020(c), Agriculture Code, as amended by Chapter 374 and 1124, Acts of the 77th Legislature, Regular Session, 2001, is reenacted to read as follows:

(c) The provisions of this code subject to this section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
Chapter 41	\$1,000
Chapters 13, 14A, 18, 46, 61, 94, 95, 101, 102, 103, 121, 125, 132, and 134	not more than \$500
Subchapter B, Chapter 71	
Chapter 19	
Chapter 76	not more than \$2,000
Subchapters A and C, Chapter 71	
Chapters 72, 73, and 74	not more than \$5,000
Chapter 14	not more than \$10,000.

SECTION 3. Chapter 12, Agriculture Code, is amended by adding Section 12.042 to read as follows:

Sec. 12.042. TRANS-FATTY ACID STUDY. (a) Not later than December 1, 2008, the department shall prepare and submit a report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature containing information on the department's and the United States Department of Agriculture's steps to reduce trans-fatty acids from all school meals and nutrition programs. The report shall detail all initiatives, proposals, and programs that the department and the United States Department of Agriculture are then currently conducting or planning to conduct and include the department's recommendations for legislative action to assist in reducing trans-fatty acids from school meals.

(b) This section expires December 2, 2008.

SECTION 4. Chapter 12, Agriculture Code, is amended by adding Section 12.043 to read as follows:

Sec. 12.043. STUDY REGARDING PARTICIPATION IN BREAKFAST PROGRAM. (a) In this section, "breakfast program" means the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. Section 1773).

(b) The department shall identify methods for increasing the number of students who eat breakfast, including:

(1) conducting a cost-benefit analysis in a sample of school districts in which 60 percent or more of the students qualify for free or reduced-price breakfast to determine the impact of providing a free breakfast to:

(A) students who would otherwise pay a reduced price for breakfast; and

(B) all students in the district regardless of family income;

(2) identifying programs and practices in school districts in this state and other states that are effective in increasing participation in the breakfast program; and

(3) providing information at the beginning of the school year to students and parents about the importance of eating breakfast.

(c) The cost-benefit analysis required under Subsection (b) must assess:

(1) administrative costs to a school district;

(2) federal reimbursement made to a school district for free or reduced-price breakfast;

(3) cost per breakfast to a school district; and

(4) participation of students in the breakfast program.

(d) Not later than October 31, 2008, the commissioner shall prepare and deliver a report describing the results of the study to the governor, the lieutenant governor, and the speaker of the house of representatives. The report must:

(1) include the cost-benefit analysis required under Subsection (b);

(2) outline effective programs and practices identified under Subsection

(b); and

(3) recommend to the legislature methods for increasing participation in the breakfast program.

(e) This section expires January 1, 2009.

SECTION 5. Chapter 33, Human Resources Code, is amended by adding Sections 33.0005 and 33.0006 to read as follows:

Sec. 33.0005. DEFINITIONS. In this chapter:

(1) "Department" means:

(A) with respect to the food stamp program, the Health and Human Services Commission; and

(B) with respect to any other nutritional assistance program or special nutrition program listed in Subdivision (3), the Health and Human Services Commission or the agency of this state that operates the program, as applicable.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission, or the chief administrative officer of an agency of this state operating a nutritional assistance program, as applicable.

(3) "Nutritional assistance program" or "special nutrition program" includes the following programs authorized by federal law that provide nutritional assistance to needy individuals in this state:

(A) the food stamp program;

(B) the child and adult care food program;

(C) the summer food service program;

(D) the food distribution program;

(E) the emergency food assistance program; and

(F) the commodity supplemental food program.

Sec. 33.0006. OPERATION OF FOOD STAMP PROGRAM. The Health and Human Services Commission operates the food stamp program.

SECTION 6. Sections 33.002(b) and (e), Human Resources Code, are amended to read as follows:

(b) The department may enter into agreements with federal agencies that are required as a prerequisite to the allocation of the commodities or food stamps. The department may enter into agreements with eleemosynary institutions, schools, and other eligible agencies and recipients of the commodities and food stamps. The department administering the distribution of federal surplus commodities and other resources may cooperate with a municipality or county as necessary to properly administer that distribution.

(e) ~~The department [Texas Department of Human Services]~~ shall screen all applicants for expedited issuance on a priority basis within one working day. Applicants who meet the federal criteria for expedited issuance and have an immediate need for food assistance shall receive either a manual Authorization-to-Purchase card or the immediate issuance of food stamp coupons within one working day.

SECTION 7. Section 33.004(b), Human Resources Code, is amended to read as follows:

(b) The advisory boards shall be of the size, membership, and experience that the executive commissioner determines to be essential for the accomplishment of the purposes of this chapter and not in conflict with or duplicative of other laws on this subject.

SECTION 8. Section 33.013(c), Human Resources Code, is amended to read as follows:

(c) Where emergency food programs do not exist, the department [~~Texas Department of Human Services~~] office shall assist community groups in establishing emergency food assistance programs.

SECTION 9. Section 33.024(e), Human Resources Code, is amended to read as follows:

(e) School district facilities shall be utilized for the summer program unless:

(1) the district provides documentation, verified by the department and the agency, showing that the cost to the district exceeds the funds available for the summer program; or

(2) the department [~~Department of Human Services~~] verifies that the program will operate at adequate alternative facilities.

SECTION 10. Section 12.0012, Agriculture Code, as added by Chapter 369, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 11. All records, contracts, assets, personal property, and personnel of the Health and Human Services Commission associated with or engaged in the administration of a nutrition program transferred to the Department of Agriculture by this Act are transferred to the Department of Agriculture.

SECTION 12. A rule or form adopted by the Health and Human Services Commission for the administration of a federal or state nutrition program transferred by this Act is a rule or form of the Department of Agriculture until changed by the Department of Agriculture.

SECTION 13. If before implementing any provision of this Act an agency of this state determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay the implementation of that provision until the waiver or authorization is granted.

SECTION 14. 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.

### **HB 53 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 53**, A bill to be entitled An Act relating to the designation of the Cesar Chavez Border Highway.

Representative Chavez moved to concur in the senate amendments to **HB 53**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1708): 144 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; 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; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Cohen; Keffer; Moreno.

### Senate Committee Substitute

**CSHB 53**, A bill to be entitled An Act relating to the designation of the Cesar Chavez Border Highway and the designation by name of other parts of the highway system.

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

SECTION 1. Section 225.001, Transportation Code, is amended to read as follows:

Sec. 225.001. RESTRICTIONS [~~PROHIBITION~~] ON NAMING HIGHWAY. (a) The commission may not designate a part of the highway system, including a bridge or street, by a name, including the name of a living [~~or dead~~] individual or for an organization or event, or by a symbol other than the regular highway number.

(b) Except as otherwise provided by statute, a part of the highway system, including a bridge or street, may not be designated by a name.

(c) A part of the highway system, including a bridge or street, may be designated by the name of a person only if the person is deceased and was significant:

(1) in the state's history; or

(2) in the lives of the people of this state.

SECTION 2. Section 225.021, Transportation Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The department is not required to design, construct, or erect a marker under this subchapter unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(d) Money received under Subsection (b) shall be deposited to the credit of the state highway fund.

SECTION 3. Section 225.051(a), Transportation Code, is amended to read as follows:

(a) Loop 375 between Interstate Highway 10 [~~Zaragoza Avenue~~] and Santa Fe Street in El Paso County is designated as the Cesar Chavez Border Highway.

SECTION 4. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.065 to read as follows:

Sec. 225.065. RUSSELL H. PERRY MEMORIAL HIGHWAY. (a) Interstate Highway 345 located in Dallas between Interstate Highway 30 and Spur 366 is designated as the Russell H. Perry Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Russell H. Perry Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 5. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.066 to read as follows:

Sec. 225.066. VETERANS HIGHWAY. (a) Loop 534 between Interstate Highway 10 and State Highway 173 located in Kerrville is designated as the Veterans Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Veterans Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 6. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.067 to read as follows:

Sec. 225.067. TOM RAMSAY HIGHWAY. (a) The portion of State Highway 37 located in Franklin County is designated as the Tom Ramsay Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Tom Ramsay Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 7. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.068 to read as follows:

Sec. 225.068. JASON OLIFF MEMORIAL HIGHWAY. (a) The portion of Farm-to-Market Road 2004 located in Brazoria County is designated as the Jason Oliff Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Jason Oliff Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

SECTION 8. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.069 to read as follows:

Sec. 225.069. HONORABLE STILLMAN DUDLEY HARRISON HIGHWAY. The Texas Department of Transportation shall designate U.S. Highway 90, from the Blue Star rest area southeast of Sanderson to the Val Verde County line.

SECTION 9. The Texas Department of Transportation shall erect a marker at appropriate intermediate sites and at each end of the Cesar Chavez Border Highway, as redesignated by this Act.

SECTION 10. 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 53** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.070 to read as follows:

Sec. 225.070. DR. HECTOR P. GARCIA MEMORIAL HIGHWAY. (a) The portion of State Highway 286 between State Highway 357 and Interstate Highway 37 in Corpus Christi is designated as Dr. Hector P. Garcia Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Dr. Hector P. Garcia Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

#### **HB 638 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 638**, A bill to be entitled An Act relating to the issuance of identification cards to certain retired peace officers and to the eligibility of certain retired peace officers to obtain a weapons proficiency certificate.

Representative Hughes moved to concur in the senate amendments to **HB 638**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1709):  
146 Yeas, 0 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; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; 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(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales.

Absent — Guillen; Moreno.

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

Amend **HB 638** (Senate Committee Printing) as follows:

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

SECTION \_\_\_\_\_. The heading to Section 1701.357, Occupations Code, is amended to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS [~~CRIMINAL INVESTIGATORS~~].

(2) In the recital to SECTION 1 of the bill (page 1, line 12), strike "Section 1701.357(c), Occupations Code, is" and substitute "Sections 1701.357(a), (c), and (h), Occupations Code, are".

(3) In SECTION 1 of the bill, insert the following between the recital to that SECTION and the text of amended Subsection (c), Section 1701.357, Occupations Code (page 1, between lines 13 and 14):

(a) This section applies only to:

(1) a peace officer; ~~and~~

(2) a federal criminal investigator designated as a special investigator under Article 2.122, Code of Criminal Procedure; and

(3) a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C and is not otherwise described by Subdivision (1) or (2).

(4) In SECTION I of the bill, insert the following immediately after the text of amended Subsection (c), Section 1701.357, Occupations Code (page 1, between lines 32 and 33):

(h) The head of a state law enforcement agency may allow an honorably retired federal criminal investigator or a qualified retired law enforcement officer to whom this section applies an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, an honorably retired peace officer as described by this section. The agency shall issue a certificate of proficiency to an honorably retired federal criminal investigator or a qualified retired law enforcement officer who otherwise meets the requirements of this section and shall maintain records regarding the issuance of that certificate.

### **HB 681 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 681**, A bill to be entitled An Act relating to postconviction forensic testing.

Representative Hochberg moved to concur in the senate amendments to **HB 681**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1710): 143 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; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Flores; Hardcastle; McClendon; Moreno.

### Senate Committee Substitute

**CSHB 681**, A bill to be entitled An Act relating to postconviction forensic testing.

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

SECTION 1. Section 3, Article 11.07, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If the convicting court decides that there are controverted, previously unresolved facts which are material to the legality of the applicant's confinement, it shall enter an order within 20 days of the expiration of the time allowed for the state to reply, designating the issues of fact to be resolved. To resolve those issues the court may order affidavits, depositions, interrogatories, additional forensic testing, and hearings, as well as using personal recollection. The state shall pay the cost of additional forensic testing ordered under this subsection, except that the applicant shall pay the cost of the testing if the applicant retains counsel for purposes of filing an application under this article. ~~The~~ ~~[Also, the]~~ convicting court may appoint an attorney or a magistrate to hold a hearing and make findings of fact. An attorney so appointed shall be compensated as provided in Article 26.05 of this code. It shall be the duty of the reporter who is designated to transcribe a hearing held pursuant to this article to prepare a transcript within 15 days of its conclusion. After the convicting court makes findings of fact or approves the findings of the person designated to make them, the clerk of the convicting court shall immediately transmit to the Court of Criminal Appeals, under one cover, the application, any answers filed, any motions filed, transcripts of all depositions and hearings, any affidavits, and any other matters such as official records used by the court in resolving issues of fact.

(e) For the purposes of Subsection (d), "additional forensic testing" does not include forensic DNA testing as provided for in Chapter 64.

SECTION 2. Article 64.01(c), Code of Criminal Procedure, is amended to read as follows:

(c) A convicted person is entitled to counsel during a proceeding under this chapter. The convicting court shall appoint counsel for the convicted person if the person informs the court that the person wishes to submit a motion under this chapter, the court finds reasonable grounds for a motion to be filed, and the court determines that the person is indigent. Counsel must be appointed under this subsection not later than the 45th day after the date the court finds reasonable grounds or the date the court determines that the person is indigent, whichever is later. Compensation of counsel is provided in the same manner as is required by:

(1) Article 11.071 for the representation of a petitioner convicted of a capital felony; and

(2) Chapter 26 for the representation in a habeas corpus hearing of an indigent defendant convicted of a felony other than a capital felony.

SECTION 3. Article 64.02, Code of Criminal Procedure, is amended to read as follows:

Art. 64.02. NOTICE TO STATE; RESPONSE. (a) On receipt of the motion, the convicting court shall:

(1) provide the attorney representing the state with a copy of the motion; and

(2) require the attorney representing the state to take one of the following actions in response to the motion not later than the 60th day after the date the motion is served on the attorney representing the state:

(A) deliver the evidence to the court, along with a description of the condition of the evidence; or

(B) explain in writing to the court why the state cannot deliver the evidence to the court.

(b) The convicting court may proceed under Article 64.03 after the response period described by Subsection (a)(2) has expired, regardless of whether the attorney representing the state submitted a response under that subsection.

SECTION 4. Articles 64.03(b), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(b) A convicted person who pleaded guilty or nolo contendere or, whether before or after conviction, made a confession or similar admission in the case may submit a motion under this chapter, and the convicting court is prohibited from finding that identity was not an issue in the case solely on the basis of that plea, confession, or admission, as applicable.

(c) If the convicting court finds in the affirmative the issues listed in Subsection (a)(1) and the convicted person meets the requirements of Subsection (a)(2), the court shall order that the requested forensic DNA testing be conducted. The court may order the test to be conducted by:

(1) the Department of Public Safety;

(2) ~~[-by]~~ a laboratory operating under a contract with the department; ~~[-]~~

or

(3) ~~[-]~~ on the request of the convicted person ~~[agreement of the parties]~~, ~~[by]~~ another laboratory if that laboratory is accredited under Section 411.0205, Government Code.

(d) If the convicting court orders that the forensic DNA testing be conducted by a laboratory other than a Department of Public Safety laboratory or a laboratory under contract with the department, the State of Texas is not liable for the cost of testing under this subsection unless good cause for payment of that cost has been shown. A political subdivision of the state is not liable for the cost of testing under this subsection, regardless of whether good cause for payment of that cost has been shown. If the court orders that the testing be conducted by a laboratory described by this subsection, the court shall include in the order requirements that:

(1) the DNA testing be conducted in a timely and efficient manner under reasonable conditions designed to protect the integrity of the evidence and the testing process;

(2) the DNA testing employ a scientific method sufficiently reliable and relevant to be admissible under Rule 702, Texas Rules of Evidence; and

(3) on completion of the DNA testing, the results of the testing and all data related to the testing required for an evaluation of the test results be immediately filed with the court and copies of the results and data be served on the convicted person and the attorney representing the state.

SECTION 5. (a) Section 3(d), Article 11.07, Code of Criminal Procedure, as amended by this Act, applies only to an application for a writ of habeas corpus filed on or after the effective date of this Act. An application filed before the effective date of this Act is covered by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

(b) Chapter 64, Code of Criminal Procedure, as amended by this Act, applies only to a motion for forensic DNA testing filed on or after the effective date of this Act. A motion filed before the effective date of this Act is covered by the law in effect when the motion was filed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2007.

### **HB 1460 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1460**, A bill to be entitled An Act relating to licensing, acquisition, and regulation of manufactured housing; providing penalties.

Representative Haggerty moved to concur in the senate amendments to **HB 1460**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1711): 142 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; 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; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; 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; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee;

Solomons(C); Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Christian; Harper-Brown; Hughes; Phillips.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales.

Absent — McClendon; Moreno.

### Senate Committee Substitute

**CSHB 1460**, A bill to be entitled An Act relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.

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

SECTION 1. Section 1201.003, Occupations Code, is amended to read as follows:

Sec. 1201.003. DEFINITIONS. In this chapter:

(1) "Advertisement" means a commercial message that promotes the sale, exchange, or lease-purchase of a manufactured home and that is presented on radio, television, a public-address system, or electronic media or appears in a newspaper, a magazine, a flyer, a catalog, direct mail literature, an inside or outside sign or window display, point-of-sale literature, a price tag, or other printed material. The term does not include educational material or material required by law.

(2) "Affiliate" means a person who is under common control.

(3) "Alteration" means the replacement, addition, modification, or removal of equipment in a new manufactured home after sale by a manufacturer to a retailer but before sale and installation by a retailer to a purchaser in a manner that may affect the home's construction, fire safety, occupancy, or plumbing, heating, or electrical system. The term includes the modification of a manufactured home in a manner that may affect the home's compliance with the appropriate standards but does not include:

(A) the repair or replacement of a component or appliance that requires plug-in to an electrical receptacle, if the replaced item is of the same configuration and rating as the replacement; or

(B) the addition of an appliance that requires plug-in to an electrical receptacle and that was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which the appliance is connected.

(4) ~~(2-a)~~ "Attached" in reference to a manufactured home means that the home has been:

(A) installed in compliance with the rules of the department; and

(B) connected to a utility, including a utility providing water, electric, natural gas, propane or butane gas, or wastewater service.

(5) ~~(3)~~ "Board" means the Manufactured Housing Board within the Texas Department of Housing and Community Affairs.

(6) [~~(4)~~] "Broker" means a person engaged by one or more other persons to negotiate or offer to negotiate a bargain or contract for the sale, exchange, or lease-purchase of a manufactured home for which a certificate or other document of title has been issued and is outstanding. The term does not include a person who maintains a location for the display of manufactured homes.

(7) [~~(5)~~] "Business use" means the use of a manufactured home for a purpose other than as a permanent or temporary dwelling.

(8) [~~(6)~~] "Consumer" means a person, other than a person licensed under this chapter, who seeks to acquire or acquires by purchase, exchange, or lease-purchase a manufactured home.

(9) "Control" means, with respect to another person, the possession of the power, directly or indirectly, to vote an interest of 25 percent or more.

(10) [~~(7)~~] "Department" means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(11) [~~(8)~~] "Director" means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs.

(12) [~~(9)~~] "HUD-code manufactured home":

(A) means a structure:

(i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and

(C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

(13) [~~(10)~~] "Installation" means the temporary or permanent construction of the foundation system and the placement of a manufactured home or manufactured home component on the foundation. The term includes supporting, blocking, leveling, securing, anchoring, and properly connecting multiple or expandable sections or components and making minor adjustments.

(14) [~~(11)~~] "Installer" means a person, including a retailer or manufacturer, who contracts to perform or performs an installation function on manufactured housing.

(15) [~~(12)~~] "Label" means a device or insignia that is:

(A) issued by the director to indicate compliance with the standards, rules, and regulations established by the United States Department of Housing and Urban Development; and

(B) permanently attached to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.

(16) [(13)] "Lease-purchase" means entering into a lease contract for a manufactured home, in which the lessor retains title, containing a provision or, in another agreement, conferring on the lessee an option to purchase a manufactured home.

(17) [(14)] "License holder" or "licensee" means a person who holds a department-issued license as a manufacturer, retailer, broker, rebuilder, salesperson, or installer.

(18) [(15)] "Manufactured home" or "manufactured housing" means a HUD-code manufactured home or a mobile home.

(19) [(16)] "Manufacturer" means a person who constructs or assembles manufactured housing for sale, exchange, or lease-purchase in this state.

(20) [(17)] "Mobile home":

(A) means a structure:

(i) constructed before June 15, 1976;

(ii) built on a permanent chassis;

(iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(iv) transportable in one or more sections; and

(v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

(21) "New manufactured home" means a manufactured home that is not a used manufactured home, regardless of its age.

(22) [(18)] "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

(23) "Related person" means a person who directly or indirectly participates in management or policy decisions.

(24) [(19)] "Retailer" means a person who:

(A) is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale, exchange, or lease-purchase to consumers, including a person who maintains a location for the display of manufactured homes; and

(B) sells, exchanges, or lease-purchases at least two manufactured homes to consumers in a 12-month period.

(25) "Rules" means the rules of the department.

(26) [(20)] "Salesperson" means a person who, as an employee or agent of a retailer or broker, sells or lease-purchases or offers to sell or lease-purchase manufactured housing to a consumer [for any form of compensation].

(27) [(21)] "Salvaged manufactured home" means a manufactured home determined to be salvaged under Section 1201.461.

(28) [(22)] "Seal" means a device or insignia issued by the director that, for title purposes, is to be attached to a used manufactured home as required by the director.

(29) [(23)] "Standards code" means the Texas Manufactured Housing Standards Code.

(30) [(23-a)] "Statement of ownership and location" means a statement issued by the department and setting forth:

(A) the ownership and location of a manufactured home [that has been sold at a retail sale or installed] in this state as provided by Section 1201.205; and

(B) other information required by this chapter.

(31) [(24)] "Trust fund" means the manufactured homeowners' recovery trust fund.

(32) "Used manufactured home" means a manufactured home which has been occupied for any use or for which a statement of ownership and location has been issued. The term does not include:

(A) a manufactured home that was used as a sales model at a licensed retail location; or

(B) a manufactured home that:

(i) was sold as a new manufactured home and installed but never occupied;

(ii) had a statement of ownership and location; and

(iii) was taken back from the consumer or transferee because of a first payment default or agreement to rescind or unwind the transaction.

SECTION 2. Section 1201.008, Occupations Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Notwithstanding any zoning or other law, in the event that a manufactured home occupies a lot in a municipality, the owner of the manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.

(f) An owner's ability to replace the home as a result of a fire or natural disaster cannot be restricted. Other than in the case of a fire or natural disaster, a general-rule or home-rule municipality by an ordinance or charter may limit the ability of the owner to replace his home to a single replacement.

SECTION 3. Subsection (a), Section 1201.053, Occupations Code, is amended to read as follows:

(a) The board [director] shall adopt rules [issue orders,] and otherwise act as necessary to:

(1) comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), including adopting and enforcing rules reasonably required to implement the notification and correction procedures provided by 42 U.S.C. Section 5414; and

(2) provide for the effective enforcement of all HUD-code manufactured housing construction and safety standards in order to have the state plan authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.) approved by the secretary of housing and urban development.

SECTION 4. Section 1201.054, Occupations Code, is amended to read as follows:

Sec. 1201.054. PROCEDURE FOR ADOPTING RULES. (a) Rules must be adopted in accordance with Chapter 2001, Government Code, and with this section.

(b) If requested, the board shall, after at least 10 days' notice, hold a hearing on any rule that it proposes to adopt, other than a rule that is to be adopted under emergency rulemaking, in which case only the requirements of Chapter 2001, Government Code, shall apply ~~[A proposed rule must be published in the Texas Register before the 30th day preceding the date of a public hearing set to consider the testimony of interested persons. Notice of the time and place of the public hearing must be published in the Texas Register before the 30th day preceding the date of the hearing].~~

(c) ~~[A rule as finally adopted must be published in the Texas Register and state the rule's effective date.~~

~~[(d)]~~ A rule takes effect on the 30th day after the date of publication of notice that the rule has been adopted, except that a rule relating to installation standards may not take effect earlier ~~[later]~~ than the 60th day after the date of publication of notice unless the board has determined that an earlier effective date is required to meet an emergency and the standard was adopted under the emergency rulemaking provisions of Chapter 2001, Government Code.

SECTION 5. Section 1201.055, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department may permit the use of any device or procedure that has been reviewed and approved by a licensed engineer provided that such use or procedure complies with any instructions, conditions, or other requirements specified by that engineer.

SECTION 6. Section 1201.058, Occupations Code, is amended to read as follows:

Sec. 1201.058. AMOUNT OF FEES. (a) The board shall establish reasonable fees for all matters under this chapter providing for fees. If the department's rules provide an option to file a document electronically, the department may charge a discounted fee for the electronic filing.

(b) Ten dollars of the fee for each purchase, exchange, or lease-purchase of a manufactured home shall be deposited to the credit of the trust fund and used for the protection programs described by Subchapter I.

(c) All fees established by this chapter or the rules are deemed to be earned and not subject to refund after receipt by the department.

(d) Notwithstanding Subsection (c), the director may, in limited and appropriate circumstances and in accordance with rules adopted by the board, approve the refund of fees ~~[the fees imposed under Sections 1201.055 1201.057 in amounts that are reasonable and necessary to cover the cost of administering this chapter].~~

SECTION 7. Section 1201.101, Occupations Code, is amended by amending Subsections (d), (f), and (g) and adding Subsection (f-1) to read as follows:

(d) A person may not act as an installer ~~[perform an installation function on manufactured housing]~~ in this state unless the person holds an installer's license.

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer or broker who sponsored the salesperson's application as required by Section 1201.103(d).

(f-1) A retailer may be licensed to operate at a principal location and one or more branch locations under a single license; provided, however, that a separate application must be made for each branch, and each branch must be separately bonded.

(g) A person may not make an announcement concerning the sale, exchange, or lease-purchase of, or offer to sell, exchange, or lease-purchase, a manufactured home to a consumer in this state through an advertisement unless the person holds a manufacturer's, retailer's, or broker's license. This subsection does not apply to:

(1) a person exempt from licensing ~~[to whom a statement of ownership and location has been issued showing the person to be the owner of the home if the person does not offer to sell, exchange, or lease purchase two or more manufactured homes in a 12-month period];~~ or

(2) an advertisement concerning real property on [to] which there is a manufactured home that has been converted to real property in accordance with Section 1201.2055 ~~[permanently attached]~~.

SECTION 8. Subsections (a), (b), and (c), Section 1201.102, Occupations Code, are amended to read as follows:

(a) A licensed installer may employ unlicensed persons to assist in performing installation functions provided that the licensed installer maintains a list of the persons so employed. The director may issue an order to prohibit a person who is not licensed as an installer from performing installation functions under the oversight of a licensed installer ~~[An employee who acts as an agent of a license holder is covered by the holder's license and is not required to hold an individual license].~~

(b) A licensee may engage another person who is not licensed under this chapter but possesses another license issued by the State of Texas to provide goods and services subject to that other license. Without limiting the generality of the foregoing, this includes engaging others to install, connect, or otherwise work on air conditioning, plumbing, and electrical systems ~~[Except as provided by Section 1201.510, an independent contractor or business entity may not operate under the license of another business entity except as an agent or subcontractor of a licensed installer who is responsible for an installation function performed by the agent or subcontractor].~~

(c) An individual who ~~[In the case of a sole proprietorship, partnership, or corporation that]~~ holds a retailer's license or broker's license or who is a related person of such a licensee ~~[, an owner, partner, or officer of that entity]~~ is not required to apply for a salesperson's license ~~[if that owner, partner, or officer is properly listed in the retailer's or broker's license application].~~

SECTION 9. Section 1201.103, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) An applicant for a license as a manufacturer, retailer, broker, rebuilder, or installer must file with the director a license application containing:

(1) the legal name, address, and telephone number of the applicant and each person who will be a related person at the time the requested license is issued;

(2) all ~~[the]~~ trade names, and the names of all other business organizations, under ~~[name by]~~ which the applicant does business subject to this chapter ~~[and, if incorporated]~~, the name of each such business organization registered with the secretary of state, and the address of such ~~[the]~~ business organization; ~~[and]~~

(3) the dates on which the applicant became the owner and operator of the business; and

(4) the location to which the license will apply.

(a-1) All required records of a licensee under Subsection (a) are to be maintained at the licensee's principal office or such other location within this state as the licensee may designate.

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides any information the director considers necessary and that is sponsored by a currently licensed ~~[, bonded]~~ retailer or broker; and

(2) pay the required fee.

SECTION 10. Sections 1201.104 and 1201.105, Occupations Code, are amended to read as follows:

Sec. 1201.104. QUALIFICATIONS FOR LICENSE. (a) Except as provided by Subsection (e), as a requirement ~~[prerequisite]~~ for a manufacturer's, retailer's, broker's, installer's, salvage rebuilder's, or salesperson's license, a person who was not licensed or registered with the department or a predecessor agency on September 1, 1987, must, not more than 12 months before applying for the person's first license under this chapter, attend and successfully complete 20 hours of instruction in the law, including instruction in consumer protection regulations. If the applicant is not an individual, the applicant must have at least one related person who meets this requirement ~~[The director may not issue a license to that person until the course of instruction is completed].~~

(b) Except in the case of an applicant for a salesperson's license, successful completion of the course of instruction is a prerequisite to obtaining the license.

(c) An applicant for a salesperson's license may apply for a license without having completed the course of instruction provided that the person successfully completes the next scheduled course offered after the date of the person's

licensure. If the person fails to complete such course successfully and in a timely manner, the person's license is automatically suspended until the person successfully completes the course.

(d) The course of instruction must be offered at least quarterly.

(e) The board shall adopt rules relating to course content and approval. Classes must be live. Online or other electronic classes are not permitted.

(f) An applicant for an initial installer's license shall receive a license on a probationary basis. The person's probationary status shall remain in effect until such time as a sufficient number of installations completed by the person have been inspected by the department and found not to have any identified material violations of the department's rules. The board, with the advice of the advisory committee to be established under Section 1201.251, shall adopt rules to establish what constitutes a sufficient number of installations under this subsection.

(g) ~~(e) Instead of the course of instruction:~~

~~(1) a manufacturer may request that an authorized representative of the department present a one day, in plant training program; or~~

~~(2) the director may approve a training program for a license applicant that is conducted by a nonprofit educational institution or foundation.~~

~~(d) A manufacturer shall reimburse the department for the actual cost of a program presented under Subsection (e)(1).~~

~~(e)~~ Subsection (a) does not apply to a license holder ~~[or registration holder]~~ who applies:

(1) for a license for an additional business location; or

(2) to renew or reinstate a license~~;~~ or

~~(3) for a salesperson's license.~~

(h) ~~(f)~~ An examination must ~~[may not]~~ be a requirement of successful completion of any initial required course of instruction under this section ~~[made a prerequisite of licensing].~~

Sec. 1201.105. SECURITY REQUIRED. (a) The department may not issue or renew a license unless a bond or other security in a form prescribed by the director is filed with the department as provided by this subchapter. The bond or other security is payable to the trust fund.

(b) If a bond is filed, the bond must be issued by a company authorized to do business in this state and must conform to applicable provisions of the Insurance Code. If other security is filed, that security must be maintained in or by a federally insured depository ~~[banking]~~ institution located in this state.

(c) If the department experiences significant problems in obtaining timely reimbursements from a surety or the surety has experienced a deterioration in its financial condition, the board may direct the director to stop accepting bonds issued by the surety.

SECTION II. Section 1201.106, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

(1) \$100,000 for a manufacturer;

- (2) \$50,000 for a retailer's principal location ~~[retailer]~~;
- (3) \$50,000 for each retailer's branch location;
- (4) \$50,000 ~~[\$30,000]~~ for a rebuilder;
- (5) ~~[(4)]~~ \$50,000 for a broker; or
- (6) \$25,000 ~~[(5) \$10,000]~~ for an installer.

(a-1) Notwithstanding the provisions of Subsection (a), the director may require additional security for the licensing, renewal, or relicensing of a person who, either directly, as a related person, or through a related person, has been the subject of a license revocation, has caused the trust fund to incur unreimbursed costs or liabilities in excess of available surety bond coverage, or has failed to pay an administrative penalty that has been assessed by final order.

SECTION 12. Section 1201.108, Occupations Code, is amended to read as follows:

Sec. 1201.108. SECURITY: CHANGE IN OWNERSHIP OR LOCATION.

(a) A new bond is not required for a change in:

- (1) ownership of a licensee or a business entity under which ~~corporation that is~~ a license holder conducts business; or
- (2) location.

(b) A licensee shall notify the department of a change described by Subsection (a) not later than the 10th day before the date the change occurs.

(c) After a change described by Subsection (a), the licensee shall provide to the department a proper endorsement to the original bond showing that the bond continues to apply to the license without interruption ~~[The director may require a proper endorsement of the original bond].~~

SECTION 13. Subsections (a), (b), and (c), Section 1201.113, Occupations Code, are amended to read as follows:

(a) The board shall approve ~~[recognize, prepare,]~~ or administer ~~[certification and]~~ continuing education programs for licensees ~~[salespersons regulated]~~ under this chapter. A continuing education program must be at least eight hours long and must include the current rules of the department and such other matters as the board may deem relevant.

(b) Attendance at an approved or administered continuing education course described by Subsection (a) is a prerequisite to renewal of a license ~~[A person who holds a salesperson's license must participate in certification and continuing education programs as provided by Subsection (e)].~~

(c) No test shall be given in relation to any continuing education program ~~[To prepare or administer a certification or continuing education program under this section, the board may contract with:~~

~~[(1) a private, nonprofit organization that qualifies for an exemption from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code; or~~

~~[(2) an educational institution].~~

SECTION 14. Section 1201.114, Occupations Code, is amended to read as follows:

Sec. 1201.114. LICENSE EXPIRATION; PROBATIONARY LICENSE.

(a) Any license under this chapter other than a probationary [A manufacturer's, retailer's, broker's, or installer's] license is valid for [one year. A salesperson's license is valid for] two years. A license may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

(b) If the director determines that a licensed salesperson or installer should receive a probationary license, the director may issue a probationary license on such terms and for such period as are deemed reasonable. The issuance of a license on a probationary basis, any one or more of the specific terms of the probation, or the period of probation may be appealed before the 31st day after issuance of the probationary license by written notice to the director. If appeal is made, the director shall set the matter for a hearing before the State Office of Administrative Hearings, and all administrative proceedings relating to the issuance of the probationary license shall be deemed to be a contested case under Chapter 2001, Government Code. If no appeal is made, the probationary license shall be issued and shall remain in effect in accordance with the terms specified [The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable].

SECTION 15. Subchapter C, Chapter 1201, Occupations Code, is amended by adding Section 1201.118 to read as follows:

Sec. 1201.118. RULES RELATING TO CERTAIN PERSONS. The board shall adopt rules providing for additional review and scrutiny of any application for an initial or renewal license that involves a person who has previously:

(1) been found in a final order to have participated in one or more violations of this chapter that served as grounds for the suspension or revocation of a license;

(2) been found to have engaged in activity subject to this chapter without possessing the required license;

(3) caused the trust fund to incur unreimbursed payments or claims; or

(4) failed to abide by the terms of a final order, including the payment of any assessed administrative penalties.

SECTION 16. Section 1201.1505, Occupations Code, is amended to read as follows:

Sec. 1201.1505. DEPOSIT ON SPECIALLY ORDERED MANUFACTURED HOMES. A retailer may require a [an earnest money] deposit on a specially ordered manufactured home [only if:

(1) an earnest money contract has been signed by all parties;

(2) if applicable, the original binding loan commitment letter issued by the lender is delivered to the consumer; and

~~[(3) the consumer has not rescinded the contract under Section 1201.1521].~~

SECTION 17. The heading to Section 1201.151, Occupations Code, is amended to read as follows:

Sec. 1201.151. REFUNDS ~~[REFUND OF DEPOSIT]~~.

SECTION 18. Section 1201.151, Occupations Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as otherwise provided by this section, a retailer~~[salesperson, or agent of the retailer]~~ must refund a consumer's deposit not later than the 15th day after the date that a written request for the refund is received from the consumer.

(e) A deposit becomes a down payment upon execution of a binding written agreement. Thereafter, if the consumer exercises a right of rescission, the retailer shall, not later than the 15th day after the date of the rescission, refund to the consumer all money and other consideration received from the consumer, without offset or deduction.

SECTION 19. Section 1201.1521, Occupations Code, is amended to read as follows:

Sec. 1201.1521. RESCISSION OF CONTRACT FOR SALE, EXCHANGE, OR LEASE-PURCHASE OF HOME. (a) A person who acquires a manufactured home from or through a licensee by purchase, exchange, or lease-purchase may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge.

(b) Subject to rules adopted by the board, a consumer may waive a right of rescission in the event of a bona fide emergency. Such rules shall, to the extent practical, be modeled on the federal rules for the waiver of a right of rescission under 12 C.F.R. Part 226.

SECTION 20. Section 1201.158, Occupations Code, is amended to read as follows:

Sec. 1201.158. SALESPERSON. A licensed salesperson may work only for the salesperson's sponsoring ~~[for more than one]~~ retailer or broker ~~[or at more than one sales location]~~.

SECTION 21. Section 1201.159, Occupations Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as provided by Section 1201.456, a ~~[A]~~ broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer.

(c) A broker shall provide any person who engages the broker's services with a written disclosure of which interests in the transaction, if any, the broker represents.

(d) If the seller is required to possess a license by this chapter, a broker may assist in the sale of a manufactured home only if that seller has a current license.

SECTION 22. Section 1201.161, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by[~~:-~~

~~[(1) the department; or~~

~~[(2)] the Texas Department of Transportation under Subchapter E, Chapter 623, Transportation Code.~~

(d) Unless the information provided for in Subsection (c) is provided electronically, the [The] department shall pay the reasonable cost of providing the copies or the list and information under Subsection (c).

(e) The copies and lists to be provided under this section may be provided electronically.

SECTION 23. Section 1201.162, Occupations Code, is amended to read as follows:

Sec. 1201.162. DISCLOSURE BY RETAILER AND LENDER.

(a) Before the completion of a credit application or more than one day before entering into any agreement for a sale, exchange, or the exercise of the lease purchase option that will not be financed, the retailer [or agent] must provide to the consumer a written disclosure in the form promulgated by the board. The disclosure shall be in at least 12-point type and must address matters of concern relating to costs and obligations that may be associated with home ownership, matters to be considered in making financing decisions, related costs that may arise when purchasing a manufactured home, and such other matters as the board may deem appropriate to promote informed purchase, financing, and related decisions regarding the acquisition and ownership of a manufactured home. The form shall also conspicuously disclose the consumer's right of rescission.

(b) [the following statement that is printed in at least 12-point type and not attached to or combined with any other written material:

["When buying a manufactured home, there are a number of important considerations, including price, quality of construction, features, floor plan, and financing alternatives.

["The United States Department of Housing and Urban Development (HUD) helps protect consumers through regulation and enforcement of HUD design and construction standards for manufactured homes. Manufactured homes that meet HUD standards are known as 'HUD code manufactured homes.' The Texas Department of Housing and Community Affairs regulates Texas manufacturers, retailers, brokers, salespersons, installers, and rebuilders of manufactured homes.

["If you plan to place a manufactured home on land that you own or will buy, you should consider items such as:

["ZONING AND RESTRICTIVE COVENANTS. Municipalities or subdivisions may restrict placement of manufactured homes on certain lots, may prohibit the placement of homes within a certain distance from property lines, may require that homes be a certain size, and may impose certain construction requirements. You may need to obtain building permits and homeowner

~~association approval before you place a manufactured home on a certain lot. Contact the local municipality, county, and subdivision manager to find out if you can place the manufactured home of your choice on a certain lot.~~

~~["WATER. Be sure that your lot has access to water. If you must drill a well, contact several drillers for bids. If water is available through a municipality, utility district, water district, or cooperative, you should inquire about the rates you will have to pay and the costs necessary to join the water system.~~

~~["SEWER. If your lot is not serviced by a municipal sewer system or utility district, you will have to install an on site sewer facility (commonly known as a septic system). There are a number of concerns or restrictions that will determine if your lot is adequate to support an on site sewer facility. Check with the local county or a licensed private installer to determine the requirements that apply to your lot and the cost to install such a system.~~

~~["HOMEOWNER ASSOCIATION FEES. Many subdivisions have mandatory assessments and fees that lot owners must pay. Check with the manager of the subdivision in which your lot is located to determine if any fees apply to your lot.~~

~~["TAXES. Your home will be appraised and subject to ad valorem taxes as are other single family residential structures. These taxes must be escrowed with your monthly payment, except that your lender is not obligated to impose an escrow requirement in a real property transaction involving a manufactured home if the lender is a federally insured financial institution and does not otherwise require the escrow of taxes, insurance premiums, fees, or other charges in connection with loans secured by residential real property. On closing, you will be notified of all provisions pertaining to federal truth in lending disclosures.~~

~~["INSURANCE. Your lender may require you to obtain insurance that meets lender requirements and protects your investment. You should request quotes from the agent of your choice to obtain the insurance.~~

~~["TYPES OF MORTGAGES AVAILABLE. The acquisition of a manufactured home may be financed by a real estate mortgage or a chattel mortgage. A real estate mortgage may have a lower interest rate than a chattel mortgage.~~

~~["RIGHT OF RESCISSION. If you acquire a manufactured home, by purchase, exchange, or lease purchase, you may, not later than the third day after the date the applicable contract is signed, rescind the contract without penalty or charge."~~

~~(4) A federally insured financial institution or lender approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority that fully complies with federal Truth in Lending disclosures concerning the terms of a manufactured housing transaction is exempt from the disclosure provisions of this section.~~

(c) The right of rescission described in Subsection (a) shall apply only to the sale transaction between the retailer and the consumer.

~~(e)~~ Failure by the retailer to comply with the disclosure provisions of this section does not affect the validity of a subsequent conveyance or transfer of title of a manufactured home or otherwise impair a title or lien position of a person other than the retailer. The consumer shall continue to have the right of rescission with regard to the retailer until the end of the third day after the retailer delivers a copy of the disclosure required by Subsection (a). The consumer's execution of a signed receipt of a copy of the disclosure required by Subsection (a) shall constitute conclusive proof of the delivery of the disclosure. If the consumer grants a person other than the retailer a lien on the manufactured home, the right of rescission shall immediately cease on the filing of the lien with the department.

SECTION 24. Section 1201.164, Occupations Code, is amended to read as follows:

Sec. 1201.164. ADVANCE COPY OF ~~INSTALLMENT~~ CONTRACT AND DISCLOSURE STATEMENTS; OFFER BY RETAILER. (a) In a transaction that is to be financed and that will not be subject to the federal Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) and its implementing regulations ~~[chattel mortgage transaction involving an installment contract]~~, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed the contract, with all required information included, signed by the retailer. The delivery of the ~~installment~~ contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. Except as provided for in Subsection (b), the ~~The~~ consumer may accept the offer not earlier than 24 hours after the delivery of the contract. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

(b) The consumer may modify or waive the right to rescind and the deadlines for disclosures before the execution of the contract that are provided by Subsection (a) if the consumer determines that the purchase of the manufactured home is needed to meet a bona fide personal emergency. If the consumer has a bona fide personal emergency that necessitates the immediate purchase of the manufactured home, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods and any right of rescission, and bears the signature of all of the consumers entitled to the disclosures and right of rescission. In such event the retailer shall immediately give the consumer all of the disclosures required by this code and sell the manufactured home without the required waiting periods or the right of rescission. Printed forms for this purpose are prohibited except in a county that has been declared by the governor to be a major disaster area. If the governor declares a county to be a major disaster area, the retailer may use printed forms promulgated by the department. This exception shall expire one year after the county has been declared a major disaster area.

SECTION 25. Sections 1201.203, 1201.204, and 1201.205, Occupations Code, are amended to read as follows:

Sec. 1201.203. FORMS; RULES. (a) The board ~~director~~ shall ~~prescribe forms and~~ adopt rules and forms relating to:

- (1) the manufacturer's certificate;

- (2) the statement of ownership and location;
- (3) the application for a statement of ownership and location; and
- (4) the issuance of an initial or revised [a] statement of ownership ~~[and location at the first retail sale and for a subsequent sale or transfer of a manufactured home]~~.

(b) The board ~~[director]~~ shall adopt rules for the documenting of the ownership and location of a manufactured home that has been previously owned in this state or another state. The rules must protect a lienholder recorded with the department ~~[on a statement of ownership and location, a certificate, or other document of title]~~.

Sec. 1201.204. MANUFACTURER'S CERTIFICATE. (a) A manufacturer's certificate must show:

(1) on a form prescribed by the director ~~[or on another document]~~, the original transfer of a manufactured home from the manufacturer to the retailer; and

(2) on a form prescribed by the director, each subsequent transfer of a manufactured home between retailers and from retailer to owner, if the transfer from retailer to owner involves a completed application for the issuance of a statement of ownership and location.

(b) At the first retail sale of a manufactured home, a manufacturer's certificate automatically converts to a document that does not evidence any ownership interest in the manufactured home described in the document. A security interest in inventory evidenced by a properly recorded inventory finance lien ~~[the manufacturer's certificate]~~ automatically converts to a security interest in proceeds and cash proceeds.

(c) After the first retail sale of a manufactured home, the retailer must ~~[may]~~ submit the original manufacturer's certificate for that home to the department. If an application for an initial statement of ownership is made without the required manufacturer's certificate and the retailer does not provide it as required, the department shall, on or before the issuance of the requested statement of ownership and location, send written notice to each party currently reflected on the department's records as having a recorded lien on the inventory of that retailer. Failure to include the original manufacturer's certificate with such an application does not impair a consumer's ability to obtain, on submittal of an otherwise complete application, a statement of ownership and location free and clear of any liens other than liens created by or consented to by the consumer.

Sec. 1201.205. STATEMENT OF OWNERSHIP AND LOCATION FORM. A statement of ownership and location must be evidenced by a board-approved form issued by the department setting forth ~~[provide]~~:

(1) the name ~~[names]~~ and address ~~[addresses]~~ of the ~~[purchaser and]~~ seller and the name and, if it is different from the location of the home, the mailing address of the new owner;

(2) the manufacturer's name and address and any model designation, if available;

(3) in accordance with the board's ~~[director's]~~ rules:

(A) the outside dimensions of the manufactured home when installed for occupancy, as measured to the nearest one-half foot at the base of the home, exclusive of the tongue or other towing device; and

(B) the approximate square footage of the home when installed for occupancy;

(4) the identification number for each section or module of the home;

(5) the physical address where ~~[county of this state in which]~~ the home is installed for occupancy, including the name of the county, and, if it is different from the physical address, the mailing address of the owner of the home;

(6) in chronological order of recordation, the date of each lien, other than a tax lien, on the home and the name and address of each lienholder, or, if a lien is not recorded, a statement of that fact;

(7) a statement regarding tax liens as follows:

"On January 1st of each year, a new tax lien comes into existence on a manufactured home in favor of each taxing unit having jurisdiction where the home is actually located on January 1st. In order to be enforced, any such lien must be recorded with the Texas Department of Housing and Community Affairs - Manufactured Housing Division as provided by law. You may check that division's records through its website or contact that division to learn any recorded tax liens. To find out about the amount of any unpaid tax liabilities, contact the tax office for the county where the home was actually located on January 1st of that year." [the signature of the owner in ink, given on receipt of the document];

(8) a statement that if two or more eligible persons, as determined by Section 1201.213, file with the application for the issuance of a statement of ownership and location an agreement signed by all the persons providing that the home is to be held jointly with a right of survivorship, the director shall issue the statement of ownership and location in all the names;

(9) the location of the home;

(10) a statement of whether the owner has elected to treat the home as real property or personal property;

(11) statements of whether the home is a salvaged manufactured home and whether the home is reserved for business use only; and

(12) any other information the board ~~[director]~~ requires.

SECTION 26. Section 1201.2055, Occupations Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) A statement of election under Subsection (a) must be executed before a notary on the form of application for statement and ownership and location promulgated by the board ~~[made by affidavit]~~.

(i) Notwithstanding the 60-day deadline specified in Subsection (d), if the closing of a mortgage loan to be secured by real property including the manufactured home is held, the loan is funded, and a deed of trust covering the real property and all improvements on the property is recorded and the licensed title company or attorney who closed the loan failed to complete the conversion to real property in accordance with this chapter, the holder or servicer of the loan

may apply for a statement of ownership and location electing real property status, obtain a certified copy of the statement of ownership and location, and make the necessary filings and notifications to complete such conversion at any time provided that:

(1) the record owner of the home, as reflected on the department's records, has been given at least 60 days' prior written notice at:

(A) the location of the home and, if it is different, the mailing address of the owner as specified in the department records; and

(B) any other location the holder or servicer knows or believes, after a reasonable inquiry, to be an address where the owner may have been or is receiving mail or is an address of record;

(2) such notification shall be given by certified mail; and

(3) the department by rule shall require evidence that the holder or servicer requesting such after-the-fact completion of a real property election has complied with the requirements of this subsection.

SECTION 27. Sections 1201.206, 1201.207, 1201.2075, 1201.2076, and 1201.208, Occupations Code, are amended to read as follows:

Sec. 1201.206. APPLICATION FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) [~~(b)~~] At the first retail sale of a manufactured home, the retailer shall provide for the installation of the home and ensure that the application for the issuance of a statement of ownership and location is properly completed. The consumer shall return the completed application to the retailer. In accordance with Section 1201.204, the retailer shall surrender to the department the original manufacturer's statement of origin at the same time that the retailer applies for the first statement of ownership and location.

(b) [~~(c)~~] Not later than the 60th [~~30th~~] day after the date of the retail sale, the retailer shall provide to the department the completed application for the issuance of a statement of ownership and location. If for any reason the retailer does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.

(c) [~~(d)~~] Not later than the 60th [~~30th~~] day after the date of each subsequent sale or transfer of a home that is considered to be personal property, the seller or transferor shall provide to the department a completed application for the issuance of a new statement of ownership and location. If for any reason the seller or transferor does not timely comply with the requirements of this subsection, the consumer may apply for the issuance of the statement.

(d) If the seller accepts a trade-in manufactured home as part of the consideration for the sale of another manufactured home, the seller shall file a completed application for the issuance of a new statement of ownership and location reflecting the change of ownership of the trade-in manufactured home from the prospective buyer to the seller. The seller shall file the application for the issuance of a new statement of ownership and location for the traded in manufactured home at the same time that the seller files the application for the issuance of a new statement of ownership and location for the manufactured home that was sold by the seller. If the seller is a retailer, the seller shall indicate

on the application for the issuance of the new statement of ownership and location whether the trade-in manufactured home has been added to the inventory of the retailer.

(e) Ownership of a manufactured home does not pass or vest at a sale or transfer of the home until a completed application for the issuance of a statement of ownership and location is filed with the department.

(f) If the owner of a manufactured home relocates the home, the owner shall apply for the issuance of a new statement of ownership and location not later than the 60th ~~[30th]~~ day after the date the home is relocated. The department shall require that the owner submit evidence that the home was relocated in accordance with the requirements of the Texas Department of Transportation.

(g) When the seller files an application for the issuance of a statement of ownership and location for a used manufactured home that is not in a retailer's inventory, the seller shall also file with the department a statement from the tax assessor-collector that there are no personal property taxes due on the manufactured home that may have accrued on each January 1 that falls within the 18 months before the date of the sale.

(h) If a person selling a manufactured home to a consumer for residential use fails to file with the department the application for the issuance of a statement of ownership and location and the appropriate filing fee before the 61st day after the date of the sale, the department may assess a fee of at least \$100 against the seller. The department shall have the authority to enforce the collection of any fee from the seller through judicial means. The department shall place on the application for the issuance of a statement of ownership and location the following legend in a clear and conspicuous manner:

"THE FILING OF AN APPLICATION FOR THE ISSUANCE OF A STATEMENT OF OWNERSHIP AND LOCATION LATER THAN SIXTY (60) DAYS AFTER THE DATE OF A SALE TO A CONSUMER FOR RESIDENTIAL USE MAY RESULT IN A FEE OF UP TO ONE HUNDRED DOLLARS (\$100.00). ANY SUCH APPLICATION THAT IS SUBMITTED LATE MAY BE DELAYED UNTIL THE FEE IS PAID IN FULL."

(i) When a properly completed notice of installation on the department's promulgated form is filed that relates to a secondary move, the notice must be accompanied by either:

(1) one true and correct copy of the original notice of installation; or

(2) a certification that a true and correct copy of the notice of installation has been provided to the chief appraiser for the county in which the home was installed; the delivery of the copy of the notice to the chief appraiser may be accomplished by either certified mail or by electronic mailing of the electronically reproduced document in a commonly readable format.

(i-1) If the method specified in Subsection (i)(2) is used to report the installation, the department may adopt a discounted fee for the filing of the notice of installation.

(j) In addition to providing each chief appraiser the monthly report required by Section 1201.220, the department shall, on request, provide tax collector one copy of any requested reported notice of installation.

(k) Notwithstanding any provision in this chapter to the contrary, if a person has acquired a manufactured home and the owner of record or any intervening owners of liens or equitable interests cannot be located to assist in documenting the chain of title, the department may issue a statement of ownership and location to the person claiming ownership if the person can provide a supporting affidavit describing the chain of title and such reasonable supporting proof as the director may require.

Sec. 1201.207. ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Except as provided for in Subsection (a-1), the [The] department shall process any completed application for the issuance of a statement of ownership and location not later than the 15th working day after the date the application is received by the department. If the department rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

(a-1) For the period immediately following June 30 of each year, the department shall, except for applications relating to new manufactured homes and applications accompanied by a tax certificate, cease issuing statements of ownership and location until all tax liens filed with the department before June 30 have been processed and either recorded or rejected. During this period the department will post on its website a notice as to when it is anticipated that processing statements of ownership and location will resume and when it is anticipated that such processing will be within the 15-working-day time frame provided by Subsection (a).

(b) If the department issues a statement of ownership and location for a manufactured home, the department shall maintain a record of the issuance in its electronic records [place in its files the original statement of ownership and location] and shall mail a [certified] copy to the owner and each [of the home and to any] lienholder.

(c) Except with respect to any change in use, but subject to Section 1201.2075, if the department has issued a statement of ownership and location for a manufactured home, the department may issue a subsequent statement of ownership and location for the home only if all parties reflected in the department's records as having an interest in the manufactured home give their written consent or release their interest, either in writing or by operation of law, or the department has followed the procedures provided by Section 1201.206(k) to document ownership and lien status. Once the department issues a statement of ownership and location, the department shall not alter the record of the ownership or lien status of a manufactured home for any activity occurring before the issuance of the statement of ownership and location without either the written permission of the owner of record for the manufactured home, their legal representative or a court order.

(d) Notwithstanding any other provision of this chapter, if the consumer purchases a new manufactured home from a licensed retailer in the ordinary course of business, whether or not a statement of ownership and location has been issued for the manufactured home, the consumer is a bona fide purchaser for value without notice and is entitled to ownership of the manufactured home free

and clear of all liens and to a statement of ownership and location reflecting the same on payment by the consumer of the purchase price to the retailer. If there is an existing lien on the new manufactured home perfected with the department, the owner of the lien is entitled to recover the value of the lien from the retailer.

(e) Notwithstanding any other provision of this chapter, if the consumer purchases a used manufactured home from a retailer in the ordinary course of business, the consumer takes the manufactured home free and clear of any liens created by the selling retailer even if they are recorded.

Sec. 1201.2075. CONVERSION FROM PERSONAL PROPERTY TO REAL PROPERTY. (a) Except as provided by Subsection (b) or Section 1201.206(k), the department may not issue a statement of ownership and location for a manufactured home that is being converted from personal property to real property until:

(1) each lien on the home is released by the lienholder; or

(2) each lienholder gives written consent, to be placed on file with the department.

(b) The department may issue a statement of ownership and location before the release of any liens or the consent of any lienholders as required by this section ~~only~~ if the department releases a certified copy of the statement to:

(1) a licensed title insurance company that has issued a commitment to issue a title insurance policy covering all prior liens on the home in connection with a loan that the title company has closed; or

(2) a federally insured financial institution or licensed attorney who has obtained from a licensed title insurance company a title insurance policy covering all prior liens on the home.

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. (a) The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor-collector of the conversion and:

(1) each lien, including a tax lien, on the home is released by the lienholder; or

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

(b) For the purposes of Subsection (a)(1), the department may rely on a commitment for title insurance, a title insurance policy, or a lawyer's title opinion to determine that any liens on real property have been released.

Sec. 1201.208. PAYMENT OF TAXES REQUIRED FOR ISSUANCE OF STATEMENT OF OWNERSHIP AND LOCATION. (a) Any licensee who sells, exchanges, or lease-purchases a new manufactured home to any consumer is responsible for the payment of all required sales and use tax on such home ~~[The department may not issue a statement of ownership and location for a new manufactured home installed for occupancy in this state unless the state sales and use tax has been paid].~~

(b) If it is determined that a new manufactured home was sold, exchanged, or lease-purchased without the required sales and use tax being paid, the payment shall be made from the fund, up to the available penal amount of the licensee's bond or the remaining balance of the security for the license, and a claim for reimbursement shall be filed with the licensee's surety or the amount deducted from the security for the license ~~[Proof of payment may be shown in any manner prescribed by the department].~~

SECTION 28. Section 1201.210, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A notice of appeal and request for hearing must be filed with the director not later than the 30th day after the date of notice of the director's action. If appeal is not timely made, the revocation or suspension described in the notice of the director's action becomes final.

(d) Until a revocation or suspension has become final, the department shall place a hold on any activity relating to the statement of ownership and location other than the recordation of liens, including tax liens.

SECTION 29. Subsection (b), Section 1201.214, Occupations Code, is amended to read as follows:

(b) An owner or lienholder may provide to the department a ~~the~~ document of title and any additional information required by the department and request that the department issue a statement of ownership and location to replace the document of title. The department shall mail to the owner or lienholder a ~~certified~~ copy of the statement of ownership and location issued under this subsection.

SECTION 30. Subsection (a), Section 1201.216, Occupations Code, is amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the department shall indicate on the statement of ownership and location for the home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the home is ~~[department]~~ no longer ~~[considers the home to be]~~ a manufactured home for purposes of regulation under this chapter or of recordation of liens, including tax liens.

SECTION 31. Section 1201.217, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsection (f) to read as follows:

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the record owner of the home, ~~and~~ all lienholders at the addresses listed on the home's statement of ownership and location on file with the department, and the tax collector for each taxing unit that imposes ad valorem taxes on the real property where the home is located. The notice must include the address where the home is currently located. If the person giving such notice knows that the person to whom the notice is being given no longer resides and is

no longer receiving mail at such address, a reasonable effort shall be made to locate the person and give the person notice at an address where the person is receiving mail. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the record owner of the home, ~~or~~ a lienholder, or a tax assessor-collector for a taxing unit that imposes ad valorem taxes on the real property on which the home is located may enter the real property on which the home is located to remove the home. The real property owner must disclose to the record owner, lienholder, or tax assessor-collector seeking to remove the home the location of the home and grant the person reasonable access to the home. A person removing a home is responsible to the real property owner for any damage to the real property resulting from the removal of the home.

(f) This section does not apply if the person who owns the real property on which the manufactured home is located and who is declaring that the home is abandoned, or any person who is related to or affiliated with that person, has now, or has ever owned, an interest in the manufactured home.

SECTION 32. Sections 1201.219 and 1201.220, Occupations Code, are amended to read as follows:

Sec. 1201.219. PERFECTION AND EFFECT OF LIENS. (a) A lien on manufactured homes in inventory is perfected only by filing the lien ~~[a security agreement]~~ with the department on the required form ~~[in a form that contains the information the director requires]~~. Once perfected, the lien applies to the manufactured homes in the inventory as well as to any proceeds from the sale of those homes. The department may suspend or revoke the license of a retailer who fails to satisfy a perfected inventory lien ~~[under the terms of the security agreement]~~.

(b) Except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. The form shall require the disclosure of the original dollar amount of the lien and, if a tax lien, the name and address of the person in whose name the manufactured home is listed on the tax roll. The department shall disclose on its website the date of each lien filing, the original amount of the lien claimed by each filing, and the fact that the amount shown does not include additional sums including interest, penalties, and attorney's fees. The statement required by Section 1201.205(7) ~~[recording of a lien with the department]~~ is notice to all persons that the tax lien exists. Except as expressly provided by Chapter 32, Tax Code, a lien recorded with the department has priority, according to the chronological order of recordation, over another lien or claim against the manufactured home. Tax liens shall be filed by the tax collector for any taxing unit having the power to tax the manufactured home. A single filing by a tax collector is a filing for all the taxing units for which the tax collector is empowered to collect.

(c) Notwithstanding any other provision of this or any other law ~~[subchapter]~~, the filing of a lien security agreement ~~[by a secured party perfecting a lien]~~ on the inventory of a retailer does not prevent a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code, from acquiring good and marketable title free of that lien ~~[interest]~~, and the department may not consider that ~~[security interest as a]~~ lien for the purpose of title issuance.

Sec. 1201.220. REPORT TO COUNTY TAX ASSESSOR-COLLECTOR.

(a) The department shall provide to each county tax assessor-collector in this state a monthly report that, for each manufactured home reported as having been installed in the county during the preceding month and for each manufactured home previously installed in the county for which a transfer of ownership was recorded by the issuance of a statement of ownership and location during the preceding month, lists:

- (1) the name of the owner of the home;
- (2) the name of the manufacturer of the home, if available;
- (3) the model designation of the home, if available;
- (4) the identification number of each section or module of the home;
- (5) the address or location where the home was reported as ~~[is]~~ installed; and
- (6) the reported date of the installation of the home.

(b) The director shall provide a copy of the report to the chief appraiser of the appraisal district established for the county in which the home is reported as installed.

SECTION 33. The heading to Section 1201.251, Occupations Code, is amended to read as follows:

Sec. 1201.251. STANDARDS AND REQUIREMENTS ADOPTED BY BOARD ~~[DIRECTOR]~~.

SECTION 34. Section 1201.251, Occupations Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The board ~~[director]~~ shall adopt standards and requirements for:

(1) the installation and construction of manufactured housing that are reasonably necessary to protect the health, safety, and welfare of the occupants and the public; and

(2) the construction of HUD-code manufactured homes in compliance with the federal standards and requirements established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.).

(d) In order to ensure that the determinations required by this section are properly made by qualified persons:

(1) the board's rules may provide for the approval of foundation systems and devices that have been approved by licensed engineers; and

(2) any generic installation standards promulgated by rule shall first be reviewed by an advisory committee established by the board comprised of representatives of manufacturers, installers, and manufacturers of stabilization systems or devices, including one or more licensed engineers.

(e) The advisory committee established by Subsection (d) shall make a report to the board setting forth each comment and concern over any proposed rules. The members of the committee shall have no personal liability for providing this advice.

SECTION 35. Subsection (a), Section 1201.252, Occupations Code, is amended to read as follows:

(a) A local governmental unit of this state may not adopt a standard for the construction or installation of manufactured housing in the local governmental unit that is different from a standard adopted by the board ~~[director]~~ unless, after a hearing, the board expressly approves the proposed standard.

SECTION 36. Sections 1201.253, 1201.254, and 1201.255, Occupations Code, are amended to read as follows:

Sec. 1201.253. HEARING ON STANDARD OR REQUIREMENT. The director shall publish notice and conduct a public hearing ~~[in accordance with Sections 1201.054 and 1201.060]~~ before:

- (1) adopting a standard or requirement authorized by this subchapter;
- (2) amending a standard authorized by this subchapter; or
- (3) approving a standard proposed by a local governmental unit under Section 1201.252.

Sec. 1201.254. EFFECTIVE DATE OF REQUIREMENT OR STANDARD. Each requirement or standard that is adopted, modified, amended, or repealed by the board ~~[director]~~ must state its effective date ~~[as provided by Section 1201.054]~~.

Sec. 1201.255. INSTALLATION OF MANUFACTURED HOUSING. (a) Except as authorized under Section 1201.252, manufactured housing that is installed must be installed in compliance with the standards and rules adopted and orders issued by the department. An uninstalled manufactured home may not be occupied for any purpose.

(b) An installer may not install a manufactured home at a location on a site that has evidence of ponding, runoff under heavy rains, or bare uncompacted soil unless the installer first obtains the owner's signature on a form promulgated by the board disclosing that such conditions may contribute to problems with the stabilization system for that manufactured home, including possible damage to that home, and the owner accepts that risk [director].

SECTION 37. Subsection (b), Section 1201.301, Occupations Code, is amended to read as follows:

(b) In enforcing this chapter, the director may authorize a state inspector to travel inside or outside of the state to inspect a licensee ~~[manufacturing facility]~~.

SECTION 38. The heading to Section 1201.302, Occupations Code, is amended to read as follows:

Sec. 1201.302. INSPECTION BY LOCAL GOVERNMENTAL UNITS [ENTITIES OTHER THAN DEPARTMENT].

SECTION 39. Subsections (a) and (b), Section 1201.302, Occupations Code, are amended to read as follows:

(a) To ensure that a manufactured home sold or installed in this state complies with the standards code, the director may by contract provide for a federal agency or an agency or political subdivision of this state or another state to perform an inspection or inspection program under this chapter or under rules adopted by the board ~~[director]~~.

(b) On request, the department shall authorize a local governmental unit in this state to perform an inspection or enforcement activity related to the construction of a foundation system or the erection or installation of manufactured housing at a homesite under a contract or other official designation and rules adopted by the board ~~[director]~~. The department may withdraw the authorization if the local governmental unit fails to follow the rules, interpretations, and written instructions of the department.

SECTION 40. Subsections (a) and (b), Section 1201.351, Occupations Code, are amended to read as follows:

(a) The manufacturer of a new HUD-code manufactured home shall warrant, in a separate written document, that:

(1) the home is constructed or assembled in accordance with all building codes, standards, requirements, and regulations prescribed by the United States Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.); and

(2) the home and all appliances and equipment included in the home are free from defects in materials or workmanship except for cosmetic defects.

(b) The manufacturer's warranty is in effect until at least the first anniversary of the date of initial installation of the home at the consumer's homesite or the closing of the consumer's purchase or acquisition of an already installed new home, whichever is later.

SECTION 41. Sections 1201.352 through 1201.355, Occupations Code, are amended to read as follows:

Sec. 1201.352. RETAILER'S WARRANTY ON A NEW HUD-CODE MANUFACTURED HOME. (a) The retailer of a new HUD-code manufactured home shall warrant to the consumer in writing that:

(1) installation of the home at the initial homesite was or will be, as applicable, completed in accordance with all department standards, rules, orders, and requirements; and

(2) appliances and equipment included with the sale of the home and installed by the retailer are or will be:

(A) installed in accordance with the instructions or specifications of the manufacturers of the appliances or equipment; and

(B) free from defects in materials or workmanship.

The warranty may expressly disclaim or limit any warranty regarding cosmetic defects.

(b) The retailer's warranty on a new HUD-code manufactured home is in effect until the first anniversary of the later of the date of initial installation of the home at the consumer's homesite or the closing of the consumer's purchase or acquisition of the home.

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement on a new HUD-code manufactured home, the retailer must give the consumer a copy of:

- (1) the manufacturer's warranty;
- (2) the retailer's warranty;
- (3) the warranties given by the manufacturers of appliances or equipment included with the home; and
- (4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

(d) Not later than the 30th day after the installation of a new HUD-code manufactured home, the retailer shall deliver to the consumer a copy of the warranty given by the licensed installer.

Sec. 1201.353. NOTICE OF NEED FOR WARRANTY SERVICE.

(a) The consumer shall give written notice to the manufacturer, ~~or~~ retailer, or installer, as applicable, of a need for warranty service or repairs.

(b) Written notice to the department is deemed to be notice to the manufacturer, ~~or~~ retailer, or installer commencing three business days after receipt and forwarding of the notice by the department to the licensee by regular mail or electronic mail of a scanned copy of the notice.

Sec. 1201.354. CORRECTIVE ACTION REQUIRED. The manufacturer, ~~or~~ retailer, or installer, as applicable, shall take appropriate corrective action within a reasonable period as required by department rules to fulfill the written warranty obligation.

Sec. 1201.355. CONSUMER COMPLAINT HOME INSPECTION. (a) If the manufacturer, ~~or~~ retailer, or installer does not provide the consumer with proper warranty service, the consumer may, at any time, request the department to perform a consumer complaint home inspection. The department may not charge a fee for the inspection.

(b) On payment of the required inspection fee, the manufacturer, ~~or~~ retailer, or installer may request the department to perform a consumer complaint home inspection if the manufacturer, ~~or~~ retailer, or installer:

- (1) believes the consumer's complaints are not covered by the warranty of the manufacturer, ~~or~~ retailer, or installer, as applicable;
- (2) believes that the warranty service was properly provided; or
- (3) disputes responsibility concerning the warranty obligation.

(c) The department shall perform a consumer complaint home inspection not later than the 30th day after the date of receipt of a request for the inspection.

(d) Notwithstanding any other provision of this section, the department may make an inspection at any time if it believes that there is a reasonable possibility that a condition exists that would present an imminent threat to health or safety.

SECTION 42. Subsections (a), (b), and (c), Section 1201.356, Occupations Code, are amended to read as follows:

(a) Not later than the 10th day after the date of a consumer complaint home inspection, the department shall send a written report and any order to the consumer, manufacturer, ~~and~~ retailer, and installer by certified mail, return receipt requested.

(b) The report shall specify:

(1) each of the consumer's complaints; and

(2) whether the complaint is covered by ~~either~~ the manufacturer's, ~~or~~ retailer's, or installer's warranty and, if so, which of those warranties.

(c) The director shall issue to the manufacturer, ~~or~~ retailer, or installer an appropriate order for corrective action by the manufacturer, ~~or~~ retailer, or installer specifying a reasonable period for completion of the corrective action. With regard to new manufactured homes, both the installer and the retailer are responsible for the warranty of installation. If the department determines that a complaint is covered by the installation warranty, the director shall issue the order to the installer for the corrective action. If the installer fails to perform the corrective action, the installer shall be subject to the provisions of Section 1201.357. In that instance, the director shall issue the same order for corrective action to the retailer with a new time frame not to exceed 10 days unless additional time is needed for compliance upon a showing of good cause. If the retailer is compelled to perform corrective action because of the failure of the installer to comply with the director's order, the retailer may seek reimbursement from the installer. The period for the performance of any required warranty work may be shortened by the director as much as is feasible if the warranty work is believed necessary to address a possible imminent threat to health or safety.

SECTION 43. Sections 1201.357 and 1201.358, Occupations Code, are amended to read as follows:

Sec. 1201.357. FAILURE TO PROVIDE WARRANTY SERVICE. (a) If the manufacturer, ~~or~~ retailer, or installer, as applicable, fails to provide warranty service within a ~~the~~ period specified by the director ~~under Section 1201.356~~, the manufacturer, ~~or~~ retailer, or installer must show good cause in writing as to why the manufacturer, ~~or~~ retailer, or installer failed to provide the service.

(b) If the manufacturer, ~~or~~ retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the department order under Section 1201.356, the director shall hold an informal meeting ~~a hearing~~ at which the manufacturer, ~~or~~ retailer, or installer must show cause as to why the manufacturer's, ~~or~~ retailer's, or installer's license should not be suspended or revoked and at which the consumer may express the person's views. Following the meeting, the director shall either resolve the matter by agreed order, dismiss the matter if no violation is found to have occurred, or institute an administrative action, which may include license suspension or revocation, the assessment of administrative penalties, or a combination of such actions.

(c) If the manufacturer, ~~or~~ retailer, or installer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer, ~~or~~ retailer, or installer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer, ~~or~~ retailer, or installer, as

applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer, [✗] retailer, or installer, as applicable:

(1) is discharged from the obligations imposed by the relevant department orders;

(2) has no liability to the consumer with regard to that warranty; and

(3) is not subject to an action by the department for failure to provide warranty service.

Sec. 1201.358. FAILURE TO SHOW GOOD CAUSE; HEARING RESULTS. (a) Failure by the manufacturer, [✗] retailer, or installer to show good cause under Section 1201.357(a) is a sufficient basis for suspension or revocation of the manufacturer's, [✗] retailer's, or installer's license.

(b) If the director determines that an order was incorrect regarding a warranty obligation, the director shall issue a final order stating the correct warranty obligation and the right of the manufacturer, retailer, or installer to indemnification from one of the other parties [after the hearing under Section 1201.357(b), the director determines that the order under Section 1201.356 was correct in the determination of the warranty obligation of the manufacturer or retailer, failure or refusal by the manufacturer or retailer to comply with the order is a sufficient cause for suspension or revocation of the manufacturer's or retailer's license. If the director determines that the order was incorrect regarding that obligation, the director shall issue a final order stating the correct obligation and the right of the manufacturer or retailer to indemnification from the other].

(c) The director may issue an order:

(1) directing a manufacturer, [✗] retailer, or installer whose license is not revoked and who is not out of business to perform the warranty obligation of a manufacturer, [✗] retailer, or installer whose license is revoked or who is out of business; and

(2) giving the manufacturer, [✗] retailer, or installer performing the obligation the right of indemnification against another party [the other].

(d) A manufacturer, [✗] retailer, or installer entitled to indemnification under this section is a consumer for purposes of Subchapter I and may recover actual damages [and attorney's fees] from the trust fund.

SECTION 44. Section 1201.361, Occupations Code, is amended to read as follows:

Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all [secondary] installations [not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured homes], the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements. The warranty for the installation of a new HUD-code manufactured home is to be given by the retailer, who is responsible for installation. If the retailer subcontracts this function to a licensed installer, the retailer and installer are jointly and severally responsible for performance of the warranty.

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer or retailer has no obligation or liability under the person's warranty for any defect described in a written notice received from the consumer more than two years after the later of the date of purchase or the date of ~~the~~ installation.

SECTION 45. Subchapter H, Chapter 1201, Occupations Code, is amended by adding Section 1201.362 to read as follows:

Sec. 1201.362. INSPECTIONS NOT LIMITED; CORRECTIONS.

(a) Nothing in this chapter shall limit the ability of the department to inspect a manufactured home at any time.

(b) Notwithstanding the limitations and terms of any warranty, the director may, whenever the department identifies any aspect of an installation that does not conform to applicable requirements, order the licensee who performed the installation to correct it, or, if that licensee is no longer licensed, reassign correction to a licensed installer and reimburse the person from the fund for the costs of correction.

SECTION 46. Subsection (a), Section 1201.402, Occupations Code, is amended to read as follows:

(a) The director shall administer the trust fund ~~[as trustee of that fund].~~

SECTION 47. Subsection (b), Section 1201.404, Occupations Code, is amended to read as follows:

(b) The trust fund and the director are not liable to the consumer if the trust fund does not have the money necessary to pay the actual damages ~~[and attorney's fees]~~ determined to be payable. The director shall record the date and time of receipt of each verified complaint and, as money becomes available, pay the consumer whose claim is the earliest by date and time to have been found to be verified and properly payable.

SECTION 48. Section 1201.405, Occupations Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The trust fund is not liable for and the director may not pay:

(1) actual damages to reimburse an affiliate or related person of a licensee, except when the director issues an order under Sections 1201.358(b) and (c);

(2) actual damages to correct matters that are solely cosmetic in nature;

(3) for attorney's fees; or

(4) actual damages to address other matters, unless the matters involve:

(A) a breach of warranty;

(B) a failure to return or apply as agreed money received from a consumer or money for which the consumer was obligated; or

(C) the breach of an agreement to provide goods or services necessary to the safe and habitable use of a manufactured home such as steps, air conditioning, access to utilities, or access to sewage and wastewater treatment.

(g) The board by rule may place reasonable limits on the costs that may be approved for payment from the trust fund, including the costs of reassigned warranty work, and require consumers making claims that may be subject to

reimbursement from the trust fund to provide estimates establishing that the cost will be reasonable. Such rules may also specify such procedures and requirements as the board may deem necessary and advisable for the administration of the trust fund.

SECTION 49. Sections 1201.406 and 1201.407, Occupations Code, are amended to read as follows:

Sec. 1201.406. PROCEDURE FOR RECOVERY FROM TRUST FUND.

(a) To recover from the trust fund, a consumer must file a written, sworn complaint in the form required by the director not later than the second anniversary of:

(1) the date of the alleged act or omission causing the actual damages;

or

(2) the date the act or omission is discovered or should reasonably have been discovered.

(b) On receipt of a verified complaint, the department shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the claim and issue a preliminary determination, giving the consumer, the licensee, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

(c) If the matter being investigated is not resolved by agreement or is disputed by written notice to the director before the 31st day after the date of the preliminary determination, the preliminary determination shall automatically become final and the director shall make demand on the surety or deduct any payable amount of the claim from the licensee's security [to determine:

(A) the validity of the claim; and

(B) whether the complaint can be resolved by remedial action of the license holder].

Sec. 1201.407. DISAGREEMENT OF PARTIES; INFORMAL DISPUTE RESOLUTION PROCESS. (a) If a preliminary determination is disputed, the [license holders or a license holder and a consumer disagree as to responsibility for a complaint, the] department shall conduct an informal dispute resolution process, including a home inspection if appropriate, to resolve the dispute.

(b) For a preliminary determination that has been disputed [claim determined] to become final and [be] valid, the department shall make any changes the director determines to be appropriate and issue another written [a] preliminary determination [during the informal dispute resolution process] as to the responsibility and liability of the manufacturer, retailer, broker, and installer.

(c) Before making a final determination, the department shall allow [provide] a license holder 10 days [an opportunity] to comment on this [the] preliminary determination.

(d) After consideration of the comments, if any, the director shall issue a final determination.

(e) The final determination may be appealed to the board on or before the 10th day after the date of its issuance by giving written notice to the director, who shall place the matter before the board at the next meeting held on a date for which the matter could be publicly posted as required by Chapter 551, Government Code.

~~(f) Any [The department shall notify a license holder's surety and give the surety an opportunity to participate in the informal dispute resolution process if the license holder:~~

~~[(1) is out of business;~~

~~[(2) is no longer licensed; or~~

~~[(3) has filed for liquidation or reorganization in bankruptcy.~~

~~[(e) If, after receiving notice of the claim, a license holder or the license holder's surety fails or refuses to participate in the informal dispute resolution process, the] license holder or surety, as applicable, is bound by the department's final determination of responsibility and liability.~~

SECTION 50. Subsections (a) and (b), Section 1201.409, Occupations Code, are amended to read as follows:

(a) Except as otherwise provided by Subchapter C, the trust fund shall be reimbursed by the surety on a bond or from other security filed under Subchapter C for the amount of a claim that:

~~[(1) is paid out of the trust fund by the director to a consumer in accordance with this subchapter; and~~

~~[(2) resulted from an act or omission of the license holder who filed the bond or other security].~~

(b) Payment by the surety or from the other security must be made not later than the 30th day after the date of ~~[receipt of]~~ notice from the director that a consumer claim has been paid.

SECTION 51. Section 1201.410, Occupations Code, is amended to read as follows:

Sec. 1201.410. INFORMATION ON RECOVERY FROM TRUST FUND ~~[INFORMATIONAL PAMPHLET]. [(a)]~~ The director shall prepare information for notifying [a pamphlet informing] consumers of their rights to recover from the trust fund, shall post the information on the department's website, and shall make printed copies available on request.

~~[(b) The director may contract with a private party for the printing and distribution of the pamphlet.]~~

SECTION 52. Subsection (b), Section 1201.451, Occupations Code, is amended to read as follows:

(b) Not later than the 60th ~~[30th]~~ day after the effective date of the transfer of ownership or the date the seller or transferor obtains possession of the necessary and properly executed documents, the seller or transferor shall forward to the purchaser or transferee the necessary, executed documents. If the seller or transferor fails to forward the documents on a timely basis, the purchaser or transferee may apply directly for the documents. On receipt of the documents, the purchaser or transferee shall apply for the issuance of a statement of ownership and location.

SECTION 53. Section 1201.453, Occupations Code, is amended to read as follows:

Sec. 1201.453. HABITABILITY. Manufactured housing is habitable only if:

- (1) there is no defect or deterioration in or damage to the home that creates a dangerous situation;
- (2) the plumbing, heating, and electrical systems are in safe working order;
- (3) the walls, floor, and roof are:
  - (A) free from a substantial opening that was not designed; and
  - (B) structurally sound; and
- (4) all exterior doors and windows are in place and operate properly.

SECTION 54. Subsection (b), Section 1201.457, Occupations Code, is amended to read as follows:

(b) If a used manufactured home is reserved for business use or salvaged, a person may not ~~[The purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home may not sell, exchange, or lease purchase the home for use as a dwelling or]~~ knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage. On the purchaser's application to the department for issuance of a new statement of ownership and location, the department shall inspect the home and, if the department determines that the home is habitable, issue a new ~~[the]~~ statement of ownership and location.

SECTION 55. Section 1201.459, Occupations Code, is amended to read as follows:

Sec. 1201.459. COMPLIANCE NOT REQUIRED FOR SALE FOR COLLECTION OF DELINQUENT TAXES. (a) In selling a manufactured home to collect delinquent taxes, a tax assessor-collector ~~[collector]~~ is not required to comply with this subchapter or another provision of this chapter relating to the sale of a used manufactured home.

(b) If a ~~[the]~~ home does not have a serial number, seal, or label, the tax appraiser or tax assessor-collector ~~[collector]~~ may ~~[-~~

~~[(1)]~~ apply to the department for a seal if the tax appraiser or assessor-collector assumes full responsibility for the affixation of a seal to the home and the seal is actually affixed on the home ~~[-~~

~~[(2)]~~ pay the applicable fee; and

~~[(3)]~~ recover that fee as part of the cost of the sale of the home ~~[-~~

(c) A ~~[The]~~ seal issued to a tax appraiser or ~~[the]~~ tax assessor-collector ~~[collector]~~ is for identification purposes only and does not imply that:

- (1) the home is habitable; or
- (2) a purchaser of the home at a tax sale may obtain a new statement of ownership and location from the department without an inspection for habitability.

SECTION 56. The heading to Section 1201.461, Occupations Code, is amended to read as follows:

Sec. 1201.461. SALVAGED MANUFACTURED HOME; CRIMINAL PENALTY.

SECTION 57. Section 1201.461, Occupations Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) A county or other unit of local government that identifies a manufactured home within its jurisdiction that has been declared salvage may impose on that home such inspection, correction, and other requirements as it could apply if the home were not a manufactured home.

(h) A licensee may not participate in the sale, exchange, lease-purchase, or installation for use as a dwelling of a manufactured home that is salvage and that has not been repaired in accordance with this chapter and the department's rules. An act that is prohibited by this subsection is deemed to be a practice that constitutes an imminent threat to health or safety and is subject to the imposition of penalties and other sanctions provided for by this chapter. A violation of this subsection is a Class B misdemeanor.

SECTION 58. Section 1201.503, Occupations Code, is amended to read as follows:

Sec. 1201.503. PROHIBITED ALTERATION. Before the sale to a consumer of a new manufactured home to which a label has been attached and before installation of the home, a manufacturer, retailer, broker, or installer may not alter the home or cause the home to be altered without obtaining prior written approval from a licensed engineer and providing evidence of such approval to the department.

SECTION 59. Subsection (a), Section 1201.506, Occupations Code, is amended to read as follows:

(a) A retailer or broker:

(1) shall comply with Subtitles A and B, Title 4, Finance Code, and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.); ~~and~~

(2) may not advertise an interest rate or finance charge that is not expressed as an annual percentage rate; and

(3) shall comply with all applicable provisions of the Finance Code.

SECTION 60. Subchapter K, Chapter 1201, Occupations Code, is amended by adding Section 1201.513 to read as follows:

Sec. 1201.513. DISPOSITION OF TRADE-INS AND OCCUPANCY OF HOMES BEFORE CLOSING. (a) A retailer may not sell a trade-in manufactured home before the closing of the sale in connection with which the retailer receives the trade-in.

(b) A retailer may not knowingly permit a consumer to occupy a manufactured home that is the subject of a sale, exchange, or lease-purchase to that consumer before the closing of any required financing unless the consumer is first given a form adopted by the board disclosing that if for any reason the financing does not close, the consumer may be required to vacate the home.

SECTION 61. Sections 1201.551, 1201.552, and 1201.553, Occupations Code, are amended to read as follows:

Sec. 1201.551. DENIAL OF LICENSE; DISCIPLINARY ACTION.

(a) The director [~~after notice as provided for under Section 1201.054 and a hearing as provided by Sections 1201.054 and 1201.060,~~] may deny, permanently revoke, or suspend for a definite period and specified sales location or geographic area a license if the director determines that the applicant or license holder:

(1) knowingly and wilfully violated this chapter or a rule adopted or order issued under this chapter;

(2) unlawfully retained or converted money, property, or any other thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium;

(3) failed repeatedly to file with the department a completed [~~timely provide to a consumer an~~] application for a statement of ownership and location before the 61st day after the date of the sale of a manufactured home as required by Section 1201.206 or the date of the installation, whichever occurred later [~~and any information necessary to complete the application~~];

(4) failed to give or breached a manufactured home warranty required by this chapter or by the Federal Trade Commission;

(5) engaged in a false, misleading, or deceptive act or practice as described by Subchapter E, Chapter 17, Business & Commerce Code;

(6) failed to provide or file a report required by the department for the administration or enforcement of this chapter;

(7) provided false information on an application, report, or other document filed with the department;

(8) acquired a criminal record during the five-year period preceding the application date that, in the opinion of the director, makes the applicant unfit for licensing; [~~or~~]

(9) failed to file a bond or other security for each location as required by Subchapter C; or

(10) has had another license issued by this state revoked or suspended.

(b) The director [~~department~~] may suspend or revoke a license if, after receiving notice of a claim, the license holder or the license holder's surety fails or refuses to pay a final claim paid from the trust fund for which demand for reimbursement was made [~~participate in the informal dispute resolution process described by Section 1201.407~~].

Sec. 1201.552. [~~HEARING CONCERNING~~] LICENSE REVOCATION, SUSPENSION, OR DENIAL; HEARING. The director may issue an order to revoke, suspend, or deny a new or renewal license. If, before the 31st day after an order revoking, suspending, or denying a license is issued, the person against whom the order is issued requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the order is issued, the order becomes final. Any administrative proceedings relating to the revocation, suspension, or denial of a license under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall

~~issue an order after receiving a proposal for decision [shall conduct a hearing involving the denial, renewal, revocation, or suspension of a license in accordance with Chapter 2001, Government Code].~~

Sec. 1201.553. JUDICIAL REVIEW. Judicial review of any ~~an~~ order, decision, or determination of the board ~~[director]~~ is instituted by filing a petition with a district court in Travis County as provided by Chapter 2001, Government Code.

SECTION 62. Section 1201.605, Occupations Code, is amended to read as follows:

Sec. 1201.605. ADMINISTRATIVE PENALTY. (a) The director may assess against a person who fails to comply with ~~[obtain or maintain a license as required by]~~ this chapter, the rules adopted under this chapter, or any final order of the department an administrative penalty in an amount not to exceed \$10,000 for each violation of this chapter and:

- (1) reasonable attorney's fees;
- (2) administrative costs;
- (3) witness fees;
- (4) investigative costs; and
- (5) deposition expenses.

(b) The director may assess against a licensee ~~[retailer]~~ who fails to provide information to a consumer as required by this chapter an administrative penalty in an amount not to exceed:

- (1) \$1,000 for the first violation;
- (2) \$2,000 for the second violation; and
- (3) \$4,000 for each subsequent violation.

(c) In determining the amount of an administrative penalty assessed under this section, the director shall consider:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made to correct the violation; and
- (5) any other matters that justice may require.

(d) The director may impose an administrative penalty in accordance with this section. If, before the 31st day after the date a person receives notice of the imposition of an administrative penalty, the person requests a hearing by giving written notice to the director, the director shall set a hearing before the State Office of Administrative Hearings. If the person does not request a hearing before the 31st day after the date the person receives notice of the imposition of the administrative penalty, the penalty becomes final. Any administrative proceedings relating to the imposition of an administrative penalty under this subsection shall be a contested case under Chapter 2001, Government Code. The board shall issue an order after receiving a proposal for decision.

SECTION 63. Subchapter M, Chapter 1201, Occupations Code, is amended by adding Sections 1201.607 through 1201.611 to read as follows:

Sec. 1201.607. ISSUANCE OF ORDERS AND REQUESTS FOR HEARINGS. Any order issued by the director under this chapter, if not appealed before the 31st day after the date the order was issued, shall automatically become a final order. If the person made the subject of the order files a written request for a hearing with the director, the order shall be deemed to have been appealed and shall be a contested case under Chapter 2001, Government Code. The director shall set any appealed order for a hearing before the State Office of Administrative Hearings, and the board shall issue a final order after receiving and reviewing the proposal for decision issued pursuant to such hearing.

Sec. 1201.608. INSPECTION OF LICENSEE RECORDS. (a) The department may inspect a licensee's records during normal business hours without advance notice if the director believes that such inspection is necessary to prevent a violation of this chapter, to protect a consumer or another licensee, or to assist another state or federal agency in an investigation.

(b) The director may request or issue subpoenas for a licensee's records.

(c) The department may carry out "sting" or undercover investigations in accordance with board-adopted rules if the director believes such action to be appropriate in order to detect and address suspected violations of this chapter.

(d) While an investigation is pending, information obtained by the department in connection with that investigation is confidential unless disclosure of the information is specifically permitted or required by other law.

Sec. 1201.609. ACTING WITHOUT LICENSE; CRIMINAL PENALTY. A person who is not exempt under this chapter and who, without first obtaining a license required under this chapter, performs an act that requires a license under this chapter commits an offense. An offense under this section is a Class B misdemeanor. A second or subsequent conviction for an offense under this section is a Class A misdemeanor.

Sec. 1201.610. CEASE AND DESIST. (a) If the director has reasonable cause to believe that a person licensed under this chapter has violated or is about to violate any provision of this chapter or rules adopted by the department under this chapter, the director may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.

(b) The director may issue an order to any licensee to cease and desist from violating any law, rule, or written agreement or to take corrective action with respect to any such violations if the violations in any way are related to the sale, financing, or installation of a manufactured home or the providing of goods or services in connection with the sale, financing, or installation of a manufactured home unless the matter that is the basis of such violation is expressly subject to inspection and regulation by another state agency; provided, however, that if any matter involves a law that is subject to any other administration or interpretation by another agency, the director shall consult with the person in charge of the day-to-day administration of that agency before issuing an order.

(c) An order issued under Subsection (a) or (b) must contain a reasonably detailed statement of the facts on which the order is based. If a person against whom the order is issued requests a hearing before the 31st day after the date the

order is issued, the director shall set and give notice of a hearing. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the board by order may find that a violation has occurred or has not occurred.

(d) If a hearing is not requested under Subsection (c) before the 31st day after the date an order is issued, the order is considered final and not appealable.

(e) The director, after giving notice, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. In addition to any other remedy provided by law, the director may institute in district court a suit for injunctive relief and for the collection of the administrative penalty. A bond is not required of the director with respect to injunctive relief granted under this subsection.

(f) If a person fails to pay an administrative penalty that has become final or fails to comply with an order of the director that has become final, in addition to any other remedy provided by law, the director, after not less than 10 days' notice to the person, may without a prior hearing suspend the person's license. The suspension shall continue until the person has complied with the cease and desist order or paid the administrative penalty. During the period of suspension, the person may not perform any act requiring a license under this chapter, and all compensation received by the person during the period of suspension is subject to forfeiture to the person from whom it was received.

(g) An order of suspension under Subsection (f) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (f) shall be held not later than the 15th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(h) An order revoking the license of a retailer, broker, installer, or salesperson may provide that the person is prohibited, without obtaining prior written consent of the director, from being a related person of a licensee.

Sec. 1201.611. SANCTIONS AND PENALTIES. (a) The board shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the department.

(b) If a person charged with the violation accepts the determination of the director, the director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(c) Not later than the 30th day after the date on which the decision is final, the person charged shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the department for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the department a supersedeas bond for the amount of the penalty, in a form approved by the director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue judicial review.

(d) A person charged with a penalty who is financially unable to comply with Subsection (c)(2) is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(e) If the person charged does not pay the penalty and does not pursue judicial review, the department or the attorney general may bring an action for the collection of the penalty.

(f) Judicial review of the order of the director assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County.

(g) If, after judicial review, the penalty is reduced or not assessed, the director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank and shall be paid for the period beginning on the date the assessed penalty is paid to the director and ending on the date the penalty is remitted.

(h) A penalty collected under this section shall be deposited in the trust fund.

(i) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001, Government Code.

(j) If it appears that a person is in violation of, or is threatening to violate, any provision of this chapter or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general, on behalf of the director, may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

SECTION 64. Subsection (b), Section 2306.6022, Government Code, is amended to read as follows:

(b) The division shall make available on its website ~~[provide to the person filing the complaint and to each person who is a subject of the complaint a copy of]~~ the division's policies and procedures relating to complaint investigation and resolution and shall provide copies of such information on request.

SECTION 65. Section 94.051, Property Code, is amended to read as follows:

Sec. 94.051. INFORMATION TO BE PROVIDED TO PROSPECTIVE TENANT. At the time the landlord receives an application from a prospective tenant, the landlord shall give the tenant a copy of:

- (1) the proposed lease agreement for the manufactured home community;
- (2) any manufactured home community rules; and
- (3) a separate disclosure statement with the following prominently printed in at least 10-point type:

"You have the legal right to an initial lease term of six months. If you prefer a different lease period, you and your landlord may negotiate a shorter or longer lease period. After the initial lease period expires, you and your landlord may negotiate a new lease term by mutual agreement. Regardless of the term of the lease, ~~[if the recreational vehicle is tied to, affixed, or otherwise a permanent part of the premises,]~~ the landlord must give you at least 60 days' notice of a nonrenewal of the lease, except that if the manufactured home community's land use will change, the landlord must give you at least 180 days' notice ~~[if the landlord will not renew your lease and will require that you relocate your manufactured home or recreational vehicle].~~ During the applicable [60-day] period, you must continue to pay all rent and other amounts due under the lease agreement, including late charges, if any, after receiving notice of the nonrenewal."

SECTION 66. Section 94.052(b), Property Code, is amended to read as follows:

(b) Except as provided by Section 94.204, regardless ~~[Regardless]~~ of the term of the lease, the landlord must provide notice to the tenant not later than the 60th day before the date of the expiration of the lease if the landlord chooses ~~[does]~~ not to renew the lease. During the applicable [60-day] period, the tenant must pay all rent and other amounts due under the lease agreement, including late charges, if any, after receiving notice of the nonrenewal.

SECTION 67. Section 94.053(c), Property Code, is amended to read as follows:

- (c) A lease agreement must contain the following information:
- (1) the address or number of the manufactured home lot and the number and location of any accompanying parking spaces;
  - (2) the lease term;
  - (3) the rental amount;
  - (4) the interval at which rent must be paid and the date on which periodic rental payments are due;
  - (5) any late charge or fee or charge for any service or facility;
  - (6) the amount of any security deposit;
  - (7) a description of the landlord's maintenance responsibilities;
  - (8) the telephone number of the person who may be contacted for emergency maintenance;
  - (9) the name and address of the person designated to accept official notices for the landlord;

(10) the penalty the landlord may impose for the tenant's early termination as provided by Section 94.201;

(11) the grounds for eviction as provided by Subchapter E;

(12) a disclosure of the landlord's right to choose not to renew ~~terminate~~ the lease agreement if there is a change in the land use of the manufactured home community during the lease term as provided by Section 94.204;

(13) a disclosure of any incorporation by reference of an addendum relating to submetering of utility services;

(14) a prominent disclosure informing the tenant that Chapter 94, Property Code, governs certain rights granted to the tenant and obligations imposed on the landlord by law;

(15) if there is a temporary zoning permit for the land use of the manufactured home community, the date the zoning permit expires; and

(16) any other terms or conditions of occupancy not expressly included in the manufactured home community rules.

SECTION 68. The heading to Section 94.204, Property Code, is amended to read as follows:

Sec. 94.204. NONRENEWAL OF LEASE ~~TERMINATION~~ FOR CHANGE IN LAND USE.

SECTION 69. Section 94.204(a), Property Code, is amended to read as follows:

(a) A landlord may choose not to renew ~~terminate~~ a lease agreement to change the manufactured home community's land use only if not later than the 180th day before the date the land use will change:

(1) ~~[not later than the 120th day before the date the land use changes,]~~ the landlord sends notice to the tenant, to the owner of the manufactured home if the owner is not the tenant, and to the holder of any lien on the manufactured home:

(A) specifying the date that the land use will change; and

(B) informing the tenant, owner, and lienholder, if any, that the owner must relocate the manufactured home; and

(2) ~~[not later than the 120th day before the date the land use changes,]~~ the landlord posts in a conspicuous place in the manufactured home community a notice stating that the land use will change and specifying the date that the land use will change.

SECTION 70. Subsections (a) and (b), Section 11.432, Tax Code, are amended to read as follows:

(a) For a manufactured home to qualify for an exemption under Section 11.13 ~~[of this code]~~, the application for the exemption must be accompanied by a copy of the statement of ownership and location for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home or be accompanied by a verified copy of the purchase contract showing that the applicant is the purchaser of the manufactured home, unless a photostatic

copy of the current title page for the home is displayed on the computer website of the Texas Department of Housing and Community Affairs. The appraisal district may rely upon the computer records of the Texas Department of Housing and Community Affairs to determine whether a manufactured home qualifies for an exemption.

(b) The land on which a manufactured home is located qualifies for an exemption under Section 11.13 only if:

(1) the manufactured home qualifies for an exemption as provided by Subsection (a); and

(2) the manufactured home is listed together with the land on which it is located under Section 25.08. The consumer is entitled to obtain the homestead exemptions provided by Section 11.13 regardless of whether the owner has elected to treat the home as real property or personal property and regardless of whether the home is listed on the tax rolls with the real property to which it is attached or separately.

SECTION 71. Section 31.072, Tax Code, is amended by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (a), if the property owner requesting a collector to establish an escrow account under this section is the owner of a manufactured home and the escrow account is to be used solely to provide for the payment of property taxes collected by the collector on the property owner's manufactured home, the collector shall enter into a contract with the property owner under this section.

SECTION 72. Section 32.03, Tax Code, is amended to read as follows:

Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN.

(a) Except as provided by Subsection (a-1), a tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien.

(a-1) With regard to a manufactured home, a tax lien may be recorded at any time not later than six months after the end of the year for which the tax was owed. A tax lien on a manufactured home may be enforced if it has been recorded in accordance with the laws in effect at the time of the recordation of the lien. A properly recorded tax lien may not be enforced against a new manufactured home that is owned by a person who acquired the manufactured home from a retailer as a buyer in the ordinary course of business ~~A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:~~

~~[(1) before October 1, 2005; or~~

~~[(2) not later than six months after the end of the year for which the tax was owed].~~

(a-2) A person may not transfer ownership ~~[title]~~ of a manufactured home until all tax liens perfected on the home ~~that have been timely filed with the Texas Department of Housing and Community Affairs have been extinguished or satisfied and released~~ and any personal property taxes on the manufactured home

which accrued on each January 1 that falls within the 18 months preceding the date of the sale have been paid. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on a ~~the~~ manufactured home statement of ownership and location is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs, no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on the manufactured home.

(c) A taxpayer may designate in writing which tax year will be credited with a particular payment. If a taxpayer pays all the amounts owing for a given year, the taxing unit shall issue a receipt for the payment of the taxes for the designated year.

(d) Notwithstanding any other provision of this section, if a manufactured home was omitted from the tax roll for either or both of the two preceding tax years, the taxing unit may file a tax lien within the 150-day period following the date on which the tax becomes delinquent.

(e) If personal property taxes on a manufactured home have not been levied by the taxing unit, the taxing unit shall provide, upon request, an estimated amount of taxes computed by multiplying the taxable value of the manufactured home, according to the most recent certified appraisal roll for the taxing unit, by the taxing unit's adopted tax rate for the preceding tax year. In order to enable the transfer of the manufactured home, the tax collector shall accept the payment of the estimated personal property taxes and issue a certification to the Texas Department of Housing and Community Affairs that the estimated taxes are being held in escrow until the taxes are levied. Once the taxes are levied, the tax collector shall apply the escrowed sums to the levied taxes. At the time the tax collector accepts the payment of the taxes, the tax collector shall provide notice that the payment of the estimated taxes is an estimate that may be raised once the appraisal rolls for the year are certified and that the new owner may be liable for the payment of any difference between the tax established by the certified appraisal roll and the estimate actually paid.

SECTION 73. (a) The following provisions of the Occupations Code are repealed:

- (1) Section 1201.059;
- (2) Section 1201.112;
- (3) Subsections (c), (d), (e), (f), and (g), Section 1201.113;
- (4) Section 1201.163;
- (5) Subsections (c) and (d), Section 1201.214; and
- (6) Section 1201.408.

(b) Section 2306.6023, Government Code, is repealed.

SECTION 74. The changes in law made by this Act to Sections 94.051, 94.052, 94.053, and 94.204, Property Code, apply only to a lease agreement or a renewal to a lease agreement entered into after the effective date of this Act. A

lease agreement or a renewal to a lease agreement entered into on or before the effective date of this Act is covered by the law in effect at the time the lease agreement or the renewal to the lease agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 75. The change in law made by this Act applies only to the sale, exchange, or lease-purchase of a new or used manufactured home on or after the effective date of this Act. A sale, exchange, or lease-purchase of a new or used manufactured home before the effective date of this Act is governed by the law in effect on the date of the sale, exchange, or lease-purchase, and the former law is continued in effect for that purpose.

SECTION 76. Except as otherwise provided by this Act, the changes in law made by this Act apply only to a license issued or renewed by the Texas Department of Housing and Community Affairs on or after January 1, 2008. An issuance or renewal that occurs before January 1, 2008, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 77. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 78. The changes in law made by this Act to provisions of the Tax Code apply only to an ad valorem tax year that begins on or after January 1, 2008. The changes in law made to those provisions do not affect a tax lien that attached to property for a tax year that began before January 1, 2008, and the law in effect immediately before January 1, 2008, is continued in effect for purposes of the tax lien.

SECTION 79. This Act takes effect January 1, 2008.

**HB 3066 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3066**, A bill to be entitled An Act relating to the use of political contributions to make payments in connection with the rental or purchase of certain real property; providing a criminal penalty.

Representative Truitt 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 3066**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3066**: Truitt, chair; Anchia, Menendez, Isett, and Woolley.

(Goolsby in the chair)

**HB 4109 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4109**, A bill to be entitled An Act relating to the administration, powers, including taxing powers and the authority to issue bonds, boundaries, operations, financing, and dissolution of the Town Center Improvement District of Montgomery County, Texas.

Representative Eissler moved to concur in the senate amendments to **HB 4109**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1712): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; 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; Gonzalez Tourelles; 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; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; 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; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Bailey; McClendon; Moreno; Noriega; Woolley.

**STATEMENT OF VOTE**

When Record No. 1712 was taken, I was in the house but away from my desk. I would have voted yes.

Woolley

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

Amend **HB 4109** (senate committee printing) in Article 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the article accordingly:

SECTION \_\_\_\_\_. Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 7F to read as follows:

Sec. 7F. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES. (a) In this section, "fire protection personnel" has the meaning assigned by Section 419.021, Government Code.

(b) The district may employ, contract with, or otherwise engage other persons or entities, including fire protection personnel, to provide, improve, enhance, and support fire protection and emergency medical services in and adjacent to the district.

(c) Before January 1, 2010, the district may not directly employ any fire protection personnel. This subsection expires January 1, 2010.

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

Amend **HB 4109** (senate committee printing) in Article 2 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the article accordingly:

SECTION \_\_\_\_\_. Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 7G to read as follows:

Sec. 7G. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The board may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

**HJR 72 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HJR 72**, A joint resolution proposing a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds.

Representative Solomons moved to concur in the senate amendments to **HJR 72**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1713):  
138 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; 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; Gonzalez Toureilles; Guillen; Haggerty; 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; 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; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley; Zerwas.

Nays — Leibowitz.

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

Absent, Excused — Gonzales.

Absent — Aycock; Bailey; Giddings; McClendon; Moreno; Veasey; Zedler.

### STATEMENT OF VOTE

When Record No. 1713 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

### HJR 72 - STATEMENT OF LEGISLATIVE INTENT

I have worked closely with the Financial Institutions Committee members and the senate on this constitutional amendment and I know that this final language was negotiated among all the stakeholders. There are three issues I would like to clarify: agricultural liens, preprinted checks, and a copy of documents.

The agricultural liens is a clarification of existing law. The validity of a lien is tested at the date the lien is created. The provision is in the constitutional amendment to address confusion raised by *Marketic v. U.S. Bank National Association*. Although this was an unappealed federal opinion on a motion for summary judgment, it has caused a chilling effect in the industry and has adversely affected the ability of lenders to obtain title insurance for certain home equity loans.

For the preprinted checks, the intent behind the change "preprinted check unsolicited by the borrower" is to make it clear that the prohibition is on use of preprinted checks that have not been requested by the borrower. These are the

checks that are sent by lenders periodically to encourage people to borrow. A significant concern with these is the fact that the borrower would not be expecting these in the mail, so thieves target them for identification theft by stealing them from mailboxes. This is the reason they are prohibited devices. Any check sent to the borrower that is specifically requested by the borrower is fine to use to access their line of credit. The intent of moving the phrase "or any similar device" is to make clear that a check other than a "preprinted check unsolicited by the borrower" is not a "similar device," and therefore is permitted. Checks are not in any way to be considered a "similar device" to a credit card or a debit card. The legislature always intended borrowers to be able to access their home equity lines of credit by check, and this change clarifies our intent.

Finally, I want to clarify the copy of documents. The homeowner may submit a written, electronic, or oral application. Sometimes the borrower receives a copy of his application the day it is submitted. However, if it is an oral application, it may take a few days before the lender sends a copy of the loan application to the borrower. The legislature wants the borrower to receive a copy of the application before closing. Therefore, the lender is required to give a copy of the loan application twice to the homeowner. First, the lender sends a copy of the borrower's completed loan application to the borrower at some point before closing so that the borrower has a chance to review it. Especially with the increase of mortgage fraud, incorrect applications, intentional or unintentional, have become a problem in recent years, and sending this application beforehand will hopefully reduce this from happening. Second, the homeowner should receive a copy of the final loan application and all executed documents signed at closing. The homeowner will sign this final copy of the loan application. Finally, the owner of the homestead shall receive a copy of the final loan application and all executed documents signed by the owner at closing. The phrase "a copy" means a photographic copy of the final executed documents that contains the borrower's signature.

Solomons

### **Senate Committee Substitute**

**CSHJR 72**, A joint resolution proposing a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds.

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

SECTION 1. Sections 50(a), (g), and (t), Article XVI, Texas Constitution, are amended to read as follows:

(a) The homestead of a family, or of a single adult person, shall be, and is hereby protected from forced sale, for the payment of all debts except for:

- (1) the purchase money thereof, or a part of such purchase money;
- (2) the taxes due thereon;

(3) an owelty of partition imposed against the entirety of the property by a court order or by a written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;

(4) the refinance of a lien against a homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the owner;

(5) work and material used in constructing new improvements thereon, if contracted for in writing, or work and material used to repair or renovate existing improvements thereon if:

(A) the work and material are contracted for in writing, with the consent of both spouses, in the case of a family homestead, given in the same manner as is required in making a sale and conveyance of the homestead;

(B) the contract for the work and material is not executed by the owner or the owner's spouse before the fifth day after the owner makes written application for any extension of credit for the work and material, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing;

(C) the contract for the work and material expressly provides that the owner may rescind the contract without penalty or charge within three days after the execution of the contract by all parties, unless the work and material are necessary to complete immediate repairs to conditions on the homestead property that materially affect the health or safety of the owner or person residing in the homestead and the owner of the homestead acknowledges such in writing; and

(D) the contract for the work and material is executed by the owner and the owner's spouse only at the office of a third-party lender making an extension of credit for the work and material, an attorney at law, or a title company;

(6) an extension of credit that:

(A) is secured by a voluntary lien on the homestead created under a written agreement with the consent of each owner and each owner's spouse;

(B) is of a principal amount that when added to the aggregate total of the outstanding principal balances of all other indebtedness secured by valid encumbrances of record against the homestead does not exceed 80 percent of the fair market value of the homestead on the date the extension of credit is made;

(C) is without recourse for personal liability against each owner and the spouse of each owner, unless the owner or spouse obtained the extension of credit by actual fraud;

(D) is secured by a lien that may be foreclosed upon only by a court order;

(E) does not require the owner or the owner's spouse to pay, in addition to any interest, fees to any person that are necessary to originate, evaluate, maintain, record, insure, or service the extension of credit that exceed, in the aggregate, three percent of the original principal amount of the extension of credit;

(F) is not a form of open-end account that may be debited from time to time or under which credit may be extended from time to time unless the open-end account is a home equity line of credit;

(G) is payable in advance without penalty or other charge;

(H) is not secured by any additional real or personal property other than the homestead;

(I) is not secured by homestead property that on the date of closing is designated for agricultural use as provided by statutes governing property tax, unless such homestead property is used primarily for the production of milk;

(J) may not be accelerated because of a decrease in the market value of the homestead or because of the owner's default under other indebtedness not secured by a prior valid encumbrance against the homestead;

(K) is the only debt secured by the homestead at the time the extension of credit is made unless the other debt was made for a purpose described by Subsections (a)(1)-(a)(5) or Subsection (a)(8) of this section;

(L) is scheduled to be repaid:

(i) in substantially equal successive periodic installments, not more often than every 14 days and not less often than monthly, beginning no later than two months from the date the extension of credit is made, each of which equals or exceeds the amount of accrued interest as of the date of the scheduled installment; or

(ii) if the extension of credit is a home equity line of credit, in periodic payments described under Subsection (t)(8) of this section;

(M) is closed not before:

(i) the 12th day after the later of the date that the owner of the homestead submits a loan ~~an~~ application to the lender for the extension of credit or the date that the lender provides the owner a copy of the notice prescribed by Subsection (g) of this section;

(ii) one business day after the date that the owner of the homestead receives a copy of the loan application if not previously provided and a final itemized disclosure of the actual fees, points, interest, costs, and charges that will be charged at closing. If a bona fide emergency or another good cause exists and the lender obtains the written consent of the owner, the lender may provide the documentation to the owner or the lender may modify previously provided documentation on the date of closing; and

(iii) the first anniversary of the closing date of any other extension of credit described by Subsection (a)(6) of this section secured by the same homestead property, except a refinance described by Paragraph (Q)(x)(f) of this subdivision, unless the owner on oath requests an earlier closing due to a state of emergency that:

(a) has been declared by the president of the United States or the governor as provided by law; and

(b) applies to the area where the homestead is located;

(N) is closed only at the office of the lender, an attorney at law, or a title company;

(O) permits a lender to contract for and receive any fixed or variable rate of interest authorized under statute;

(P) is made by one of the following that has not been found by a federal regulatory agency to have engaged in the practice of refusing to make loans because the applicants for the loans reside or the property proposed to secure the loans is located in a certain area:

(i) a bank, savings and loan association, savings bank, or credit union doing business under the laws of this state or the United States;

(ii) a federally chartered lending instrumentality or a person approved as a mortgagee by the United States government to make federally insured loans;

(iii) a person licensed to make regulated loans, as provided by statute of this state;

(iv) a person who sold the homestead property to the current owner and who provided all or part of the financing for the purchase;

(v) a person who is related to the homestead property owner within the second degree of affinity or consanguinity; or

(vi) a person regulated by this state as a mortgage broker; and

(Q) is made on the condition that:

(i) the owner of the homestead is not required to apply the proceeds of the extension of credit to repay another debt except debt secured by the homestead or debt to another lender;

(ii) the owner of the homestead not assign wages as security for the extension of credit;

(iii) the owner of the homestead not sign any instrument in which blanks relating to substantive terms of agreement are left to be filled in;

(iv) the owner of the homestead not sign a confession of judgment or power of attorney to the lender or to a third person to confess judgment or to appear for the owner in a judicial proceeding;

(v) ~~[the lender]~~ at the time the extension of credit is made, [provide] the owner of the homestead shall receive a copy of the final loan application and all executed documents signed by the owner at closing related to the extension of credit;

(vi) the security instruments securing the extension of credit contain a disclosure that the extension of credit is the type of credit defined by Section 50(a)(6), Article XVI, Texas Constitution;

(vii) within a reasonable time after termination and full payment of the extension of credit, the lender cancel and return the promissory note to the owner of the homestead and give the owner, in recordable form, a release of the lien securing the extension of credit or a copy of an endorsement and assignment of the lien to a lender that is refinancing the extension of credit;

(viii) the owner of the homestead and any spouse of the owner may, within three days after the extension of credit is made, rescind the extension of credit without penalty or charge;

(ix) the owner of the homestead and the lender sign a written acknowledgment as to the fair market value of the homestead property on the date the extension of credit is made;

(x) except as provided by Subparagraph (xi) of this paragraph, the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the lender or holder fails to comply with the lender's or holder's obligations under the extension of credit and fails to correct the failure to comply not later than the 60th day after the date the lender or holder is notified by the borrower of the lender's failure to comply by:

(a) paying to the owner an amount equal to any overcharge paid by the owner under or related to the extension of credit if the owner has paid an amount that exceeds an amount stated in the applicable Paragraph (E), (G), or (O) of this subdivision;

(b) sending the owner a written acknowledgement that the lien is valid only in the amount that the extension of credit does not exceed the percentage described by Paragraph (B) of this subdivision, if applicable, or is not secured by property described under Paragraph (H) or (I) of this subdivision, if applicable;

(c) sending the owner a written notice modifying any other amount, percentage, term, or other provision prohibited by this section to a permitted amount, percentage, term, or other provision and adjusting the account of the borrower to ensure that the borrower is not required to pay more than an amount permitted by this section and is not subject to any other term or provision prohibited by this section;

(d) delivering the required documents to the borrower if the lender fails to comply with Subparagraph (v) of this paragraph or obtaining the appropriate signatures if the lender fails to comply with Subparagraph (ix) of this paragraph;

(e) sending the owner a written acknowledgement, if the failure to comply is prohibited by Paragraph (K) of this subdivision, that the accrual of interest and all of the owner's obligations under the extension of credit are abated while any prior lien prohibited under Paragraph (K) remains secured by the homestead; or

(f) if the failure to comply cannot be cured under Subparagraphs (x)(a)-(e) of this paragraph, curing the failure to comply by a refund or credit to the owner of \$1,000 and offering the owner the right to refinance the extension of credit with the lender or holder for the remaining term of the loan at no cost to the owner on the same terms, including interest, as the original extension of credit with any modifications necessary to comply with this section or on terms on which the owner and the lender or holder otherwise agree that comply with this section; and

(xi) the lender or any holder of the note for the extension of credit shall forfeit all principal and interest of the extension of credit if the extension of credit is made by a person other than a person described under Paragraph (P) of this subdivision or if the lien was not created under a written agreement with the consent of each owner and each owner's spouse, unless each owner and each owner's spouse who did not initially consent subsequently consents;

(7) a reverse mortgage; or

(8) the conversion and refinace of a personal property lien secured by a manufactured home to a lien on real property, including the refinace of the purchase price of the manufactured home, the cost of installing the manufactured home on the real property, and the refinace of the purchase price of the real property.

(g) An extension of credit described by Subsection (a)(6) of this section may be secured by a valid lien against homestead property if the extension of credit is not closed before the 12th day after the lender provides the owner with the following written notice on a separate instrument:

"NOTICE CONCERNING EXTENSIONS OF CREDIT DEFINED BY SECTION 50(a)(6), ARTICLE XVI, TEXAS CONSTITUTION:

"SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION ALLOWS CERTAIN LOANS TO BE SECURED AGAINST THE EQUITY IN YOUR HOME. SUCH LOANS ARE COMMONLY KNOWN AS EQUITY LOANS. IF YOU DO NOT REPAY THE LOAN OR IF YOU FAIL TO MEET THE TERMS OF THE LOAN, THE LENDER MAY FORECLOSE AND SELL YOUR HOME. THE CONSTITUTION PROVIDES THAT:

"(A) THE LOAN MUST BE VOLUNTARILY CREATED WITH THE CONSENT OF EACH OWNER OF YOUR HOME AND EACH OWNER'S SPOUSE;

"(B) THE PRINCIPAL LOAN AMOUNT AT THE TIME THE LOAN IS MADE MUST NOT EXCEED AN AMOUNT THAT, WHEN ADDED TO THE PRINCIPAL BALANCES OF ALL OTHER LIENS AGAINST YOUR HOME, IS MORE THAN 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME;

"(C) THE LOAN MUST BE WITHOUT RECOURSE FOR PERSONAL LIABILITY AGAINST YOU AND YOUR SPOUSE UNLESS YOU OR YOUR SPOUSE OBTAINED THIS EXTENSION OF CREDIT BY ACTUAL FRAUD;

"(D) THE LIEN SECURING THE LOAN MAY BE FORECLOSED UPON ONLY WITH A COURT ORDER;

"(E) FEES AND CHARGES TO MAKE THE LOAN MAY NOT EXCEED 3 PERCENT OF THE LOAN AMOUNT;

"(F) THE LOAN MAY NOT BE AN OPEN-END ACCOUNT THAT MAY BE DEBITED FROM TIME TO TIME OR UNDER WHICH CREDIT MAY BE EXTENDED FROM TIME TO TIME UNLESS IT IS A HOME EQUITY LINE OF CREDIT;

"(G) YOU MAY PREPAY THE LOAN WITHOUT PENALTY OR CHARGE;

"(H) NO ADDITIONAL COLLATERAL MAY BE SECURITY FOR THE LOAN;

"(I) THE LOAN MAY NOT BE SECURED BY ~~[AGRICULTURAL]~~ HOMESTEAD PROPERTY THAT IS DESIGNATED FOR AGRICULTURAL USE AS OF THE DATE OF CLOSING, UNLESS THE AGRICULTURAL HOMESTEAD PROPERTY IS USED PRIMARILY FOR THE PRODUCTION OF MILK;

"(J) YOU ARE NOT REQUIRED TO REPAY THE LOAN EARLIER THAN AGREED SOLELY BECAUSE THE FAIR MARKET VALUE OF YOUR HOME DECREASES OR BECAUSE YOU DEFAULT ON ANOTHER LOAN THAT IS NOT SECURED BY YOUR HOME;

"(K) ONLY ONE LOAN DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION MAY BE SECURED WITH YOUR HOME AT ANY GIVEN TIME;

"(L) THE LOAN MUST BE SCHEDULED TO BE REPAID IN PAYMENTS THAT EQUAL OR EXCEED THE AMOUNT OF ACCRUED INTEREST FOR EACH PAYMENT PERIOD;

"(M) THE LOAN MAY NOT CLOSE BEFORE 12 DAYS AFTER YOU SUBMIT A LOAN ~~[WRITTEN]~~ APPLICATION TO THE LENDER OR BEFORE 12 DAYS AFTER YOU RECEIVE THIS NOTICE, WHICHEVER DATE IS LATER; AND MAY NOT WITHOUT YOUR CONSENT CLOSE BEFORE ONE BUSINESS DAY AFTER THE DATE ON WHICH YOU RECEIVE A COPY OF YOUR LOAN APPLICATION IF NOT PREVIOUSLY PROVIDED AND A FINAL ITEMIZED DISCLOSURE OF THE ACTUAL FEES, POINTS, INTEREST, COSTS, AND CHARGES THAT WILL BE CHARGED AT CLOSING; AND IF YOUR HOME WAS SECURITY FOR THE SAME TYPE OF LOAN WITHIN THE PAST YEAR, A NEW LOAN SECURED BY THE SAME PROPERTY MAY NOT CLOSE BEFORE ONE YEAR HAS PASSED FROM THE CLOSING DATE OF THE OTHER LOAN, UNLESS ON OATH YOU REQUEST AN EARLIER CLOSING DUE TO A DECLARED STATE OF EMERGENCY;

"(N) THE LOAN MAY CLOSE ONLY AT THE OFFICE OF THE LENDER, TITLE COMPANY, OR AN ATTORNEY AT LAW;

"(O) THE LENDER MAY CHARGE ANY FIXED OR VARIABLE RATE OF INTEREST AUTHORIZED BY STATUTE;

"(P) ONLY A LAWFULLY AUTHORIZED LENDER MAY MAKE LOANS DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION;

"(Q) LOANS DESCRIBED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION MUST:

"(1) NOT REQUIRE YOU TO APPLY THE PROCEEDS TO ANOTHER DEBT EXCEPT A DEBT THAT IS SECURED BY YOUR HOME OR OWED TO ANOTHER LENDER;

"(2) NOT REQUIRE THAT YOU ASSIGN WAGES AS SECURITY;

"(3) NOT REQUIRE THAT YOU EXECUTE INSTRUMENTS WHICH HAVE BLANKS FOR SUBSTANTIVE TERMS OF AGREEMENT LEFT TO BE FILLED IN;

"(4) NOT REQUIRE THAT YOU SIGN A CONFESSION OF JUDGMENT OR POWER OF ATTORNEY TO ANOTHER PERSON TO CONFESS JUDGMENT OR APPEAR IN A LEGAL PROCEEDING ON YOUR BEHALF;

"(5) PROVIDE THAT YOU RECEIVE A COPY OF YOUR FINAL LOAN APPLICATION AND ALL EXECUTED DOCUMENTS YOU SIGN AT CLOSING;

"(6) PROVIDE THAT THE SECURITY INSTRUMENTS CONTAIN A DISCLOSURE THAT THIS LOAN IS A LOAN DEFINED BY SECTION 50(a)(6), ARTICLE XVI, OF THE TEXAS CONSTITUTION;

"(7) PROVIDE THAT WHEN THE LOAN IS PAID IN FULL, THE LENDER WILL SIGN AND GIVE YOU A RELEASE OF LIEN OR AN ASSIGNMENT OF THE LIEN, WHICHEVER IS APPROPRIATE;

"(8) PROVIDE THAT YOU MAY, WITHIN 3 DAYS AFTER CLOSING, RESCIND THE LOAN WITHOUT PENALTY OR CHARGE;

"(9) PROVIDE THAT YOU AND THE LENDER ACKNOWLEDGE THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LOAN CLOSES; AND

"(10) PROVIDE THAT THE LENDER WILL FORFEIT ALL PRINCIPAL AND INTEREST IF THE LENDER FAILS TO COMPLY WITH THE LENDER'S OBLIGATIONS UNLESS THE LENDER CURES THE FAILURE TO COMPLY AS PROVIDED BY SECTION 50(a)(6)(Q)(x), ARTICLE XVI, OF THE TEXAS CONSTITUTION; AND

"(R) IF THE LOAN IS A HOME EQUITY LINE OF CREDIT:

"(1) YOU MAY REQUEST ADVANCES, REPAY MONEY, AND REBORROW MONEY UNDER THE LINE OF CREDIT;

"(2) EACH ADVANCE UNDER THE LINE OF CREDIT MUST BE IN AN AMOUNT OF AT LEAST \$4,000;

"(3) YOU MAY NOT USE A CREDIT CARD, DEBIT CARD, ~~[SOLICITATION CHECK,]~~ OR SIMILAR DEVICE, OR PREPRINTED CHECK THAT YOU DID NOT SOLICIT, TO OBTAIN ADVANCES UNDER THE LINE OF CREDIT;

"(4) ANY FEES THE LENDER CHARGES MAY BE CHARGED AND COLLECTED ONLY AT THE TIME THE LINE OF CREDIT IS ESTABLISHED AND THE LENDER MAY NOT CHARGE A FEE IN CONNECTION WITH ANY ADVANCE;

"(5) THE MAXIMUM PRINCIPAL AMOUNT THAT MAY BE EXTENDED, WHEN ADDED TO ALL OTHER DEBTS SECURED BY YOUR HOME, MAY NOT EXCEED 80 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME ON THE DATE THE LINE OF CREDIT IS ESTABLISHED;

"(6) IF THE PRINCIPAL BALANCE UNDER THE LINE OF CREDIT AT ANY TIME EXCEEDS 50 PERCENT OF THE FAIR MARKET VALUE OF YOUR HOME, AS DETERMINED ON THE DATE THE LINE OF CREDIT IS ESTABLISHED, YOU MAY NOT CONTINUE TO REQUEST ADVANCES UNDER THE LINE OF CREDIT UNTIL THE BALANCE IS LESS THAN 50 PERCENT OF THE FAIR MARKET VALUE; AND

"(7) THE LENDER MAY NOT UNILATERALLY AMEND THE TERMS OF THE LINE OF CREDIT.

"THIS NOTICE IS ONLY A SUMMARY OF YOUR RIGHTS UNDER THE TEXAS CONSTITUTION. YOUR RIGHTS ARE GOVERNED BY SECTION 50, ARTICLE XVI, OF THE TEXAS CONSTITUTION, AND NOT BY THIS NOTICE."

If the discussions with the borrower are conducted primarily in a language other than English, the lender shall, before closing, provide an additional copy of the notice translated into the written language in which the discussions were conducted.

(t) A home equity line of credit is a form of an open-end account that may be debited from time to time, under which credit may be extended from time to time and under which:

(1) the owner requests advances, repays money, and reborrows money;

(2) any single debit or advance is not less than \$4,000;

(3) the owner does not use a credit card, debit card, [~~preprinted solicitation check,~~] or similar device, or preprinted check unsolicited by the borrower, to obtain an advance;

(4) any fees described by Subsection (a)(6)(E) of this section are charged and collected only at the time the extension of credit is established and no fee is charged or collected in connection with any debit or advance;

(5) the maximum principal amount that may be extended under the account, when added to the aggregate total of the outstanding principal balances of all indebtedness secured by the homestead on the date the extension of credit is established, does not exceed an amount described under Subsection (a)(6)(B) of this section;

(6) no additional debits or advances are made if the total principal amount outstanding exceeds an amount equal to 50 percent of the fair market value of the homestead as determined on the date the account is established;

(7) the lender or holder may not unilaterally amend the extension of credit; and

(8) repayment is to be made in regular periodic installments, not more often than every 14 days and not less often than monthly, beginning not later than two months from the date the extension of credit is established, and:

(A) during the period during which the owner may request advances, each installment equals or exceeds the amount of accrued interest; and

(B) after the period during which the owner may request advances, installments are substantially equal.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2007. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds."

**HB 4091 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4091**, A bill to be entitled An Act relating to the boundaries and board of directors of Harris County Improvement District No. 6.

Representative Coleman moved to concur in the senate amendments to **HB 4091**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1714):  
144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; 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; Gonzalez Toureilles; 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; 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; Goolsby(C).

Absent, Excused — Gonzales.

Absent — Callegari; Miller; Moreno.

**Senate Committee Substitute**

**CSHB 4091**, A bill to be entitled An Act relating to the boundaries and board of directors of Harris County Improvement District No. 6.

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

SECTION 1. Section 3843.051(a), Special District Local Laws Code, is amended to read as follows:

(a) The district is governed by a board of 13 ~~[14]~~ directors who serve staggered terms of four years with six ~~[five]~~ or seven ~~[six]~~ directors' terms expiring June 1 of each odd-numbered year.

SECTION 2. Section 3843.053, Special District Local Laws Code, is amended to read as follows:

Sec. 3843.053. BOARD ~~[INITIAL DIRECTORS]~~. (a) The ~~[initial]~~ board consists of:

Pos. No. Name of Director

- 1 Kathy Hubbard
- 2 Claude Wynn ~~[James McDermaid]~~
- 3 Michael Grover ~~[Charles Armstrong]~~
- 4 Tom Fricke
- 5 Brad Negar ~~[Greg Jew]~~
- 6 Jerry Simoneaux
- 7 Tammy Manning
- 8 Allen Ueckert ~~[Dale Harger]~~
- 9 Marisol Rodriguez
- 10 Randall Ellis ~~[Patti Thompson]~~
- 11 Jack Rose
- 12 Randy Mitchmore
- 13 David Arpin

(b) ~~The [Of the initial directors, the]~~ terms of directors appointed for positions 1 through 6 expire June 1, 2011 ~~[2009]~~, and the terms of directors appointed for positions 7 through 13 ~~[14]~~ expire June 1, 2009 ~~[2007]~~.

(b-1) The term of each membership position on the board as the term exists immediately preceding the effective date of the Act adding this subsection expires on that effective date. On that date, a new board is appointed as provided by Subsection (a) to serve terms as provided by Subsection (b).

(c) Section 3843.051 does not apply to this section.

(d) This section expires September 1, 2011 ~~[2009]~~.

SECTION 3. Section 2, Chapter 769, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 2. BOUNDARIES. ~~The [As of the effective date of this Act, the]~~ Harris County Improvement District No. 6 includes all territory contained in the following described area:

Beginning at the intersection of the center right of way line of West Dallas and the center right of way line of Montrose Boulevard;  
Thence easterly along the center right of way line of West Dallas to its intersection with the center right of way line of Taft Street;  
Thence southerly along the center right of way line of Taft to its intersection with the center right of way line of Welch;  
Thence easterly along the center right of way line of Taft crossing the right of way of Genesse following the center right of way line of Dennis to its intersection with the center right of way line of Boston;

Thence southerly along the center right of way line of Boston to its intersection with the center right of way line of Genesee;  
Thence southerly along the center right of way line of Genesee to its intersection with the center right of way line of Tuam;  
Thence easterly along the center right of way line of Tuam to its intersection of the center right of way line of Bagby;  
Thence southwesterly along the center right of way line of Bagby Street to its intersection with the center right of way line of Spur 527;  
Thence southerly along the center right of way line of Spur 527 to its intersection with the center right of way line of Elgin;  
Thence southeasterly along the center right of way line of Elgin to its intersection with the center right of way line of Brazos which is also the center right of way line of Spur 527;  
Thence southerly along the center right of way line of Spur 527 to its intersection with the center right of way line of Milam;  
Thence southwesterly along the center right of way line of Milam Street to its intersection with the center right of way line of Spur 527;  
Thence southerly following southwesterly along the center right of way line of Spur 527 to its intersection with the center right of way line of US 59 South;  
Thence easterly along the center right of way of US 59 South to its intersection with the center right of way line of Main;  
Thence southwesterly along the center right of way line of Main to the north property line of Block 1, South End Villa according to the map thereof recorded in Volume 1, Page 104 of the Harris County Map Records;  
Thence westerly along the north property line of said Block 1, South End Villa and the south property line of the C.C. Fitze Homestead Addition according to the plat thereof recorded in Volume 259, Page 163 of the Harris County Deed Records, crossing the north dead end of Travis to the center right of way line thereof;  
Thence southwesterly along the center right of way line of Travis to the center right of way line of Portland;  
Thence easterly along the center right of way line of Portland to the the center right of way line of Main;  
Thence southwesterly along the center right of way line of Main to its intersection with the center right of way line of Bissonnet;  
Thence westerly along the center right of way line of Bissonnet to its intersection with the center right of way line of Graustark;  
Thence northerly along the center right of way line of Graustark to its intersection with the center right of way line of US 59 South;  
Thence westerly along the center right of way line of US 59 South to its intersection with the east right of way line of South Shepherd Drive;  
Thence northerly along the east right of way line of South Shepherd Drive following along the northeast right of way line of Shepherd Drive to its intersection with the center right of way line West Dallas Avenue;  
Thence easterly along the center right of way line of West Dallas to the PLACE OF BEGINNING.

~~[UNLESS otherwise specified, the boundaries of this district will travel along the centerline of each street included, and each intersection will be the intersection of the centerlines of the streets mentioned.~~

~~[BEGINNING at the intersection of West Dallas and Montrose Boulevard.~~

~~Then in a southerly direction along Montrose Boulevard to its intersection with Sul Ross.~~

~~Then in a westerly direction along Sul Ross to its intersection with Mulberry.~~

~~Then in a southerly direction along Mulberry to its intersection with Branard, then east along Branard to its intersection with Yupon.~~

~~Then in a southerly direction along Yupon to where Yupon corners into Colquitt.~~

~~Then in an easterly direction along Colquitt to its intersection with Graustark.~~

~~Then in a southerly direction along Graustark to the south boundary line of U.S. Highway 59.~~

~~Then in an easterly direction from said intersection along the south boundary line of U.S. Highway 59 proceeding in a northeasterly direction along Spur 527, then following Spur 527 in a northeasterly direction to its intersection with the easterly line of Milam Street.~~

~~Then in a northeasterly direction along Milam Street to its intersection with the easterly line of Spur 527.~~

~~Then in a northerly direction along the easterly line of Spur 527 to Brazos Street.~~

~~Then in a northeasterly direction along Brazos Street to its intersection with Tuam Avenue.~~

~~Then in a northwesterly direction along Tuam Avenue to Bagby Street.~~

~~Then in a northeasterly direction along Bagby Street to McGowen Avenue.~~

~~Then in a northwesterly direction along the McGowen Avenue to the southerly projection of Bailey Street.~~

~~Then following the southerly projection of Bailey Street in a northerly direction to Bailey Street.~~

~~Then in a northerly direction along Bailey Street to the southeast corner of Lot 10 Block 78 of the W.R. Baker Subdivision, Unrecorded.~~

~~Then in a westerly direction along the south line of said W.R. Baker Unrecorded Subdivision, crossing Gillette Street and continuing to Genesee Street.~~

~~Then westerly along Welch Street to its intersection with Taft Street.~~

~~Then in a northerly direction along Taft Street to its intersection with West Dallas Street.~~

~~Then in a westerly direction along West Dallas Street to its intersection with Montrose Boulevard at the point of BEGINNING.]~~

SECTION 4. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 5. 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.

### **HB 317 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 317**, A bill to be entitled An Act relating to the student enrollment required for the issuance of certain revenue bonds for facilities at Texas A&M University–Central Texas.

Representative Miller moved to concur in the senate amendments to **HB 317**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1715): 143 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; 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; Gonzalez Toureilles; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Creighton; Moreno; Solomons; Turner.

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

Amend **HB 317** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0661 to read as follows:

Sec. 61.0661. STUDY REGARDING ISSUANCE OF REVENUE BONDS FOR CERTAIN CAMPUSES AND CENTERS. (a) The board shall conduct a study to determine:

(1) the merits of permitting public institutions of higher education to issue revenue bonds or other obligations for the purpose of funding capital projects at branch campuses, extension centers, system centers, and multi-institutional teaching centers, regardless of the level of student enrollment at those campuses and centers; and

(2) any student enrollment levels at those campuses and centers that may be appropriate to serve as a statutory prerequisite for issuing revenue bonds or other obligations to fund capital projects at those campuses and centers.

(b) Not later than January 1, 2009, the board shall report to the legislature concerning the results of the study conducted under Subsection (a). The report must include the board's recommendations regarding the issuance of revenue bonds or other obligations for campuses and centers described by Subsection (a).

(c) The board shall use existing resources to perform duties imposed under this section.

(d) This section expires June 1, 2009.

SECTION 2. Sections 55.1751(d) and (e) and 55.1755(d), Education Code, are repealed.

SECTION 3. This Act takes effect September 1, 2007.

**HB 1889 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1889**, A bill to be entitled An Act relating to allowing certain active judicial officers and bailiffs to carry weapons.

Representative Raymond moved to concur in the senate amendments to **HB 1889**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1716): 142 Yeas, 0 Nays, 2 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; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver;

Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Toureilles; 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; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivero; 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; Goolsby(C).

Absent, Excused — Gonzales.

Absent — Burnam; England; Latham; Moreno; Oliveira.

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

Amend **HB 1889** (Senate Committee Printing) in Section 1 on page 1, line 52 by inserting "municipal attorney," before "or".

#### **HB 1899 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1899**, A bill to be entitled An Act relating to the sale of certain real property at an ad valorem tax sale and to the right of redemption in connection with that real property.

Representative England moved to concur in the senate amendments to **HB 1899**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1717): 142 Yeas, 2 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; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Toureilles; 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; 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; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Nays — Flores; McClendon.

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

Absent, Excused — Gonzales.

Absent — Escobar; Latham; Moreno.

### Senate Committee Substitute

**CSHB 1899**, A bill to be entitled An Act relating to the sale of certain real property at an ad valorem tax sale and to the right of redemption in connection with that real property.

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

SECTION 1. Subchapter C, Chapter 33, Tax Code, is amended by adding Section 33.58 to read as follows:

Sec. 33.58. ALTERNATIVE NOTICE OF FORECLOSURE FOR PARCELS IN CERTAIN MUNICIPALITIES. (a) This section may be invoked and used by one or more taxing units if there are delinquent taxes, penalties, interest, and attorney's fees owing to a taxing unit on a parcel of real property and there are five or more years for which delinquent taxes are owed on the parcel, if the parcel is located in a municipality having a population of more than 100,000 that is situated in two or more counties, at least two of which have a population of more than one million, and in a subdivision having an average lot size of one-fifth of an acre or less.

(b) If a taxing unit invokes this section, the procedures and other provisions of Section 33.57 apply except as otherwise provided by this section.

(c) Notwithstanding Section 33.57(c), a petition for foreclosure under this section is sufficient if it is in substantially the form prescribed by Section 33.43 and further alleges the grounds for invoking this section provided by Subsection (a).

(d) Notwithstanding Section 33.57(e), a court shall approve a motion under Section 33.57(d) if the documents in support of the motion show that the grounds for invoking this section provided by Subsection (a) exist.

(e) If a taxing unit's petition includes multiple parcels of property and if requested by the taxing unit, the court's order of sale shall provide that the officer conducting the sale shall sell the parcels in solido, regardless of whether the parcels adjoin one another or have common ownership.

(f) If the officer conducting the sale of the property is ordered to sell the property in solido under Subsection (e), the officer shall use, in calculating the minimum bid amount under Section 33.50(b) or (c), as appropriate:

(1) the aggregate of all amounts awarded against the multiple parcels of property as the aggregate amount of the judgments; or

(2) the aggregate of the adjudged market values of the multiple parcels of property as the market value of the property stated in the judgment.

(g) If multiple parcels of property are sold in solido under an order of sale issued under Subsection (e), the amounts prescribed by Section 34.21 that must be paid in redeeming property shall, for the purpose of redeeming an individual parcel of property, be in an amount equal to the taxes, penalties, interest, and attorney's fees adjudged against that individual parcel.

(h) This section expires September 1, 2017.

SECTION 2. The change in law made by this Act applies only to an action brought on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2007.

### **HB 2118 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2118**, A bill to be entitled An Act relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.

Representative Pickett moved to concur in the senate amendments to **HB 2118**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1718): 141 Yeas, 4 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; 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; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; 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; 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; 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.

Nays — Christian; Harper-Brown; Latham; Phillips.

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

Absent, Excused — Gonzales.

Absent — Moreno; Swinford.

### Senate Committee Substitute

**CSHB 2118**, A bill to be entitled An Act relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.

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

SECTION 1. Section 2, Article 5.43-2, Insurance Code, is amended by amending Subdivision (8) and adding Subdivision (17) to read as follows:

(8) "Monitoring" means the receipt of fire alarm and supervisory signals ~~[and retransmission]~~ or communication of those signals to a fire service communications center that is located in this state or serves property in this state.

(17) "Residential fire alarm technician" means a licensed individual who is designated by a registered firm to install, service, inspect, and certify residential single-family or two-family fire alarm or detection systems.

SECTION 2. Section 3, Article 5.43-2, Insurance Code, is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) The licensing provisions of this article shall not apply to:

(1) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a fire alarm or detection system if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and certified by a licensed employee or agent of a firm registered to install and certify such an alarm or detection device and that the registered firm assumes full responsibility for the installation of the alarm or detection device; and

(B) the person or organization does not plan, certify, lease, sell, service, or maintain fire alarms or detection devices or systems;

(2) a person or organization that owns and installs fire detection or fire alarm devices on the person's or organization's own property or, if the person or organization does not charge for the device or its installation, installs it for the protection of the person's or organization's personal property located on another's property and does not install the devices as a normal business practice on the property of another;

(3) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detection and alarm devices in no building other than a single family or multifamily residence if:

(A) the devices installed are:

(i) single station detectors; or

(ii) multiple station detectors capable of being connected in such a manner that actuation of one detector causes all integral or separate alarms to operate, if the detectors are not connected to a control panel or to an outside alarm, do not transmit a signal off the premises, and do not use more than 120 volts; and

(B) all installations comply with provisions of the adopted edition of [~~Household Fire Warning Equipment,~~] National Fire Protection Association Standard No. 72 [~~74~~];

(4) a person or organization that sells fire detection or fire alarm devices if the sales are exclusively over-the-counter or by mail order and if the person or organization does not plan, certify, install, service, or maintain this equipment;

(5) response to a fire alarm or detection device by a law enforcement agency or fire department or by a law enforcement officer or fireman acting in an official capacity;

(6) a Texas registered professional engineer acting solely in his professional capacity;

(7) a person or an organization that provides and installs at no charge to the property owners or residents a battery-powered smoke detector in a single-family or two-family residence if:

(A) the smoke detector bears a label of listing or approval by a testing laboratory approved by the State Board of Insurance;

(B) the installation complies with provisions of the adopted edition of National Fire Protection Association Standard No. 72 [~~74~~];

(C) the installers are knowledgeable in fire protection and the proper use of smoke detectors; and

(D) the detector is a single station installation and not a part of or connected to any other detection device or system;

(8) an ~~employee~~ regular employee of a registered firm who is under the direct on-site supervision of a licensee;

(9) a building owner, the owner's managing agent, or their employees who install battery-operated single-station smoke detectors or who monitor fire alarm or fire detection devices or systems in the owner's building, and in which the monitoring is performed at the owner's property and monitored at no charge to the occupants of the building, and complies with applicable standards of the National Fire Protection Association as may be adopted by rule promulgated under this Act, and utilizes equipment approved by a testing laboratory approved by the State Board of Insurance for fire alarm monitoring;

(10) a person employed by a registered firm that sells and installs a smoke or heat detector in a single-family or two-family residence if:

(A) the detector bears a label of listing or approval by a testing laboratory approved by the State Board of Insurance;

(B) the installation complies with provisions of the adopted edition of National Fire Protection Association Standard No. 72 [~~74~~];

(C) the installers are knowledgeable in fire protection and the proper use and placement of detectors; and

(D) the detector is a single station installation and not a part of or connected to any other detection device or system; or

(11) a person or organization licensed to install or service burglar alarms under Chapter 1702, Occupations Code, [~~the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes)~~] that provides and installs in a single-family or two-family residence a combination keypad that includes a panic button to initiate a fire alarm signal if the fire alarm signal:

(A) is monitored by a fire alarm firm registered under this article; and

(B) is not initiated by any fire or smoke detection device.

(d) A political subdivision may not require a registered firm, a licensee, or an employee of a registered firm to maintain a business location or residency within that political subdivision to engage in a business or perform any activity authorized under this article.

(e) A municipality or county may by ordinance require a registered firm to make a telephone call to a monitored property before the firm notifies the municipality or county of an alarm signal received by the firm from a fire detection device.

SECTION 3. Section 5, Article 5.43-2, Insurance Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A residential fire alarm technician must obtain a license issued by the board. The amount of the initial fee for the license may not exceed \$50, and the amount of the annual license renewal fee may not exceed \$50.

SECTION 4. Sections 5B(e) and (f), Article 5.43-2, Insurance Code, are amended to read as follows:

(e) For a person who is licensed to install or service burglar alarms under Chapter 1702, Occupations Code [~~the Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes)~~], compliance with the insurance requirements of that chapter [~~Act~~] constitutes compliance with the insurance requirements of this section if the insurance held by the person complies with the requirements of this section in amounts and types of coverage.

(f) For a person who is licensed to install or service burglar alarms under Chapter 1702, Occupations Code [~~the Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes)~~], compliance with the bond and insurance requirements of that chapter [~~Act~~] constitutes compliance with the bond and insurance requirements of this section.

SECTION 5. Section 5D, Article 5.43-2, Insurance Code, is amended by adding Subsection (a-2) and amending Subsection (d) to read as follows:

(a-2) An applicant for a residential fire alarm technician license must provide with the required license application evidence of the applicant's successful completion of the required instruction from a training school approved by the State Fire Marshal in accordance with this section.

(d) The training curriculum for a residential fire alarm technician course shall consist of at least eight hours of instruction on installing, servicing, and maintaining single-family and two-family residential fire alarm systems as defined by National Fire Protection Association Standard No. 72 ~~[The training curriculum for a fire alarm technician and a residential fire alarm superintendent course shall consist of 16 hours of classroom instruction on all categories of licensure].~~

SECTION 6. Article 5.43-2, Insurance Code, is amended by adding Section 5G to read as follows:

Sec. 5G. CONFIDENTIALITY OF RECORDS. Records maintained by the department under this article on the home address, home telephone number, driver's license number, or social security number of an applicant or a license or registration holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

SECTION 7. Section 6A, Article 5.43-2, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner may not adopt a rule to administer this article that requires a person who holds a license under this article to obtain additional certification that imposes a financial responsibility on the licensee.

SECTION 8. Section 7, Article 5.43-2, Insurance Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) Except as provided by Subsection (c), a political subdivision may not offer ~~[residential]~~ alarm system sales, service, installation, or monitoring unless it has been providing monitoring services ~~[to residences]~~ within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(f) A residential fire alarm technician may only provide direct on-site supervision to an employee of a registered firm for work performed under this article in a single-family or two-family dwelling.

SECTION 9. Sections 9(d) and (e), Article 5.43-2, Insurance Code, are amended to read as follows:

(d) No fire detection or fire alarm device may be sold or installed in this state unless accompanied by printed information supplied to the owner by the supplier or installing contractor concerning:

(1) instructions describing the installation, operation, testing, and proper maintenance of the device;

(2) information which will aid in establishing an emergency evacuation plan for the protected premises; ~~[and]~~

(3) the telephone number and location, including notification procedures, of the nearest fire department; and

(4) information that will aid in reducing the number of false fire alarms.

(e) Each registered firm that employs persons that are exempt from the licensing provisions of this article pursuant to Section 3(b)(10) of this article is required to appropriately train and supervise such exempt persons so as to ensure that each installation complies with the adopted provisions of National Fire Protection Association Standard No. 72 ~~[74]~~ or other adopted standards, that each

smoke or heat detector installed or sold carries a label or listing of approval by a testing laboratory approved by the State Board of Insurance, and that such exempt persons are knowledgeable in fire protection and the proper use and placement of detectors.

SECTION 10. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 766 to read as follows:

CHAPTER 766. FIRE SAFETY IN RESIDENTIAL DWELLINGS

Sec. 766.001. DEFINITIONS. In this chapter:

(1) "Carbon monoxide alarm" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(2) "Department" means the Texas Department of Insurance.

(3) "Fossil fuel" includes coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products.

(4) "One-family or two-family dwelling" means a structure that has one or two residential units that are occupied as, or designed or intended for occupancy as, a residence by individuals.

(5) "Smoke detector" means a device or a listed component of a system that detects and sounds an alarm to indicate the presence of visible or invisible products of combustion in the air.

(6) "Smoke detector for hearing-impaired persons" has the meaning assigned by Section 792.001.

Sec. 766.002. SMOKE DETECTOR REQUIREMENT. (a) Each one-family or two-family dwelling constructed in this state must have working smoke detectors installed in the dwelling in accordance with the smoke detector requirements of the building code in effect in the political subdivision in which the dwelling is located, including performance, location, and power source requirements.

(b) If a one-family or two-family dwelling does not comply with the smoke detector requirements of the building code in effect in the political subdivision in which the dwelling is located, any home improvement to the dwelling that requires the issuance of a building permit must include the installation of smoke detectors in accordance with the building code in effect in the political subdivision in which the dwelling is located, including performance, location, and power source requirements.

(c) Any smoke detector required under the building code in effect in the political subdivision must be a smoke detector for a hearing-impaired person if a one-family or two-family dwelling is sold to a buyer who is a hearing-impaired person or to a buyer who has a family member who will reside in the dwelling who is a hearing-impaired person.

Sec. 766.0025. FRATERNITY AND SORORITY HOUSES. (a) In this section, "fraternity or sorority house" means a dwelling that:

(1) is a separate structure and that is not a multiunit residential property composed of multiple independent residential units; and

(2) serves as living quarters for members of a fraternity or sorority.

(b) The owner of a fraternity or sorority house must have working smoke detectors installed in the fraternity house or sorority house in accordance with the smoke detector requirements of the building code in effect in the political subdivision in which the fraternity or sorority house is located, including performance, location, and power source requirements.

Sec. 766.003. INFORMATION RELATING TO FIRE SAFETY AND CARBON MONOXIDE DANGERS. (a) The department shall prepare information of public interest relating to:

(1) fire safety in the home; and

(2) the dangers of carbon monoxide.

(b) The information must inform the public about:

(1) ways to prevent fires in the home, and actions to take if a fire occurs in the home;

(2) the need to test smoke detectors every month to ensure the smoke detector is working;

(3) replacing the battery in a battery-operated smoke detector every six months;

(4) the need to have fire safety equipment in the home, including fire extinguishers and emergency escape ladders;

(5) the need to develop and practice a fire escape plan;

(6) the availability of carbon monoxide detectors;

(7) using carbon monoxide alarms as a backup to prevent carbon monoxide poisoning; and

(8) the need to properly use and maintain fossil fuel-burning appliances.

(c) The department shall distribute the information described by this section to the public in any manner the department determines is cost-effective, including providing the information on the department's Internet website and publishing informational pamphlets.

SECTION 11. Subsection (b), Section 5.008, Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE  
CONCERNING THE PROPERTY AT

\_\_\_\_\_  
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller \_\_ is \_\_ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Range                                | <input type="checkbox"/> Oven                                  | <input type="checkbox"/> Microwave                       |
| <input type="checkbox"/> Dishwasher                           | <input type="checkbox"/> Trash Compactor                       | <input type="checkbox"/> Disposal                        |
| <input type="checkbox"/> Washer/Dryer                         | <input type="checkbox"/> Window                                | <input type="checkbox"/> Rain Gutters                    |
| <input type="checkbox"/> Hookups                              | <input type="checkbox"/> Screens                               |  |
| <input type="checkbox"/> Security System                      | <input type="checkbox"/> Fire Detection Equipment              | <input type="checkbox"/> Intercom System                 |
|   | <input type="checkbox"/> Smoke Detector                        |  |
|   | <input type="checkbox"/> <del>Smoke Detector</del>             |  |
|   | <input type="checkbox"/> <del>Hearing Impaired</del>           |  |
|   | <input type="checkbox"/> <del>Carbon Monoxide Alarm</del>      |  |
|   | <input type="checkbox"/> <del>Emergency Escape Ladder(s)</del> |  |
| <input type="checkbox"/> TV Antenna                           | <input type="checkbox"/> Cable TV                              | <input type="checkbox"/> Satellite                       |
| <input type="checkbox"/> Ceiling Fan(s)                       | <input type="checkbox"/> Wiring                                | <input type="checkbox"/> Dish Exhaust Fan(s)             |
| <input type="checkbox"/> Central A/C                          | <input type="checkbox"/> Attic Fan(s)                          | <input type="checkbox"/> Wall/Window Air Conditioning    |
| <input type="checkbox"/> Plumbing System                      | <input type="checkbox"/> Central Heating                       | <input type="checkbox"/> Public Sewer System             |
| <input type="checkbox"/> Patio/Decking                        | <input type="checkbox"/> Septic System                         | <input type="checkbox"/> Fences                          |
| <input type="checkbox"/> Pool                                 | <input type="checkbox"/> Outdoor Grill                         | <input type="checkbox"/> Spa                             |
| <input type="checkbox"/> Pool Equipment                       | <input type="checkbox"/> Sauna                                 | <input type="checkbox"/> Hot Tub                         |
|   | <input type="checkbox"/> Pool Heater                           | <input type="checkbox"/> Automatic Lawn Sprinkler System |
| <input type="checkbox"/> Fireplace(s) & Chimney (Woodburning) |  | <input type="checkbox"/> Fireplace(s) & Chimney (Mock)   |
| <input type="checkbox"/> Gas Lines (Nat./LP)                  |  | <input type="checkbox"/> Gas Fixtures                    |
| Garage: <input type="checkbox"/> Attached                     | <input type="checkbox"/> Not Attached                          | <input type="checkbox"/> Carport                         |
| Garage Door Opener(s):  | <input type="checkbox"/> Electronic                            | <input type="checkbox"/> Control(s)                      |
| Water Heater:   | <input type="checkbox"/> Gas                                   | <input type="checkbox"/> Electric                        |
| Water Supply: <input type="checkbox"/> City                   | <input type="checkbox"/> Well <input type="checkbox"/> MUD     | <input type="checkbox"/> Co-op                           |
| Roof Type: _____  |  | Age: _____ (approx)                                      |

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair?  Yes  No  Unknown.

If yes, then describe. (Attach additional sheets if necessary):

\_\_\_\_\_

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code? Yes No Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary):

\_\_\_\_\_

3. Are you (Seller) aware of any known defect/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Interior Walls                                | <input type="checkbox"/> Ceilings               | <input type="checkbox"/> Floors               |
| <input type="checkbox"/> Exterior Walls                                | <input type="checkbox"/> Doors                  | <input type="checkbox"/> Windows              |
| <input type="checkbox"/> Roof  | <input type="checkbox"/> Foundation/<br>Slab(s) | <input type="checkbox"/> Basement             |
| <input type="checkbox"/> Walls/Fences                                  | <input type="checkbox"/> Driveways              | <input type="checkbox"/> Sidewalks            |
| <input type="checkbox"/> Plumbing/Sewers/<br>Septics                   | <input type="checkbox"/> Electrical<br>Systems  | <input type="checkbox"/> Lighting<br>Fixtures |
| <input type="checkbox"/> Other Structural Components (Describe): _____ |   |   |

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

4 [3]. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- |   |  |
|---|--|
| <input type="checkbox"/> Active Termites<br>(includes wood-destroying insects)<br>Termite or Wood Rot | <input type="checkbox"/> Previous Structural<br>or Roof Repair |
| <input type="checkbox"/> Damage Needing Repair  | <input type="checkbox"/> Hazardous or Toxic Waste              |
| <input type="checkbox"/> Previous Termite Damage  | <input type="checkbox"/> Asbestos Components                   |
| <input type="checkbox"/> Previous Termite Treatment   | <input type="checkbox"/> Urea formaldehyde<br>Insulation       |
| <input type="checkbox"/> Previous Flooding  | <input type="checkbox"/> Radon Gas                             |
| <input type="checkbox"/> Improper Drainage  | <input type="checkbox"/> Lead Based Paint                      |
| <input type="checkbox"/> Water Penetration  | <input type="checkbox"/> Aluminum Wiring                       |
| <input type="checkbox"/> Located in 100-Year<br>Floodplain  | <input type="checkbox"/> Previous Fires                        |
| <input type="checkbox"/> Present Flood Insurance<br>Coverage  | <input type="checkbox"/> Unplatted Easements                   |
| <input type="checkbox"/> Landfill, Settling, Soil<br>Movement, Fault Lines                            | <input type="checkbox"/> Subsurface<br>Structure or Pits       |

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

5 [4]. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair?  Yes (if you are aware)  No (if you are not aware). If yes, explain (attach additional sheets as necessary).

6 [5]. Are you (Seller) aware of any of the following?

Write Yes (Y) if you aware, write No (N) if you are not aware.

- \_\_\_ Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
- \_\_\_ Homeowners' Association or maintenance fees or assessments.
- \_\_\_ Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
- \_\_\_ Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
- \_\_\_ Any lawsuits directly or indirectly affecting the Property.
- \_\_\_ Any condition on the Property which materially affects the physical health or safety of an individual.

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Date Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code or if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766.

\_\_\_\_\_ Date Signature of Purchaser

SECTION 12. Subchapter F, Chapter 92, Property Code, is amended by adding Section 92.2571 to read as follows:

Sec. 92.2571. ALTERNATIVE COMPLIANCE. A landlord complies with the requirements of this subchapter relating to the provision of smoke detectors in the dwelling unit if the landlord:

- (1) has a fire detection device, as defined by Article 5.43-2, Insurance Code, that includes a smoke detection device installed in a dwelling unit; or
- (2) for a dwelling unit that is a one-family or two-family dwelling unit, installs smoke detectors in compliance with Chapter 766, Health and Safety Code.

SECTION 13. The change in law made by this Act to Section 5.008, Property Code, applies only to a notice executed on or after the effective date of this Act. A notice executed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 14. (a) Not later than March 1, 2008, the commissioner of insurance shall adopt the rules and forms necessary to implement the changes in law made by this Act to Article 5.43-2, Insurance Code.

(b) Notwithstanding Article 5.43-2, Insurance Code, a residential fire alarm technician is not required to obtain a license under that article before June 1, 2008.

SECTION 15. This Act takes effect September 1, 2007.

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

Amend **CSHB 2118** (senate committee printing) as follows:

(1) In SECTION 10 of the bill, strike added Subsection (c), Section 766.002, Health and Safety Code (page 4, lines 64 through 69), and substitute the following:

Sec. 766.0021. SMOKE DETECTOR FOR HEARING-IMPAIRED PERSONS. (a) A purchaser under a written contract for the resale of an existing one-family or two-family dwelling may require the seller to install smoke detectors for hearing-impaired persons if:

(1) the purchaser or a member of the purchaser's family who will reside in the dwelling is a hearing-impaired person;

(2) the purchaser provides written evidence of the hearing impairment signed by a licensed physician; and

(3) not later than the 10th day after the effective date of the contract, the purchaser requests in writing that the seller install smoke detectors for hearing-impaired persons and specifies the locations in the dwelling where the smoke detectors are to be installed.

(b) If the seller is required to install smoke detectors for hearing-impaired persons under Subsection (a), the seller and purchaser may agree:

(1) which party will bear the cost of installing the smoke detectors; and

(2) which brand of smoke detectors to install.

(c) The seller must install the smoke detectors not later than the closing date of the sale of the dwelling.

(d) A purchaser may terminate the contract to purchase the dwelling if the seller fails to install smoke detectors for hearing-impaired persons as required by this section.

(2) Strike SECTION 11 of the bill (page 5, line 40, through page 7, line 43) and substitute the following:

SECTION 11. Subsection (b), Section 5.008, Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE  
CONCERNING THE PROPERTY AT

\_\_\_\_\_  
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller \_\_\_ is \_\_\_ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Range                                | <input type="checkbox"/> Oven                                  | <input type="checkbox"/> Microwave                       |
| <input type="checkbox"/> Dishwasher                           | <input type="checkbox"/> Trash Compactor                       | <input type="checkbox"/> Disposal                        |
| <input type="checkbox"/> Washer/Dryer                         | <input type="checkbox"/> Window                                | <input type="checkbox"/> Rain Gutters                    |
| <input type="checkbox"/> Hookups                              | <input type="checkbox"/> Screens                               |  |
| <input type="checkbox"/> Security System                      | <input type="checkbox"/> Fire Detection Equipment              | <input type="checkbox"/> Intercom System                 |
|   | <input type="checkbox"/> Smoke Detector                        |  |
|   | <input type="checkbox"/> <del>Smoke Detector -</del>           |  |
|   | <input type="checkbox"/> <del>Hearing Impaired</del>           |  |
|   | <input type="checkbox"/> <del>Carbon Monoxide Alarm</del>      |  |
|   | <input type="checkbox"/> <del>Emergency Escape Ladder(s)</del> |  |
| <input type="checkbox"/> TV Antenna                           | <input type="checkbox"/> Cable TV                              | <input type="checkbox"/> Satellite Dish                  |
| <input type="checkbox"/> Ceiling Fan(s)                       | <input type="checkbox"/> Wiring                                | <input type="checkbox"/> Exhaust Fan(s)                  |
| <input type="checkbox"/> Central A/C                          | <input type="checkbox"/> Attic Fan(s)                          | <input type="checkbox"/> Wall/Window Air Conditioning    |
| <input type="checkbox"/> Plumbing System                      | <input type="checkbox"/> Central Heating                       | <input type="checkbox"/> Public Sewer System             |
| <input type="checkbox"/> Patio/Decking                        | <input type="checkbox"/> Septic System                         | <input type="checkbox"/> Fences                          |
| <input type="checkbox"/> Pool                                 | <input type="checkbox"/> Outdoor Grill                         | <input type="checkbox"/> Spa                             |
| <input type="checkbox"/> Pool Equipment                       | <input type="checkbox"/> Sauna                                 | <input type="checkbox"/> Hot Tub                         |
|   | <input type="checkbox"/> Pool Heater                           | <input type="checkbox"/> Automatic Lawn Sprinkler System |
| <input type="checkbox"/> Fireplace(s) & Chimney (Woodburning) |  | <input type="checkbox"/> Fireplace(s) & Chimney (Mock)   |
| <input type="checkbox"/> Gas Lines (Nat./LP)                  |  | <input type="checkbox"/> Gas Fixtures                    |
| Garage: <input type="checkbox"/> Attached                     | <input type="checkbox"/> Not Attached                          | <input type="checkbox"/> Carport                         |
| Garage Door Opener(s):  | <input type="checkbox"/> Electronic                            | <input type="checkbox"/> Control(s)                      |
| Water Heater:   | <input type="checkbox"/> Gas                                   | <input type="checkbox"/> Electric                        |
| Water Supply: <input type="checkbox"/> City                   | <input type="checkbox"/> Well <input type="checkbox"/> MUD     | <input type="checkbox"/> Co-op                           |
| Roof Type: _____  | Age: _____   | (approx)   |

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair?  Yes  No  Unknown.

If yes, then describe. (Attach additional sheets if necessary):

\_\_\_\_\_

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code?  Yes  No  Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary): \_\_\_\_\_

3. Are you (Seller) aware of any known defects/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- |  |   |
|--|---|
| <input type="checkbox"/> Interior Walls              | <input type="checkbox"/> Ceilings               |
| <input type="checkbox"/> Exterior Walls              | <input type="checkbox"/> Doors                  |
| <input type="checkbox"/> Roof                        | <input type="checkbox"/> Foundation/<br>Slab(s) |
| <input type="checkbox"/> Walls/Fences                | <input type="checkbox"/> Driveways              |
| <input type="checkbox"/> Plumbing/Sewers/<br>Septics | <input type="checkbox"/> Electrical<br>Systems  |

Other Structural Components (Describe): \_\_\_\_\_

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): \_\_\_\_\_

4 [3]. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- |  |  |
|--|--|
| <input type="checkbox"/> Active Termites<br>(includes wood-destroying insects) | <input type="checkbox"/> Previous Structural<br>or Roof Repair |
| <input type="checkbox"/> Termite or Wood Rot Damage<br>Needing Repair          | <input type="checkbox"/> Hazardous or Toxic Waste              |
| <input type="checkbox"/> Previous Termite Damage                               | <input type="checkbox"/> Asbestos Components                   |
| <input type="checkbox"/> Previous Termite<br>Treatment                         | <input type="checkbox"/> Urea formaldehyde<br>Insulation       |
| <input type="checkbox"/> Previous Flooding                                     | <input type="checkbox"/> Radon Gas                             |
| <input type="checkbox"/> Improper Drainage                                     | <input type="checkbox"/> Lead Based Paint                      |
| <input type="checkbox"/> Water Penetration                                     | <input type="checkbox"/> Aluminum Wiring                       |
| <input type="checkbox"/> Located in 100-Year<br>Floodplain                     | <input type="checkbox"/> Previous Fires                        |
| <input type="checkbox"/> Present Flood Insurance<br>Coverage                   | <input type="checkbox"/> Unplatted Easements                   |
| <input type="checkbox"/> Landfill, Settling, Soil<br>Movement, Fault Lines     | <input type="checkbox"/> Subsurface<br>Structure or Pits       |

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): \_\_\_\_\_

5 [4]. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair?  Yes (if you are aware)  No (if you are not aware). If yes, explain (attach additional sheets as necessary).

6 [5]. Are you (Seller) aware of any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
- Homeowners' Association or maintenance fees or assessments.
- Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
- Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
- Any lawsuits directly or indirectly affecting the Property.
- Any condition on the Property which materially affects the physical health or safety of an individual.

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_ Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766.

\_\_\_\_\_ Date \_\_\_\_\_ Signature of Purchaser

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

Amend Floor Amendment No. 1 to **CSHB 2118** Section 10 (page 1, line 7) by striking proposed "resale of an existing" and substitute the following: "sale of a".

(Solomons in the chair)

**HB 2918 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2918**, A bill to be entitled An Act relating to state information technology contracting and procurement practices.

Representative Isett moved to concur in the senate amendments to **HB 2918**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1719): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; 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; 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.; 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; 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; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Allen; Aycock; Giddings; Hughes; McReynolds; Moreno.

#### STATEMENT OF VOTE

When Record No. 1719 was taken, my vote failed to register. I would have voted yes.

Aycock

#### Senate Committee Substitute

**CSHB 2918**, A bill to be entitled An Act relating to state information technology contracting and procurement practices.

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

SECTION 1. Section 44.031(a), Education Code, is amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) a request for proposals, for services other than construction services;
- (4) ~~a catalogue purchase as provided by Subchapter B, Chapter 2157, Government Code;~~

~~(5)~~ an interlocal contract;

(5) ~~(6)~~ a design/build contract;

(6) [~~7~~] a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager;

(7) [~~8~~] a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility;

(8) [~~9~~] the reverse auction procedure as defined by Section 2155.062(d), Government Code; or

(9) [~~10~~] the formation of a political subdivision corporation under Section 304.001, Local Government Code.

SECTION 2. The heading to Section 2054.0565, Government Code, is amended to read as follows:

Sec. 2054.0565. USE OF CONTRACTS BY OTHER [GOVERNMENTAL] ENTITIES.

SECTION 3. Section 2054.0565, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The department may include terms in a procurement contract entered into by the department, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, ~~or~~ a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

(c) Notwithstanding any other law, a state governmental entity that is not a state agency as defined by Section 2054.003 may use a contract as provided by Subsection (a) without being subject to a rule, statute, or contract provision, including a provision in a contract entered into under Section 2157.068, that would otherwise require the state governmental entity to:

(1) sign an interagency agreement; or

(2) disclose the items purchased or the value of the purchase.

(d) A state governmental entity that is not a state agency as defined by Section 2054.003 that uses a contract as provided by Subsection (a) may prohibit a vendor from disclosing the items purchased, the use of the items purchased, and the value of the purchase.

SECTION 4. Section 2054.301, Government Code, is amended to read as follows:

Sec. 2054.301. APPLICABILITY; DEFINITION. (a) This subchapter applies only to:

(1) a major information resources project; and

(2) a major contract.

(b) In this subchapter, "major contract" means a major contract as defined by Section 2262.001(4) under which a vendor will perform or manage an outsourced function or process.

SECTION 5. Sections 2054.303(a) and (c), Government Code, are amended to read as follows:

(a) For each proposed major information resources project or major contract, a state agency must prepare:

(1) a business case providing the initial justification for the project or contract, including the anticipated return on investment in terms of cost savings and efficiency for the project or contract; and

(2) a statewide impact analysis of the project's or contract's effect on the state's common information resources infrastructure, including the possibility of reusing code or other resources.

(c) The department shall use the analysis to ensure that the proposed project or major contract does not unnecessarily duplicate existing statewide information resources technology.

SECTION 6. Section 2054.304, Government Code, is amended to read as follows:

Sec. 2054.304. PROJECT PLANS. (a) A state agency shall develop a project plan for each major information resources project or major contract.

(b) Except as provided by Subsection (c), the state agency must file the project plan with the quality assurance team and the Texas Building and Procurement Commission before the agency:

(1) spends more than 10 percent of allocated funds for the project or major contract; or

(2) first issues a vendor solicitation for the project or contract.

(c) Unless the project plan has been filed under this section:

(1) the Texas Building and Procurement Commission may not issue a vendor solicitation for the project or major contract; and

(2) the agency may not post a vendor solicitation for the project or contract in the state business daily under Section 2155.083.

SECTION 7. Section 2054.305, Government Code, is amended to read as follows:

Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING CONTRACTS. Before issuing a vendor solicitation for a project or major contract, the state agency must develop, consistent with department guidelines:

(1) a procurement plan with anticipated service levels and performance standards for each vendor; and

(2) a method to monitor changes to the scope of each contract.

SECTION 8. Section 2155.502, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

(b) In developing a ~~the~~ schedule under Subsection (a) or (e), the commission or department, as appropriate, shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The commission may not list a multiple award contract on a schedule developed under Subsection (a) ~~[this section]~~ if the goods or services provided by that contract:

(1) are available from only one vendor; ~~or~~

(2) are telecommunications services, facilities, or equipment; or

(3) are commodity items as defined by Section 2157.068(a).

(e) The department may develop a schedule of multiple award contracts for commodity items as defined by Section 2157.068(a) using the criteria established under Subsection (a).

SECTION 9. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.006 to read as follows:

Sec. 2157.006. PURCHASING METHODS. (a) The commission or other state agency shall purchase an automated information system using:

(1) the purchasing method described by Section 2157.068 for commodity items; or

(2) a purchasing method designated by the commission to obtain the best value for the state, including a request for offers method.

(b) A local government may purchase an automated information system using a method listed under Subsection (a). A local government that purchases an item using a method listed under Subsection (a) satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

(c) The commission shall adopt rules for designating purchasing methods under Subsection (a).

SECTION 10. The heading to Subchapter B, Chapter 2157, Government Code, is amended to read as follows:

SUBCHAPTER B. COMMODITY ITEMS [~~CATALOG PURCHASE METHOD~~]

SECTION 11. The heading to Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS.

SECTION 12. Section 2157.068, Government Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) The department shall negotiate with [~~catalog information systems~~] vendors to attempt to obtain a favorable price for all of state government on licenses for commodity items, based on the aggregate volume of purchases expected to be made by the state. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

(i) Unless the agency has express statutory authority to employ a best value purchasing method, a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

SECTION 13. Section 2262.051, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The guide must establish procedures for major contracts that outsource a state function or process to a contractor, including when applicable the use of documents required under Subchapter J, Chapter 2054.

SECTION 14 Section 2262.053(b), Government Code, is amended to read as follows:

(b) The training must provide the contract manager with information regarding how to:

- (1) fairly and objectively select and negotiate with the most qualified contractor;
- (2) establish prices that are cost-effective and that reflect the cost of providing the service;
- (3) include provisions in a contract that hold the contractor accountable for results;
- (4) monitor and enforce a contract;
- (5) make payments consistent with the contract; ~~and~~
- (6) comply with any requirements or goals contained in the contract management guide; and
- (7) use and apply advanced sourcing strategies, techniques, and tools.

SECTION 15. Section 60.454, Water Code, is amended to read as follows:

Sec. 60.454. PURCHASING CONTRACT METHODS. Notwithstanding any other provision of this chapter or other law, a district contract valued at \$25,000 or more in the aggregate for each 12-month period may be made by the method below that, in the opinion of the district's commission, provides the best value for the district:

- (1) a design-build contract to construct, rehabilitate, alter, or repair facilities;
- (2) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager-agent or construction manager-at-risk;
- (3) competitive sealed proposals;
- (4) a job order contract for the construction, repair, rehabilitation, or alteration of a facility;
- (5) a request for proposals, if the contract is for services other than construction services;
- (6) competitive sealed bids;
- (7) ~~a catalog purchase as provided by Subchapter B, Chapter 2157, Government Code;~~
- ~~[(8)]~~ an interlocal contract as provided by Chapter 791, Government Code;
- (8) ~~[(9)]~~ the reverse auction procedure as defined by Section 2155.062(d), Government Code;
- (9) ~~[(10)]~~ a contract with the United States, including any agency thereof; or
- (10) ~~[(11)]~~ a contract with this state, including an agency of this state.

SECTION 16. The following sections are repealed:

- (1) 2155.507, Government Code;
- (2) 2157.061, Government Code;
- (3) 2157.0611, Government Code;
- (4) 2157.062, Government Code;
- (5) 2157.063, Government Code;
- (6) 2157.066, Government Code; and
- (7) 2157.067, Government Code.

SECTION 17. Subchapter J, Chapter 2054, Government Code, as amended by this Act, applies only to a major contract entered into on or after the effective date of this Act. A major contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 18. The Texas Building and Procurement Commission must comply with Sections 2157.006(c) and 2262.051(h), Government Code, as added by this Act, and Section 2262.053(b), Government Code, as amended by this Act, not later than October 1, 2007.

SECTION 19. This Act takes effect September 1, 2007.

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

Amend **CSHB 2918** (Senate committee printing) as follows:

(1) In SECTION 9 of the bill, in proposed Subsection (c), Section 2157.006, Government Code (page 3, line 21), strike "Subsection (a)" and substitute "Subsection (a)(2)".

(2) In SECTION 12 of the bill, in proposed Subsection (i), Section 2157.068, Government Code (page 3, line 41), between "purchasing method" and "a state agency", insert "other than a purchasing method designated by the commission under Section 2157.006(a)(2)".

### **HB 3732 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 3732**, A bill to be entitled An Act relating to the implementation of ultraclean energy projects and other environmentally protective projects in this state.

Representative Hardcastle 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 3732**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3732**: Hardcastle, chair; Darby, Deshotel, R. Cook, and Solomons.

### **HJR 90 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HJR 90**, A joint resolution proposing a constitutional amendment providing for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of general obligation bonds for the purpose of scientific research of all forms of human cancer.

Representative Thompson moved to concur in the senate amendments to **HJR 90**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1720): 116 Yeas, 26 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; Cohen; Coleman; Cook, B.; Cook, R.; Crownover; Darby; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Geren; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Leibowitz; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Morrison; Mowery; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons(C); Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley.

Nays — Chisum; Christian; Corte; Crabb; Creighton; Davis, J.; Elkins; Flynn; Gattis; Hancock; Harless; Harper-Brown; Hughes; Kolkhorst; Laubenberg; Macias; Merritt; Miller; Murphy; O'Day; Paxton; Phillips; Riddle; Smithee; Talton; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales.

Absent — Giddings; Goolsby; Hilderbran; Moreno; Taylor; Zerwas.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1720. I intended to vote no.

F. Brown

I was shown voting yes on Record No. 1720. I intended to vote no.

Crownover

I was shown voting yes on Record No. 1720. I intended to vote no.

Heflin

When Record No. 1720 was taken, my vote failed to register. I would have voted yes.

Hilderbran

I was shown voting yes on Record No. 1720. I intended to vote no.

Hill

I was shown voting yes on Record No. 1720. I intended to vote no.

Isett

I was shown voting no on Record No. 1720. I intended to vote yes.

O'Day

I was shown voting yes on Record No. 1720. I intended to vote no.

Orr

I was shown voting yes on Record No. 1720. I intended to vote no.

Parker

When Record No. 1720 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

When Record No. 1720 was taken, I was in the house but away from my desk. I would have voted yes.

Zerwas

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

Amend **HJR 90** (Senate committee printing) in SECTION 1 of the resolution, in proposed Subsection (c), Section 67, Article III, Texas Constitution (page 1, line 44), between "agreements." and "The", by inserting "The Texas Public Finance Authority may not issue more than \$300 million in bonds authorized by this subsection in a year."

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

Amend **HJR 90** (Senate committee report) in Section 1 of the bill, in proposed Subsection (d), Section 67, Article III, Texas Constitution (page 1, lines 51-52) by striking "without appropriation".

### **HB 2 - MOTION TO CONCUR IN SENATE AMENDMENTS**

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

**HB 2**, A bill to be entitled An Act relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions.

(Speaker in the chair)

Representative Chisum moved to concur in the senate amendments to **HB 2**.

### **HB 2 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BURNAM: Mr. Chisum, I am concerned about what some of these amendments in the senate do, and you've just moved to concur. Would you go over with the house members exactly what those senate amendments do?

REPRESENTATIVE CHISUM: Yes, the money, in addition to the foundation school program, and when we're talking about the next year, if there's additional money in those, it is dedicated to the property tax relief fund. That's what this does. It dedicates this money to the property tax relief fund, which we're going to have to fund every time we get down here, and it's specific about each year, how much is dedicated to that property tax relief fund.

BURNAM: How much money does that tie up, and to what extent does that hamstring future legislatures?

CHISUM: Well, it—

BURNAM: It ties up a whole lot of money, doesn't it?

CHISUM: Yes sir, it does. For fiscal year ending August 31, 2008, \$4,231,466,000. Alright?

BURNAM: How much?

CHISUM: \$4,238,466,000.

BURNAM: And that's in this upcoming fiscal year?

CHISUM: That's correct.

BURNAM: And how much in the subsequent fiscal years?

CHISUM: If the property tax relief fund for the fiscal year is less than 6 billion, 956 thousand, 400 million, an additional amount is necessary for the total appropriation and the subdivision equal to 6 billion, 956 thousand.

BURNAM: Did you say 6 billion?

CHISUM: 6 billion, 956 thousand, four hundred.

BURNAM: \$6 billion over what period?

CHISUM: It's appropriated to the foundation school fund for this purpose. That's the money we're appropriating for the property tax relief fund in 2008, and then it continues that in 2009.

BURNAM: That's in addition to what we already talked about, because this is an amendment the senate has tacked on to a house bill here at the last minute.

CHISUM: Yes, it just recognizes that we'll have to have that much money in the property tax relief fund. This is not an appropriations. It doesn't appropriate it.

BURNAM: It's not an appropriation, but what it amounts to is denying us access to that \$6 billion for public education.

CHISUM: What it does, is it appropriates it for that purpose so that they can pay for the property tax relief fund. It designates how much is paid out in the several years that's in that **HB 2**.

BURNAM: Chairman, I'm not sure you're explaining this exactly correctly.

CHISUM: Alright.

BURNAM: Don't you think that what that amendment that was tacked on to the senate—I understand after midnight this morning—don't you think what that amendment does is deny over \$6 billion to public school finance?

CHISUM: No, what this does is take that money and appropriates it from the foundation school fund to the property tax relief fund.

BURNAM: That's exactly what I'm saying, Mr. Chairman, so why did you say no when you should be answering yes?

CHISUM: Well, restate your question.

BURNAM: Mr. Chairman, isn't it true that the senate amendment that was added to **HB 2**, and I believe it was added after midnight this morning, doesn't this amendment take an additional \$6 billion plus from public schools, and put it someplace else other than funding our schools?

CHISUM: Okay, let me tell you what this says. It says this makes an appropriation to the Texas Education Agency for the purpose of funding schools. That's what it does.

BURNAM: That's what the bill does, but what does the amendment do?

CHISUM: The amendment spells out that appropriation in the proper years. That's what it does. We didn't create new money with this.

BURNAM: Chairman Chisum, I've just been given a copy of the amendment, and I'm not sure that you're doing a very good job of explaining this amendment.

CHISUM: Tell me what you think it says.

BURNAM: Does everyone have access to a copy of this thing? Because I'm a little concerned that it's an additional \$6 billion out of public schools.

CHISUM: Well, when you appropriate to the Texas Education Agency, and you think that's going out of public schools?

BURNAM: I believe it's appropriating out, away from, and denying them access to using those funds for our public schools, isn't it? I'm going to go sit down and read this amendment very carefully. I know there are other people with questions.

REPRESENTATIVE HOCHBERG: Chairman, help me with this, because I'm reading the amendments and trying to understand it as well. The amendment says that you're going to take an amount that's essentially \$3 billion. It looks to me like it says if we have \$3 billion that's unappropriated, that money shall be appropriated, or whatever part of it we do have, shall be appropriated to the property tax relief fund.

CHISUM: That's correct.

HOCHBERG: Okay. Now, let me ask you a question. Last night in the senate, I saw they were discussing the supplemental appropriations bill for this biennium.

CHISUM: That is correct.

HOCHBERG: They get the money for that from unappropriated funds that are left over at the time we come back here?

CHISUM: We are appropriating that money, and you're talking about **HB 15**.

HOCHBERG: Right.

CHISUM: **HB 15** is the supplemental appropriations bill. It'll be on the floor here.

HOCHBERG: I understand that.

CHISUM: Okay.

HOCHBERG: Now, this amendment, the Williams amendment seems to say to me, and explain to me where I'm wrong, that if on the last day of this fiscal year we have any money left over that's in the bank and unappropriated, up to \$3 billion, that the comptroller is to take that money and put it in the property tax relief fund, and lock it away so that it is not available for other appropriations and is not available even for, say, a supplemental when we come back here next time. Is that what this does, or am I wrong?

CHISUM: This is exactly what it says.

HOCHBERG: So we have, every session I've been here, done a supplemental appropriations bill when we've come back because of things that we couldn't estimate properly, or circumstances had changed, or things we just wanted to do, up to and including Mr. Perry's economic development fund, or whatever it is, I think we did that in supplemental. We've done all kinds of things in supplementals, but this takes the money, unless we've got more than \$3 billion laying around, this locks that all up so none of it is there for expenditure, isn't that true?

CHISUM: That's right. It reserves it for the property tax relief fund when the legislature comes in in 2009.

HOCHBERG: And then the money that's in the property tax relief fund gets used for property tax relief. Now on the front side of this bill, we appropriated enough for property tax relief to get us down to \$1, isn't that our intent?

CHISUM: Yes, that is correct.

HOCHBERG: And this says we're going to put in \$3 billion in addition to that?

CHISUM: Yes, it's putting it in there so it won't be appropriated anywhere else.

HOCHBERG: You're taking another thirty cents and making, does this do essentially another—

CHISUM: No, it doesn't drive it down in this session. The money that's there is going to be used.

HOCHBERG: Well, but if you're putting this in, in the second year of the biennium, if it's there, if you're putting it in the second year of the biennium, then the education code says that the comptroller—you and I talked about this before—the education code says that the Commissioner of Education has to take whatever's in there, and whatever's appropriated for there, and set the amount of

tax relief based on the cash that's in the bucket at that time, and it looks to me like you're putting \$3 billion extra into that bucket, if we have it.

CHISUM: Okay, then we have a misunderstanding of what this amendment does, and I'm going to pull it down and let's get it straightened out so we can go on with our business. Is that alright?

HOCHBERG: Okay, I appreciate it.

The motion to concur in senate amendments was withdrawn.

(Goolsby in the chair)

**HB 589 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 589**, A bill to be entitled An Act relating to the student enrollment required for Texas A&M University–Central Texas to operate as a general academic teaching institution.

(Solomons in the chair)

Representative Aycock moved to concur in the senate amendments to **HB 589**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1721):  
143 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; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; Keffe; 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, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Zedler; Zerwas.

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

Absent, Excused — Gonzales.

Absent — Eissler; Moreno; Smith, T.; Woolley.

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

Amend **HB 589** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subsection (d), Section 87.841, Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, Texas A&M University–San Antonio may not operate as a general academic teaching institution until the Texas Higher Education Coordinating Board certifies that enrollment at the Texas A&M University–Kingsville System Center–San Antonio has reached an enrollment equivalent of 1,000 full-time students for one semester or one academic year. In computing the full-time student enrollment equivalent for an academic year under this subsection, the coordinating board shall include all semester credit hours completed during the fall and spring semesters and the summer session of the academic year[-

~~(1) 1,000 full-time students for one semester if the legislature authorizes revenue bonds to be issued to finance educational and related facilities for the institution, and the bonds are issued for that purpose; or~~

~~(2) 2,500 full-time students for one semester if the conditions specified by Subdivision (1) are not satisfied].~~

SECTION \_\_\_\_\_. Subsection (d), Section 105.501, Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, the University of North Texas at Dallas may operate as a general academic teaching institution with its own chief executive officer, administration, and faculty only after the Texas Higher Education Coordinating Board certifies that enrollment at the University of North Texas System Center at Dallas has reached an enrollment equivalent to 1,000 full-time students for one semester or one academic year. In computing the full-time student enrollment equivalent for an academic year under this subsection, the coordinating board shall include all semester credit hours completed during the fall and spring semesters and the summer session of the academic year. Until that enrollment level is reached, the board may operate a system center of the University of North Texas in the city of Dallas. [Prior to reaching 2,500 full-time equivalent students, the University of North Texas at Dallas may not receive general revenue in excess of the 2003 expended amount with the exception of funding provided through the General Academic Instruction and Operations Formula for semester credit hour increases and the Tuition Revenue Bond debt service for bonds approved in the 78th Legislature. The institution will not be eligible to receive the small school supplement in the General Academic Instruction and Operations Formula until it reaches 2,500 full-time equivalent student enrollment.]

**LEAVE OF ABSENCE GRANTED**

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

Puente on motion of Flores.

**HB 1111 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1111**, A bill to be entitled An Act relating to prohibitions on and reporting concerning medical, psychiatric, and other research on children committed to the Texas Youth Commission.

Representative Turner 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 1111**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1111**: Turner, chair; Bailey, Bolton, Dutton, and Madden.

**HB 2365 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2365**, A bill to be entitled An Act relating to financial accounting and reporting for this state and political subdivisions of this state.

Representative Truitt moved to concur in the senate amendments to **HB 2365**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1722): 141 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; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; 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; Quintanilla; Raymond; Riddle;

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

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

Absent, Excused — Gonzales; Puente.

Absent — Flores; Kuempel; Latham; McClendon; Moreno.

### STATEMENT OF VOTE

When Record No. 1722 was taken, I was in the house but away from my desk. I would have voted yes.

Kuempel

### Senate Committee Substitute

**CSHB 2365**, A bill to be entitled An Act relating to financial accounting and reporting for this state and political subdivisions of this state.

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

SECTION 1. (a) The legislature finds that:

(1) state and local governments provide essential services funded by statutorily authorized taxes and fees and not by cost recovery-based rate or price models;

(2) state and local government operations derive authority from and are regulated by the Texas and federal constitutions and statutes; and

(3) financial accounting and reporting should accurately reflect government activities and not mislead or misinform the public.

(b) The legislature further finds that:

(1) state and local governments cannot provide certain postemployment benefits that exceed existing statutory, constitutional, or other legal requirements, including requirements that limit the duration for which benefits are legally obligated such as Section 6, Article VIII, Texas Constitution, which limits appropriations to two years or less, and other requirements that limit expenditures to one year or less or some other term; and

(2) it is in the interest of state and local governments to communicate the requirements of Subdivision (1) of this subsection to persons who receive or may receive postemployment benefits from state or local governments.

SECTION 2. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2264 to read as follows:

#### CHAPTER 2264. FINANCIAL ACCOUNTING AND REPORTING

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2264.001. APPLICABILITY. This chapter applies to this state and to each political subdivision of this state.

Sec. 2264.002. APPLICABILITY TO COMPONENT UNITS. To the extent an entity is reported on the financial statement of the state or a political subdivision as a component unit, the statutory accounting principles and reporting standards in this chapter apply to that entity.

[Sections 2264.003-2264.050 reserved for expansion]

SUBCHAPTER B. FINANCIAL ACCOUNTING AND REPORTING  
STANDARDS

Sec. 2264.051. REQUIREMENTS FOR SYSTEM OF ACCOUNTING AND REPORTING. The system of accounting for and reporting the financial activities of this state and its political subdivisions:

- (1) must be consistent with state financial laws;
- (2) may not misrepresent the nature, scope, or duration of the financial activities of the state or political subdivision; and
- (3) may follow the statutory standards in this chapter when other accounting bases conflict with state law.

Sec. 2264.052. STATUTORY MODIFIED ACCRUAL BASIS. (a) In this state, a statutory modified accrual basis qualifies as an other comprehensive basis of accounting that recognizes revenue when it is measurable and available to finance current expenditures and recognizes expenditures when they are normally expected to be liquidated with current financial resources regardless of when they mature.

(b) This state and its political subdivisions may account for and report selected types of financial activities on a statutory modified accrual basis for government-wide and fund-level internal and external financial statement reporting.

Sec. 2264.053. COMPLIANCE WITH ACCOUNTING PRINCIPLES. Compliance with the statutory accounting principles of this chapter by this state or a political subdivision satisfies any other law that requires accounting and reporting according to generally accepted accounting principles, including Section 403.013 or 2101.012.

[Sections 2264.054-2264.100 reserved for expansion]

SUBCHAPTER C. OTHER POSTEMPLOYMENT BENEFITS

Sec. 2264.101. DEFINITIONS. In this subchapter:

(1) "Other postemployment benefits" means employee benefit programs for which coverage or eligibility extends to retired employees. The term does not include pension benefits.

(2) "Pay-as-you-go" means benefit plan financing generally made at or about the same time and in or about the same amount as benefit payments and expenditures become due.

(3) "State system" means:

(A) the Employees Retirement System of Texas;

(B) the Teacher Retirement System of Texas;

(C) The Texas A&M University System; or

(D) The University of Texas System.

(4) "Substantive plan" means a plan providing other postemployment benefits approved by the governing body of the plan provider according to the laws and constitution of this state.

Sec. 2264.102. ACCOUNTING FOR OTHER POSTEMPLOYMENT BENEFITS. To the extent that generally accepted accounting principles require accounting or reporting of other postemployment benefits at the

government-wide or fund level on any basis other than pay-as-you-go, this state and its political subdivisions may account for or report those other postemployment benefits in accordance with the statutory accounting principles in this chapter.

Sec. 2264.103. COMMUNICATION OF STATE SYSTEM'S OBLIGATIONS TO PROVIDE OTHER POSTEMPLOYMENT BENEFITS.

(a) In this section, "member" means a person to whom a state system provides, or has promised to provide, other postemployment benefits, including:

- (1) a retiree, annuitant, or employee; or
- (2) a spouse, surviving spouse, or other dependent.

(b) A state system shall fully disclose to its members that the system is not obligated to provide benefits beyond existing statutory, constitutional, or other legal requirements. This includes requirements that limit the duration for which benefits are legally obligated such as Section 6, Article VIII, Texas Constitution, which limits appropriations to two years or less, and other requirements that limit expenditures to one year or less or some other term.

(c) A state system shall inform its members about the extent of the system's commitments regarding other postemployment benefits, including whether the other postemployment benefits are limited by funding obligations or whether the funding obligations extend throughout the life of the member.

(d) A state system shall disclose on the entity's website the information required by this section.

(e) Other governmental entities of this state or its political subdivisions may comply with this section.

Sec. 2264.104. DISCLOSURE OF INFORMATION ON FINANCIAL STATEMENTS; GENERALLY. This state or a political subdivision of this state shall disclose in its notes to the financial statement in a manner consistent with this subchapter:

(1) other postemployment benefits that it provides in its substantive plan, including:

(A) the covered employee groups;

(B) eligibility requirements; and

(C) the amount, described in an appropriate manner, of obligations that it and the member contribute;

(2) the statutory, contractual, or other authority under which other postemployment benefits are provided under Subdivision (1);

(3) the accounting, financing, and funding policies that it follows;

(4) the amount of other postemployment benefits expenditures that it recognizes during the period, net of member contributions;

(5) the number of members currently eligible to receive other postemployment benefits;

(6) any significant matters that affect the comparability of the disclosures required by this section with those for the previous period; and

(7) any additional information that it believes will assist in explaining the nature and cost of its commitment to provide other postemployment benefits.

Sec. 2264.105. ADDITIONAL OPTIONAL FINANCIAL DISCLOSURES. (a) This state or a political subdivision of this state may disclose, for informational and planning purposes only and in a manner consistent with this subchapter, the expense and liability that would exist if other postemployment benefits had been guaranteed to members.

(b) This state or a political subdivision may make this supplemental disclosure in its other supplemental statistical information to the financial statements by disclosing:

(1) its actuarial methods and assumptions or other estimation methodology;

(2) its net other postemployment benefits obligation;

(3) its funding status and funding progress;

(4) that the supplemental disclosure is for informational purposes only and is not an obligation or other promise to provide benefits beyond that approved by its governing body; and

(5) any additional information that it believes will help explain the nature and cost of a potential commitment to provide other postemployment benefits.

Sec. 2264.106. COMPTROLLER WEBSITE. (a) The comptroller shall maintain a website to provide guidance to the state and its political subdivisions in implementing the requirements and goals of this subchapter.

(b) The site must include information that makes the site a resource tool for the state and its political subdivisions to consistently manage other postemployment benefits to conform to statutory, constitutional, and other legal requirements.

Sec. 2264.107. COMPTROLLER ADVICE AND REPORTING REQUIREMENTS. (a) The comptroller shall issue reporting requirements for state retirement systems, including state systems, to provide guidance on how to comply with accounting principles in a manner consistent with this subchapter.

(b) The comptroller shall provide advice to a political subdivision of this state that requests advice on how to apply accounting principles in a manner consistent with this subchapter.

SECTION 3. Section 112.002(c), Local Government Code, is repealed.

SECTION 4. (a) The changes in law made by this Act apply to financial accounting and reporting by a governmental entity subject to Chapter 2264, Government Code, as added by this Act, beginning with fiscal year 2007 including the Teacher Retirement System of Texas, and beginning with fiscal year 2008 for the Employees Retirement of System of Texas, The Texas A&M University System and The University of Texas System.

(b) Not later than December 1, 2007, the Teacher Retirement System of Texas shall comply with Section 2264.103, Government Code, as added by this Act. Not later than December 1, 2008, The Employees Retirement of System of Texas, The Texas A&M University System and The University of Texas System shall comply with Section 2264.103, Government Code, as added by this Act.

SECTION 5. 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 August 27, 2007.

**HB 3552 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 3552**, A bill to be entitled An Act relating to the issuance of private activity bonds.

Representative Orr moved to concur in the senate amendments to **HB 3552**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1723): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; 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; 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; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales; Puente.

Absent — Brown, B.; Corte; Moreno; Talton.

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

Amend **HB 3552** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Section 1372.0221, Government Code, is amended to read as follows:

Sec. 1372.0221. DEDICATION OF PORTION OF STATE CEILING FOR PROFESSIONAL EDUCATORS HOME LOAN PROGRAM. Until August 7 [±], out of that portion of the state ceiling that is available exclusively for

reservations by the Texas State Affordable Housing Corporation [~~issuers of qualified mortgage bonds~~] under Section 1372.0223, 54.5 percent [~~1372.022, \$25 million~~] shall be allotted each year and made available [~~exclusively~~] to the corporation [~~Texas State Affordable Housing Corporation~~] for the purpose of issuing qualified mortgage bonds in connection with the professional educators home loan program established under Section 2306.562.

SECTION \_\_\_\_\_. Section 1372.0222, Government Code, is amended to read as follows:

Sec. 1372.0222. DEDICATION OF PORTION OF STATE CEILING FOR FIRE FIGHTER AND LAW ENFORCEMENT OR SECURITY OFFICER HOME LOAN PROGRAM. Until August 7 [~~+~~], out of that portion of the state ceiling that is available exclusively for reservations by the Texas State Affordable Housing Corporation [~~issuers of qualified mortgage bonds~~] under Section 1372.0223, 45.5 percent [~~1372.022, \$25 million~~] shall be allotted each year and made available [~~exclusively~~] to the corporation [~~Texas State Affordable Housing Corporation~~] for the purpose of issuing qualified mortgage bonds in connection with the fire fighter, law enforcement officer, and security officer home loan program established under Section 2306.5621.

SECTION \_\_\_\_\_. Section 1372.0223, Government Code, is amended to read as follows:

Sec. 1372.0223. DEDICATION OF PORTION OF STATE CEILING TO CERTAIN ISSUERS OF QUALIFIED MORTGAGE BONDS [~~FOR PROFESSIONAL NURSING PROGRAM FACULTY MEMBER HOME LOAN PROGRAM~~]. Until August 7 [~~+~~], out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022:

(1) 10 percent is [~~55 million shall be allotted each year and made~~] available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds; and

(2) 56.66 percent is available exclusively to housing finance corporations for the purpose of issuing qualified mortgage bonds [~~in connection with the professional nursing program faculty member home loan program established under Section 2306.5622~~].

SECTION \_\_\_\_\_. Section 1372.023(a), Government Code, is amended to read as follows:

(a) Until August 7 [~~15~~], of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, 33.34 percent [~~one third~~] is available exclusively to the Texas Department of Housing and Community Affairs for the purpose of issuing qualified mortgage bonds.

SECTION \_\_\_\_\_. Section 1372.037(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), before August 15 [~~September 1~~] the board may not grant for any single project a reservation for that year that is greater than:

(1) \$25 million, if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation;

(2) \$50 million, if the issuer is an issuer of a state-voted issue, other than the Texas Higher Education Coordinating Board, or \$75 million, if the issuer is the Texas Higher Education Coordinating Board;

(3) the amount to which the Internal Revenue Code limits issuers of qualified small issue bonds and enterprise zone facility bonds, if the issuer is an issuer of those bonds;

(4) the lesser of \$15 million or 15 percent of the amount set aside for reservation by issuers of qualified residential rental project bonds, if the issuer is an issuer of those bonds;

(5) the amount as prescribed in Sections 1372.033(d), (e), and (f), if the issuer is an issuer authorized by Section 53.47, Education Code, to issue qualified student loan bonds; or

(6) \$50 million, if the issuer is any other issuer of bonds that require an allocation.

SECTION \_\_\_\_\_. Sections 2306.553(a) and (b), Government Code, are amended to read as follows:

(a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income and[;] for persons who are eligible for loans [~~professional educators~~] under the [~~professional educators~~] home loan programs [~~program as~~] provided by Sections [~~Section~~] 2306.562 and[; for fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program as provided by Section] 2306.5621[; and for professional nursing program faculty members under the professional nursing program faculty member home loan program as provided by Section 2306.5622]. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

(b) The corporation's primary public purpose is to facilitate the provision of housing by issuing qualified 501(c)(3) bonds and qualified residential rental project bonds and by making affordable loans to individuals and families of low, very low, and extremely low income and[;] to persons who are eligible for loans under the home loan programs provided by Sections 2306.562 and 2306.5621 [~~professional educators under the professional educators home loan program, to fire fighters, corrections officers, county jailers, public security officers, and peace officers under the fire fighter, law enforcement officer, and security officer home loan program, and to professional nursing program faculty members under the professional nursing program faculty member home loan program~~]. The corporation may make first lien, single family purchase money mortgage loans for single family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not

more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

SECTION \_\_\_\_\_. Sections 2306.562(a), (b), and (c), Government Code, are amended to read as follows:

(a) In this section:

(1) "Allied health program faculty member" means a full-time member of the faculty of an undergraduate or graduate allied health program of a public or private institution of higher education in this state.

(1-a) "Graduate allied health program" means a postbaccalaureate certificate or master's or doctoral degree program in an allied health profession that is accredited by an accrediting entity recognized by the United States Department of Education.

(1-b) "Graduate professional nursing program" and "undergraduate professional nursing program" have the meanings assigned by Section 54.221, Education Code.

(2) "Home" means a dwelling in this state in which a professional educator intends to reside as the professional educator's principal residence.

(3) [~~2~~] "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) [~~3~~] "Professional educator" means a classroom teacher, full-time paid teacher's aide, full-time librarian, full-time counselor certified under Subchapter B, Chapter 21, Education Code, [~~or~~] full-time school nurse, or allied health or professional nursing program faculty member.

(5) "Professional nursing program faculty member" means a full-time member of the faculty of either an undergraduate or graduate professional nursing program.

(6) [~~4~~] "Program" means the professional educators home loan program.

(7) "Undergraduate allied health program" means an undergraduate degree or certificate program that:

(A) prepares students for licensure, certification, or registration in an allied health profession; and

(B) is accredited by an accrediting entity recognized by the United States Department of Education.

(b) The corporation shall establish a program to provide low-interest home mortgage loans to eligible professional educators whose income does not exceed the greater of:

(1) 115 percent of area median family income, adjusted for family size;  
or  
 (2) the maximum amount permitted by Section 143(f), Internal Revenue Code of 1986 [~~with low interest home mortgage loans~~].

(c) To be eligible for a loan under this section, a professional educator must:  
 (1) reside in this state on the application date; and  
 (2) be employed by a school district or be an allied health or professional nursing program faculty member in this state on the application date.

SECTION \_\_\_\_\_. Section 2306.5622, Government Code, is repealed.

### **HB 4139 - HOUSE CONCURS IN SENATE AMENDMENTS**

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

**HB 4139**, A bill to be entitled An Act relating to the creation of a county court at law in Van Zandt County.

Representative Flynn moved to concur in the senate amendments to **HB 4139**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1724): 145 Yeas, 0 Nays, 2 Present, not voting. (The vote was reconsidered later today, the house refused to concur in senate amendments, and a conference committee was appointed.)

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; 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; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused — Gonzales; Puente.

Absent — Moreno.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 1724. I intended to vote no.

R. Cook

**HB 3275 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3275**, A bill to be entitled An Act relating to the distribution of federal funds for highway projects.

Representative Miller 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 3275**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3275**: Miller, chair; Callegari, Escobar, O'Day, and Peña.

**HB 109 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 109**, A bill to be entitled An Act relating to eligibility for and information regarding the child health plan program.

Representative Turner 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 109**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 109**: Turner, chair; J. Davis, Hughes, S. King, and Dukes.

**HB 945 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 945**, A bill to be entitled An Act relating to the dates on which certain independent school districts may hold an election of trustees.

Representative Herrero 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 945**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 945**: Herrero, chair; Branch, Eissler, Hochberg, and Zedler.

**HB 1457 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1457**, A bill to be entitled An Act relating to the acceptable methods for disposal of poultry carcasses.

Representative McReynolds 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 1457**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1457**: McReynolds, chair; Chisum, Homer, Miller, and Kuempel.

**HB 1470 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1470**, A bill to be entitled An Act relating to the continuation of the Texas Economic Development Act and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.

Representative Eissler moved to concur in the senate amendments to **HB 1470**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1725): 140 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; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg;

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

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

Absent, Excused — Gonzales; Puente.

Absent — Chavez; Dunnam; Howard, C.; Miles; Moreno; Swinford.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1725. I intended to vote no.

Herrero

I was shown voting yes on Record No. 1725. I intended to vote no.

Leibowitz

### Senate Committee Substitute

**CSHB 1470**, A bill to be entitled An Act relating to the Texas Economic Development Act, including the continuation of that Act and tax credits claimed under that Act, and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.

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

SECTION 1. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2011 [2007].

SECTION 2. Section 313.025, Tax Code, is amended by amending Subsections (b) and (d) and adding Subsection (b-1) to read as follows:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall deliver three copies of the application to the comptroller and request that the comptroller provide ~~engage a third person to conduct~~ an economic impact evaluation of the application to ~~on behalf of~~ the school district. Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a

fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall ~~and~~ approve or disapprove an application before the 121st day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b-1) The comptroller shall indicate on one copy of the application the date the comptroller received the application and deliver that copy to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities, as required to be included in the economic impact evaluation by Section 313.026(a)(9), and submit a written report containing the agency's determination to the comptroller. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the application indicates that the comptroller received the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the comptroller. A third person contracted by the comptroller to conduct an economic impact evaluation of an application is not required to make a determination that the Texas Education Agency is required to make and report to the comptroller under this subsection.

(d) ~~[On receipt of an application under this section that the governing body elects to consider, the school district shall deliver one copy of the application to the comptroller.]~~ Before the 61st day after the date the comptroller receives the copy of the application [is received], the comptroller~~[, using the criteria listed in Section 313.026.]~~ shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

SECTION 3. Section 313.025, Tax Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

SECTION 4. Section 313.026, Tax Code, is amended to read as follows:

Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The economic impact evaluation of the application must include the following:

- (1) the recommendations of the comptroller;
- (2) the relationship between the applicant's industry and the types of qualifying jobs to be created by the applicant to the long-term economic growth plans of this state as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Government Code, as that section existed before February 1, 1999;

(3) the relative level of the applicant's investment per qualifying job to be created by the applicant;

(4) the wages, salaries, and benefits to be offered by the applicant to qualifying job holders;

(5) the ability of the applicant to locate or relocate in another state or another region of this state;

(6) the impact the added infrastructure will have on the region, including:

(A) revenue gains that would be realized by the school district; and

(B) subsequent economic effects on the local and regional tax bases;

(7) the economic condition of the region of the state at the time the person's application is being considered;

(8) the number of new facilities built or expanded in the region during the two years preceding the date of the application that were eligible to apply for a limitation on appraised value under this subchapter; and

(9) the effect of the applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Education Code.

(b) The comptroller's recommendations shall be based on the criteria listed in Subsections (a)(2)-(9) and on any other information available to the comptroller, including information provided by the governing body of the school district under Section 313.025(b).

(c) Subsection (b) does not apply to the comptroller's recommendations made before December 31, 2007. This subsection expires December 31, 2008.

SECTION 5. Section 313.104, Tax Code, is amended to read as follows:

Sec. 313.104. ACTION ON APPLICATION; GRANT OF CREDIT. Before the 90th day after the date the application for a tax credit is filed, the governing body of the school district shall:

(1) determine the person's eligibility for a tax credit under this subchapter; and

(2) if the person's application is approved, by order or resolution direct the collector of taxes for the school district:

(A) in the second and subsequent six tax years that begin after the date the application is approved, to credit against the taxes imposed on the qualified property by the district in that year an amount equal to one-seventh of the total amount of tax credit to which the person is entitled under Section 313.102, except that the amount of a credit granted in any of those tax years may not exceed 50 percent of the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year; and

(B) in the first three tax years [~~year~~] that begin [~~begins~~] on or after the date the person's eligibility for the limitation under Subchapter B or C expires, to credit against the taxes imposed on the qualified property by the district an amount equal to the portion of the total amount of tax credit to which the person is entitled under Section 313.102 that was not credited against the person's taxes under Paragraph (A) in a tax year covered by Paragraph (A),

except that the amount of a tax credit granted under this paragraph in any tax year may not exceed the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year.

SECTION 6. Sections 16(a) and (d), Chapter 1, Acts of the 79th Legislature, 3rd Called Session, 2006, are repealed.

SECTION 7. (a) Except as provided by Subsection (b) of this section, Sections 313.025 and 313.026, Tax Code, as amended by this Act, apply only to an application for a limitation on appraised value under Chapter 313 of that code in connection with which the governing body of a school district, before December 31, 2007, has not engaged a third person to conduct an economic impact evaluation. An application for a limitation on appraised value in connection with which the governing body of a school district, before December 31, 2007, has engaged a third person to conduct an economic impact evaluation is governed by the law in effect immediately before December 31, 2007, and the former law is continued in effect for that purpose.

(b) Subsection (a) of this section does not apply to Section 313.025(f-1), Tax Code, as added by this Act.

(c) The changes in law made by this Act to Section 313.104, Tax Code, apply only to an application for a school tax credit under Subchapter D, Chapter 313, Tax Code, that is filed on or after the effective date provided by Section 8(a) of this Act. An application for a school tax credit under Subchapter D, Chapter 313, Tax Code, that was filed before that date is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 8. (a) Except as otherwise provided by Subsection (b) of this section, 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.

(b) Section 2 of this Act takes effect December 31, 2007.

(Goolsby in the chair)

### **HB 1609 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1609**, A bill to be entitled An Act relating to the Communities In Schools program.

Representative Crownover moved to concur in the senate amendments to **HB 1609**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1726): 144 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; Gonzalez Toureilles; 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; Peña; Phillips; Pickett; Pierson; Pitts; 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; Goolsby(C).

Absent, Excused — Gonzales; Puente.

Absent — Moreno; Paxton.

### Senate Committee Substitute

**CSHB 1609**, A bill to be entitled An Act relating to the Communities In Schools program.

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

SECTION 1. Sections 33.154 and 33.155, Education Code, are amended to read as follows:

Sec. 33.154. DUTIES OF COMMISSIONER [~~STATE DIRECTOR~~]. (a) The commissioner [~~state director~~] shall:

(1) coordinate the efforts of the Communities In Schools program with other social service organizations and agencies and with public school personnel to provide services to students who are at risk of dropping out of school or engaging in delinquent conduct, including students who are in family conflict or emotional crisis;

(2) set standards for the Communities In Schools program and establish state performance goals, objectives, and measures for the program, including performance goals, objectives, and measures that consider improvement in student:

(A) behavior;

(B) academic achievement; and

(C) promotion, graduation, retention, and dropout rates;

(3) obtain information to determine accomplishment of state performance goals, objectives, and measures;

(4) promote and market the program in communities in which the program is not established;

(5) help communities that want to participate in the program establish a local funding base; ~~and~~

(6) provide training and technical assistance for participating communities and programs; and

(7) adopt policies concerning:

(A) the responsibility of the agency in encouraging local businesses to participate in local Communities In Schools programs;

(B) the responsibility of the agency in obtaining information from participating school districts;

(C) the use of federal or state funds available to the agency for programs of this nature; and

(D) any other areas concerning the program identified by the commissioner.

(b) The commissioner shall adopt rules to implement the policies described by Subsection (a)(7) and shall annually update the rules.

(c) Notwithstanding any provision of this subchapter, if the commissioner determines that a program consistently fails to achieve the performance goals, objectives, and measures established by the commissioner under Subsection (a)(2), the commissioner may withhold funding from that program and require the program to compete through a competitive bidding process to receive funding to participate in the program.

Sec. 33.155. [DEPARTMENT] COOPERATION WITH COMMUNITIES IN SCHOOLS, INC. [~~MEMORANDUM OF UNDERSTANDING.~~ (a)] The agency[~~, the department,~~] and Communities In Schools, Inc. shall work together to maximize the effectiveness of the Communities In Schools program.

SECTION 2. Subchapter E, Chapter 33, Education Code, is amended by adding Section 33.159 to read as follows:

Sec. 33.159. AGENCY PERFORMANCE OF COMMUNITIES IN SCHOOLS FUNCTIONS REQUIRED. The agency, through the Communities In Schools State Office:

(1) must perform each function concerning the Communities In Schools program for which the agency is responsible; and

(2) may not contract with a private entity to perform a function described by Subdivision (1).

SECTION 3. Section 42.152, Education Code, is amended by adding Subsection (u) to read as follows:

(u) From the total amount of funds appropriated for allotments under this section, the commissioner shall, each fiscal year, withhold an amount to be determined by appropriation for prekindergarten through high school programs under Subchapter E, Chapter 33, and distribute that amount as provided by Section 33.156. After deducting the amount withheld under this subsection from the total amount appropriated for the allotment under Subsection (a), the

commissioner shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 42.253 and shall allocate funds to each district accordingly.

SECTION 4. Sections 33.151(1), 33.153, and 33.155(b) and (c), Education Code, are repealed.

SECTION 5. This Act takes effect September 1, 2007.

## **HB 2 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2**, A bill to be entitled An Act relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions.

Representative Chisum moved to concur in the senate amendments to **HB 2**.

### **HB 2 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE CHISUM: Mr. Speaker and members, what this amendment that the senate put on **HB 2** does, is it moves the money that is not spent there in this legislative session into the property tax relief fund, not to exceed \$3 billion. That's all it does. It parks it over there, it does not change the fact that it's general revenue money. If the legislature, for whatever reason, may in fact be called back into session, they can always reaccess this money, but if not, it would be over there, and we would have money available for the property tax relief during the next legislative session.

REPRESENTATIVE BRANCH: Thank you, Mr. Speaker. Mr. Chairman, we just had a discussion with a member of the LBB, and in that discussion, along with Mr. Hochberg and some others, we were informed that to the best of their understanding, and then we looked at statutes, that this money can be parked, but it also could be unparked by a future legislature.

CHISUM: Absolutely. All this does is move the money into the property tax relief fund, where the money dedicated from the new margin tax will go in, as well as the cigarette tax, and the other taxes that are dedicated to that, and then it would have to be appropriated out of that if it was ever spent, but it also could be moved back out any time we wanted to do that.

BRANCH: You asked the question whether or not it's still general revenue, and the answer is yes?

CHISUM: The answer was yes. This does not change the status of this money. It does not become GR-dedicated, it is only GR, general revenue.

BRANCH: So this truly is parking the money until we see how the revised franchise tax plays out next May, this time next year which will be our first opportunity to see that, and we'll see how the cigarette tax plays out, and the used car tax plays out. We're not going to really know what is in that fund, is that correct?

CHISUM: That's exactly right.

BRANCH: And so we're not doing anything here that's dedicated, that we can't undo, but we are putting this money aside?

CHISUM: Yes, that's right. We are setting this money aside because we know that we've had to put \$6 billion in this legislative session, and in order to meet our obligations in the next legislative session, it would certainly be a large number, possibly not quite as much because our new margin tax may, in fact, raise some money for us.

BRANCH: The language is a little bit complex, but the net effect I think you stated, so the members will know any dollars, as of August 31, 2008, that's surplus, would move over, it would still be GR, but no more than \$3 billion.

CHISUM: That is correct.

BRANCH: And we know this year we're planning to put \$6 billion into GR, so this is just seems to be doing half, up to half, being prudent, but having the ability to pull it back, keeping flexibility.

## HB 2 - POINT OF ORDER

Representative Villarreal raised a point of order against further consideration of **HB 2** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane to the bill.

The chair overruled the point of order.

## REMARKS ORDERED PRINTED

Representative Burnam moved to print all remarks on **HB 2**.

The motion prevailed.

Representative Coleman offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

(Speaker in the chair)

Representative Chisum moved to table the substitute motion to not concur and to appoint a conference committee.

A record vote was requested.

The motion to table prevailed by (Record 1727): 83 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Farabee; Flynn; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Hopson; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; Mowery;

Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; 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; Flores; Frost; Gallego; Garcia; Giddings; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pierson; Quintanilla; Raymond; Rodriguez; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales; Puente.

Absent — Crownover; Homer; Moreno; Smithee.

### MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 3 and 4).

#### **HB 2 - (consideration continued)**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1728): 86 Yeas, 53 Nays, 1 Present, not voting.

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

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farias; Farrar; Flores; Gallego; Garcia; Giddings; Gonzalez Toureilles; Guillen; Hamilton; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez Fischer; McReynolds; Miles; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pierson; Quintanilla; Ritter; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales; Puente.

Absent — Cohen; Martinez; Menendez; Moreno; Peña; Pickett; Smithee; Zedler.

### STATEMENTS OF VOTE

When Record No. 1728 was taken, my vote failed to register. I would have voted no.

Cohen

I was shown voting yes on Record No. 1728. I intended to vote no.

McClendon

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

Amend **HB 2** (senate committee printing) by adding the following appropriately numbered new SECTION after existing SECTION 1 of the bill and renumbering the other existing SECTION of the bill accordingly:

SECTION \_\_\_\_\_. (a) On August 31, 2008, the comptroller of public accounts shall transfer into the property tax relief fund an amount of unappropriated general revenue available for certification equal to \$2 billion, except that:

(1) if the amount of unappropriated general revenue available for certification in the state treasury on August 31, 2008, is greater than \$2 billion, the comptroller shall transfer into the property tax relief fund on that date an amount of general revenue equal to the lesser of \$3 billion or the amount of unappropriated general revenue available for certification in the state treasury on that date; and

(2) if the amount of unappropriated general revenue available for certification in the state treasury on August 31, 2008, is less than \$2 billion, the comptroller shall transfer into the property tax relief fund on that date all unappropriated general revenue available for certification in the state treasury on that date.

(b) Notwithstanding Section 1 of this Act, money transferred under this section is not appropriated by this Act and may not be appropriated for expenditure during the state fiscal biennium ending August 31, 2009.

### **HB 2034 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2034**, A bill to be entitled An Act relating to the regulation of sex offender treatment providers.

Representative England 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 2034**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2034**: England, chair; Haggerty, Madden, McReynolds, and Oliveira.

**HB 2074 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

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

**HB 2074**, A bill to be entitled An Act relating to the creation of the East Williamson County Multi-Institution Teaching Center.

Representative Krusee moved to concur in the senate amendments to **HB 2074**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1729): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; 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; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; 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 — Aycock.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales; Puente.

Absent — Bailey; England; Flores; McClendon; Moreno; Noriega.

**STATEMENT OF VOTE**

When Record No. 1729 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

### Senate Committee Substitute

**CSHB 2074**, A bill to be entitled An Act relating to the creation of the East Williamson County Multi-Institution Teaching Center.

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

SECTION 1. Chapter 130, Education Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SPECIAL PROGRAMS OPERATED BY CERTAIN  
JUNIOR COLLEGE DISTRICTS

Sec. 130.091. DEFINITION. In this chapter "institution of higher education" has the meaning assigned by Section 61.003.

Sec. 130.092. EAST WILLIAMSON COUNTY MULTI-INSTITUTION TEACHING CENTER. (a) The Temple Junior College District may establish, in conjunction with at least one of the following institutions, the East Williamson County Multi-Institution Teaching Center:

- (1) Tarleton State University;
- (2) Tarleton State University System Center—Central Texas;
- (3) Texas State Technical College—Waco; or
- (4) another public or private institution of higher education.

(b) The center shall provide coordinated higher education opportunities to the residents of the region in which the center is located by offering academic credit courses and programs from the member institutions of the center. The center must be administered under a formal agreement entered into by the Temple Junior College District with the other member institutions.

(c) The member institutions of the center shall work with the local community to identify and offer courses that will meet the educational and workforce development goals for the region served by the center.

(d) The member institutions of the center may, under the terms of the formal agreement, make provisions for adequate physical facilities for use by the center.

(e) The member institutions of the center may solicit, accept, and administer, on terms and conditions acceptable to the members, gifts, grants, or donations of any kind and from any source for use by the center.

SECTION 2. 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.

### **HB 2138 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2138**, A bill to be entitled An Act relating to regulation of property tax lenders; providing a penalty.

Representative Orr moved to concur in the senate amendments to **HB 2138**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1730):  
146 Yeas, 0 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; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; 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 — Gonzales; Puente.

Absent — Moreno.

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

Amend SECTION 1 of the bill by adding a new Section 351.164 to read as follows:

Sec. 351.164. REPORTING REQUIREMENT. (a) Each year, a license holder shall file with the commissioner a report that contains relevant information concerning its transactions conducted under this chapter.

(b) A report under this section must be:

(1) under oath; and

(2) in the form prescribed by the commissioner.

(c) A report under this section is confidential.

(d) Annually the commissioner shall prepare and publish a consolidated analysis and recapitulation of reports filed under this section.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 1)**

Amend **HB 2138**, in SECTION 4 of the bill, in amended Subsection (d), Section 32.065, Tax Code (committee printing page 5, line 58), by striking "Chapters 342, 343, and 346, Finance Code," and substituting "Chapters 342 and 346, Finance Code, and the provisions of Chapter 343, Finance Code, other than Sections 343.203 and 343.205,".

**HB 4069 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4069**, A bill to be entitled An Act relating to the creation of the Platinum Ranch Municipal Utility District No. 1 of Grayson County; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

Representative Phillips moved to concur in the senate amendments to **HB 4069**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1731): 143 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; 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; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; 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; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; 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 — Castro.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales; Puente.

Absent — Heflin; Krusee; Moreno.

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

Amend **HB 4069** by striking all below the enacting clause and substituting the following:

ARTICLE 1. DOUBLE PLATINUM RANCH WATER  
CONTROL AND IMPROVEMENT DISTRICT NO. 1 OF GRAYSON  
COUNTY

SECTION 1.01. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9206 to read as follows:

CHAPTER 9206. DOUBLE PLATINUM RANCH WATER CONTROL AND  
IMPROVEMENT DISTRICT NO. 1 OF GRAYSON COUNTY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9206.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County.

Sec. 9206.002. NATURE OF DISTRICT. The district is a water control and improvement district in Grayson County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9206.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 9206.064 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Grayson County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 9206.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 1.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 1.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or other indebtedness; or

(4) the legality or operation of the district or the board.

Sec. 9206.005. ANNEXATION BY CITY OF GUNTER. (a) Notwithstanding any other law, if all of the territory of the district is annexed by the City of Gunter into the corporate limits of that municipality before the date of the election held to confirm the creation of the district, the district may not be dissolved and shall continue until the district is dissolved under Section 43.074, Local Government Code.

(b) Any future annexation or inclusion of additional territory into a district governed by this chapter may not occur unless the City of Gunter is allowed to voluntarily annex the same territory into its corporate limits.

[Sections 9206.006-9206.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9206.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 9206.061 of this code and Section 49.102, Water Code, directors serve staggered four-year terms, with the terms of two or three directors expiring June 1 of each even-numbered year.

Sec. 9206.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 9206.053-9206.060 reserved for expansion]  
SUBCHAPTER B-1. TEMPORARY PROVISIONS

Sec. 9206.061. INITIAL DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as initial directors the five persons named in the petition.

(b) The commission shall appoint as initial directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If an initial director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Initial directors serve until the earlier of:

(1) the date the first directors are elected at the confirmation election under Section 9206.064; or

(2) the date this subchapter expires under Section 9206.066.

Sec. 9206.062. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. As soon as practicable after all the initial directors have qualified under Section 49.055, Water Code, the initial directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the initial directors shall elect officers from among the initial directors and conduct any other district business.

Sec. 9206.063. CONSENT OF MUNICIPALITY REQUIRED. The initial directors may not hold an election under Section 9206.064 until all of the territory of the district is included in the corporate limits of the City of Gunter.

Sec. 9206.064. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The initial directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 9206.065. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 9206.064 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 9206.066. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 9206.067-9206.100 reserved for expansion]  
SUBCHAPTER C. POWERS AND DUTIES

Sec. 9206.101. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. (a) The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

(b) Notwithstanding Subsection (a), the district may not act as a retail provider of water or wastewater services.

(c) The district shall make its water and wastewater facilities available to an entity holding the applicable certificate of convenience and necessity.

Sec. 9206.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) If a portion of the territory of the district is excluded from the corporate limits of the City of Gunter, the district shall:

(1) improve, maintain, repair, and operate the roads located in that portion of territory in accordance with the ordinances and rules of the political subdivision possessing jurisdiction over the roads in that portion of territory; and

(2) pay the entire cost of performing the district's duties under Subdivision (1).

Sec. 9206.103. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) each new district is within the corporate limits of the City of Gunter.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Sections 51.748 through 51.753, Water Code, do not apply to the district.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) At the time of creation, any new district created by the division of the district may not contain any land outside the area described by Section 1.02 of the article creating this chapter.

[Sections 9206.104-9206.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9206.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 9206.201.

[Sections 9206.152-9206.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 9206.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 51, Water Code, to finance the construction, maintenance, or operation of a project under Section 9206.101 or 9206.102.

(b) The district may not issue bonds to finance projects authorized by Section 9206.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 9206.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 1.02. The Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County includes all the territory contained in the following area:

TRACT ONE:

All that certain tract or parcel of land situated in the John Palms Survey, Abstract Number 926, County of Grayson, State of Texas, said tract being part of a called 197.3 acre tract as described in Deed to Dryden Dorchester Ltd., filed 27 December 2000, and Recorded in Volume 3014, Page 743 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

BEGINNING for the northeast corner of the tract being herein at a Wood Fence corner Post, said post being the northeast corner of said Dryden tract, and the southeast corner of a tract as described in Deed to Gordon W. Doodier et ux, Delores Goodier, filed 14 January 1971, and Recorded in Volume 1179, Page 63 of said Deed Records, said post also being on a west line of a called 1022 acre tract as described in Tract 7 in Deed to Jeribeth Sharp, filed 30 June 1998, and Recorded in Volume 2668 Page 09 of said Deed Records;

THENCE South 00 degrees 20 minutes 01 seconds East, with the east line of said Dryden tract, and west line of said Sharp tract, a distance of 3318.06 feet to a set  $\frac{1}{2}$  inch Steel Square Tubing for the southeast corner of said Dryden tract, and an ell corner of said Sharp tract;

THENCE South 88 degrees 45 minutes 58 8 seconds West, with the south line at said Dryden tract, a distance of 2576.18 feet to a set  $\frac{1}{2}$  inch Steel Square Tubing for the southwest corner of said Dryden tract, and an ell corner of said Sharp tract,

Thence: North 00 degrees 23 minutes 33 seconds West, with the west line of said Dryden tract, a distance of 3325.00 feet to a found  $\frac{1}{2}$  inch Steel Rebar at the base of a wood fence corner post, being an ell corner of said Dryden tract and Sharp tract and the Palms Survey, and being the northeast corner of the John D. Nelson Survey, Abstract Number 902;

THENCE South 89 degrees 45 minutes 03 seconds West, with a wire fence line, and a south line of said Dryden tract, and a line of said Sharp tract, a distance of 790.04 feet to a Wood Fence post for the southwest corner of said Dryden tract, an ell corner of said Palms Survey, and the southeast corner of the Antonia Hernandez Survey, Abstract Number 489;

THENCE North, a distance of 26.12 feet to a set  $\frac{1}{2}$  inch Steel Square Tubing Ike the northwest corner of said Dryden tract, and the southwest corner of a tract described in Deed to Marjoriet Limited, filed 24 March 1999, and Recorded in Volume 2769 Page 624 of said Deed Records;

THENCE North 89 degrees 45 minutes 03 seconds East, with the north line of said Dryden tract, and the south line of said Marjoriet tract, a distance of 789.43 feet to a Wood Fence corner Post for a corner;

THENCE North 89 degrees 30 minuses 06 seconds East, with the north line of said Dryden tract, and passing the southeast corner of said Marjoriet tract, and the southwest corner of said Goodier tract, and continuing on said course for a total distance of 2579.75 feet to the POINT OF BEGINNING and containing 197.783 acres of land.

TRACT TWO:

Being a 1,022.20 acre tract of land situated in the John Palms Survey, Abstract No. 926, and the John D. Nelson Survey, Abstract No. 902, and being that certain tract of land conveyed to as Tract I, to Marita Wiseman Sharp, Marita Wiseman Sharp Grantor Trust, and Billy Jack Sharp Grantor Trust, by deed recorded in Volume 2427, Page 448, and also conveyed as Tract 7, to Billy Jack Sharp Grantor Trust, by deed recorded in Volume 2668, Page 00009, all of the Deed Records of Grayson County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod set for corner, said point being the southeast corner of said Billy Jack Sharp Grantor Trust tract, and being at the centerline intersection more or less, of McDonald Road, and Kimberlin Road;

THENCE North  $86^{\circ}52'06''$  West, along the common line of said Billy Jack Sharp Grantor Trust tract, and the centerline more or less of said Kimberlin Road, and along the south line of said Palms Survey, passing the southwest corner of said Palms Survey, same being the southeast corner of said Nelson Survey, and continuing along the south line of said Nelson Survey, a distance of 6400.79 feet to a 1/2 inch iron rod set for corner, said point being in the centerline of Kimberlin Road more or less, said point being the southwest corner of said Billy Jack Sharp Grantor Trust tract, and being the southeast corner of a called 1073.77 acre tract of land conveyed to Davidson Land and Cattle Company, by deed recorded in Volume 2235, Page 583, of the Deed Records of Grayson County, Texas;

THENCE North  $02^{\circ}35'02''$  East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 3806.58 feet to a 1/2 inch iron rod found for corner;

THENCE North  $85^{\circ}53'34''$  West, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 150.50 feet to a 1/2 inch iron rod found for corner;

THENCE North  $02^{\circ}33'45''$  East, continuing along the common line of said Billy Sank Grantor Trust tract, and said called 1073.77 acre tract, a distance of 1112.85 feet to a 1/2 inch iron rod found for corner;

THENCE South  $87^{\circ}09'16''$  East, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 149.97 feet to a 1/2 inch iron rod found for corner;

THENCE North  $02^{\circ}38'21''$  East, continuing along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 1073.77 acre tract, a distance of 2500.00 feet to a 1/2 inch iron rod found for corner, said point being in the north line of said Nelson Survey, and the south line of Antonio Hernandez Survey, Abstract No. 489, and being in the south line of a called 300 acre tract of land conveyed to Lucian Touchtone, et ux, by deed recorded in Volume 1013,

Page 677, of the Deed Records of Grayson County, Texas, and being the northeast corner of said called 1073.77 acre tract, and being the northwest corner of said Billy Jack Sharp Grantor Trust tract;

THENCE South  $87^{\circ}07'47''$  East, along the common line of said Palms Survey, and the said Antonio Survey, and the common line of said Billy Jack Sharp Grantor Trust tract, and said called 300 acre tract, and passing the southeast corner of said called 300 acre tract, same being the southeast corner of said Antonio Survey, same being the southwest corner of said Palms Survey, and being the southwest corner of a called 108.84 acre tract of land conveyed to Lucian Touchtone, by deed recorded in Volume 1219, Page 360, of the Deed Records of Grayson County, Texas, and continuing a total distance of 2698.53 feet to a 1/2 inch iron rod found for corner, said point being the northeast corner of said Nelson Survey, and an ell corner of a called 197.3 acre tract of land conveyed to S.A. Schott by deed recorded in Volume 359, Page 369, of the Deed Records of Grayson County, Texas;

THENCE South  $02^{\circ}52'48''$  West, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 3325.00 feet to a 1/2 inch iron rod set for corner, said point being the southwest corner of said called 197.3 acre tract;

THENCE South  $87^{\circ}56'40''$  East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 2577.31 feet to a 1/2 inch iron rod set for corner, said point being the southeast corner of said called 197.3 acre tract;

THENCE North  $02^{\circ}54'54''$  East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 197.3 acre tract, a distance of 3318.06 feet to a 1/2 inch iron rod set for corner, said point being the northwest corner of said called 197.3 acre tract, same being the southeast corner of a called 245.67 acre tract of land conveyed to Gordon W. Goodier, et ux, by deed recorded in Volume 1179, Page 63, of the Deed Records of Grayson County, Texas;

THENCE North  $03^{\circ}09'39''$  East, along the common line of said Billy Jack Sharp Grantor Trust tract, and said called 245.67 acre tract, a distance of 4542.15 feet to a 1/2 inch iron rod found for corner, said point being the northwest corner of said Billy Jack Sharp Grantor Trust tract, same being the northeast corner of said called 245.67 acre tract, and being in the south right-of-way line of F.M. Highway 902;

THENCE South  $86^{\circ}51'00''$  East, along the north line of said Billy Jack Sharp Grantor Trust tract, with the south right-of-way line of F.M. Highway 902, a distance of 1119.25 feet to a railroad spike found for corner, said point being in the centerline intersection more or less of the south right-of-way line of F.M. Highway 902, and McDonald Road, and being in the east line of said Palms Survey;

THENCE South  $02^{\circ}47'31''$  West, with the east line of said Palms Survey, and the east line of said Billy Jack Sharp Grantor Trust tract, and along the centerline of McDonald Road more or less, a distance of 12,018.20 feet to the POINT OF BEGINNING and containing 44,527,033 square feet or 1,022.20 acres of computed land.

SECTION 1.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 1.04. This article takes effect September 1, 2007.

ARTICLE 2. KIMBERLIN RANCH MUNICIPAL  
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 2.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8264 to read as follows:

CHAPTER 8264. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT  
NO. 1 OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8264.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District

No. 1 of Grayson County.

Sec. 8264.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8264.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8264.023 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Grayson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8264.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 2.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8264.005-8264.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8264.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

- (1) the date directors are elected under Section 8264.023; or
- (2) the date this chapter expires under Section 8264.003.

Sec. 8264.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8264.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 2.02 of the article creating this chapter.

Sec. 8264.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8264.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8264.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8264.026-8264.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8264.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8264.052-8264.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8264.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8264.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8264.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8264.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8264.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 2.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8264.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8264.107-8264.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8264.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8264.201.

[Sections 8264.152-8264.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8264.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8264.101 or 8264.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8264.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8264.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2.02. The Kimberlin Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

BEING situated in the County of Grayson, State of Texas, being parts of the JOHN NELSON SURVEY, ABSTRACT NO. 902, the JOHN W. BERGIN SURVEY, ABSTRACT NO. 75, and the ANTONIO HERNANDEZ SURVEY, ABSTRACT NO. 489, also being the 1073.77 acre tract of land conveyed to Davidson Land and Cattle Company, L.P. by deed recorded in Volume 2235, Page 597, Real Property Records, GRAYSON County, Texas and being described by metes and bounds as follows:

BEGINNING at a 2 inch steel rod set at the Southeast corner of the 758.750 acre tract of land conveyed to Larry Lehman, et ux, by deed of record in Volume 2555, Page 624-655, of said Real Property Records, the Southwest corner of said 1073.77 acre tract of land, said rod also being in the North line of the 208.67 acre tract of land conveyed to James and Juanell Bridges Family Living Trust by deed of record in Volume 2506, Page 146, of said Real Property Records;

THENCE North 00 degrees 00 minutes 00 seconds West with the West line of said 1073.77 acre tract and the center of a public road a distance of 4674.02 feet to a 2 inch steel rod set at the Southwest corner of a 177.93 acre tract of land conveyed to Louis M. Rexrode, et ux, by deed of record in Volume 2205, Page 639, of said Real Property Records, also being the Southeast corner of the 133.05 acre tract of land conveyed to Henry S. Jackson, et ux, by deed of record in Volume 2059, Page 273, of said Real Property Records;

THENCE North 89 degrees 22 minutes 34 seconds East with the South line of said 177.93 acre tract a distance of 2805.74 feet to a 2 inch steel rod set at a found wooden stake at the Southeast corner of said 177.93 acre tract;

THENCE North 00 degrees 32 minutes 19 seconds West with a fence and the East line of said 177.93 acre tract of land a distance of 2774.19 feet to a 2 inch steel rod set at a found wooden stake at the Northeast corner of said 177.93 acre tract;

THENCE South 89 degrees 47 minutes 48 seconds West with the North line of said 177.93 acre tract of land a distance of 2765.01 feet to a 2 inch steel rod set at the Northwest corner of said 177.93 acre tract, being in the East line of said 133.05 acre tract;

THENCE North 00 degrees 00 minutes 00 seconds West with the center of a public road and said East line a distance of 1296.86 feet to a 2 inch steel rod set at the Northwest corner of said 1073.77 acre tract, the Southeast corner of the 362.631 acre tract of land conveyed to Taylor Strawn and Ernest B. Strawn, Jr., by deed of record in Volume 2209, Page 772, of said Real Property Records, also being the Southwest corner of the 121.14 acre tract of land described as Part Two and conveyed to Jeribeth Sharp by deed of record in Volume 2668, Page 009, of said Real Property Records;

THENCE North 89 degrees 37 minutes 51 seconds East with the South line of said 121.14 acre tract, a distance of 4016.31 feet to a 2 inch steel rod set at a fence corner, being the Southeast corner of said 121.14 acre tract;

THENCE South 00 degrees 10 minutes 16 seconds East with a fence a distance of 1298.84 feet to a 2 inch steel rod set at a fence post;

THENCE North 89 degrees 30 minutes 06 seconds East with a fence a distance of 2512.99 feet to a 2 inch steel rod set at the most Easterly Northeast corner of said 1073.77 acre tract, the Northwest corner of the 1022.21 acre tract of land described as Part One as conveyed to Jeribeth Sharp by deed of record in Volume 2668, Page 009, of said Real Property Records;

THENCE with the West line of said 1022.21 acre tract of land and an existing fence line, the following calls and distances:

South 00 degrees 40 minutes 13 seconds East, a distance of 2497.50 feet to a 2 inch steel rod set at a fence corner;

South 89 degrees 32 minutes 01 seconds West a distance of 150.18 feet to a 2 inch steel rod set a fence corner;

South 00 degrees 44 minutes 41 seconds East\_ a distance of 1112.81 feet to a 2 inch steel rod set a fence corner;

South 89 degrees 13 minutes 04 seconds East a distance of 150.56 feet to a 2 inch steel rod set a fence corner;

South 00 degrees 45 minutes 51 seconds East a distance of 3832.16 feet to a 2 inch steel rod set in a public road, being the Southeast corner of said 1073.77 acre tract, also being in the North line of the 67 acre tract of land conveyed to James S. Rodgers, et ux, by deed of record in Volume 1045, Page 759, of the Deed Records, Grayson County, Texas;

THENCE South 89 degrees 24 minutes 04 seconds West with the South line of said 1073.77 acre tract a distance of 6642.95 feet to the POINT OF BEGINNING and CONTAINING 1065.860 acres of land, more or less.

SECTION 2.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 2.04. This article takes effect September 1, 2007.

ARTICLE 3. KIMBERLIN RANCH MUNICIPAL  
UTILITY DISTRICT NO. 2 OF GRAYSON COUNTY

SECTION 3.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8265 to read as follows:

CHAPTER 8265. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT  
NO. 2 OF GRAYSON COUNTY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8265.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Kimberlin Ranch Municipal Utility District

No. 2 of Grayson County.

Sec. 8265.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8265.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8265.023 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

- (A) pay any debts incurred;
- (B) transfer to Grayson County any assets that remain after the payment of debts; and
- (C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8265.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 3.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 3.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8265.005-8265.020 reserved for expansion]

SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8265.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8265.023; or

(2) the date this chapter expires under Section 8265.003.

Sec. 8265.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8265.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 3.02 of the article creating this chapter.

Sec. 8265.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8265.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8265.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8265.026-8265.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8265.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8265.052-8265.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8265.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8265.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8265.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8265.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8265.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 3.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8265.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8265.107-8265.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8265.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8264.201.

[Sections 8265.152-8265.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8265.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8265.101 or 8265.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8265.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8265.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 3.02. The Kimberlin Ranch Municipal Utility District No. 2 of Grayson County includes all the territory contained in the following area:

SITUATED in the County of GRAYSON, State of Texas, being a part of the ROBERT MASON SURVEY, ABSTRACT NO. 784 and the SAMUEL Q. PETTUS SURVEY, ABSTRACT NO. 939, being a part of a 297.715 acre tract of land (described as 300.715 acres less 3.00 acres) conveyed by Regis J. Sutton to Jean Anna Sutton in Agreement of Regis J. Sutton and Jean Anna Sutton Partitioning Community Property dated June 3, 1983, recorded in Volume 1650, Page 260, Deed Records, GRAYSON County, Texas, and being more particularly described by metes and bounds as follows to-wit:

BEGINNING at a found 1/2 inch rebar on the most Southerly South line of said 297.715 acre tract, the North line of a 201.711 acre tract of land conveyed by Charles C. Graham, et ux to Mario Feliciano, Trustee by Deed dated July 9, 1980, recorded in Volume 1523, Page 109, Deed Records, GRAYSON County, Texas, said rebar being North 87 degrees 08 minutes 06 seconds West, a distance of 626.13 feet from a found spike nail maintaining the most Southerly Southeast corner of said 297.715 acre tract, the most Northerly Northeast corner of said 201.711 acre tract, in a public road known as Wall Street Road and on an East line of said Mason Survey, the West line of the William Kinnamon Survey, Abstract No. 676;

THENCE North 87 degrees 08 minutes 06 seconds West, with the general line of a fence, the most Southerly South line of said 297.715 acre tract, the North line of said 201.711 acre tract, a distance of 1141.44 feet to a fence post;

THENCE North 87 degrees 24 minutes 28 seconds West, continuing with the general line of said fence, the Southerly South line of said 297.715 acre tract, the North line of said 201.77 acre tract, a distance of 2156.98 feet to a set spike nail at the base of a fence corner post for the Northwest corner of said 201.711 acre tract, the most Southerly Southwest corner of said 297.715 acre tract, on the East line of a 223.5639 acre tract of land conveyed by Kent Berlin to The Berlin Family Limited Partnership by Deed dated January 10, 2000, recorded in Volume 2881, Page 924, Official Public Records, GRAYSON County, Texas;

THENCE North 03 degrees 33 minutes 37 seconds East, with the general line of a fence, the East line of said 223.5639 acre tract, a distance of 1112.63 feet to a fence corner post maintaining the Northeast corner of said 223.5639 acre tract, an ell corner of said 297.715 acre tract on a North line of said Mason Survey, the South line of said Pettus Survey;

THENCE North 87 degrees 19 minutes 23 seconds West, with the general line of a fence, the North line of said 223.5639 acre tract, a North line of said Mason Survey, the South line of said Pettus Survey, passing the Northwest corner of said

223.5639 acre tract, the Northeast corner of a 20 foot wide strip of land described in Second Tract in Deed from George M. Carter, et ux to Joe D. Johnson by Deed dated March 29, 1961, recorded in Volume 930, Page 211, Deed Records, GRAYSON County, Texas and continuing for a total distance of 2911.41 feet to a set spike nail at the base of a fence corner post for the Northwest corner of said Mason Survey, the most Westerly Southwest corner of said 297.715 acre tract, the Southwest corner of said Pettus Survey, on the East line of the Sarah Shoto Survey, Abstract No. 1079, the East line of a 100 acre tract of land described in First Tract in said Volume 930, Page 211;

THENCE North 03 degrees 27 minutes 34 seconds East, with the West line of said Pettus Survey, the East line of both said Shoto Survey and 100 acre tract, passing the Northeast corner of said 100 acre tract, the Southeast corner of a 499.67 acre tract of land conveyed by Mary H. Martinek to Mary H. Martinek, Trustee of the Mary H. Martinek Revocable Living Trust by Deed dated April 11, 1997, recorded in Volume 2562, Page 196, Official Public Records, GRAYSON County, Texas and continuing with an East line of said 499.67 acre tract for a total distance of 1263.89 feet to a found 1/2 inch rebar at the base of a fence corner post, said rebar maintaining the Northwest corner of said 297.715 acre tract, the Southwest corner of a 223 acre tract of land now or formerly owned by Thelma Hunter (no Deed reference available);

THENCE South 87 degrees 25 minutes 47 seconds East, with the general line of a fence, the South line of said 223 acre tract, at a distance of 6798.67 feet to a found 3/8 inch rebar maintaining the Southeast corner of said 223 acre tract, the most Northerly Northeast corner of said 297.715 acre tract, in said Wall Street Road and on the East line of said Pettus Survey, the West line of said William Kinnamon Survey, the West line of a tract of land described in North Tract in Quitclaim Deed dated September 30, 1997 from Susan C. deCordova to Susan C. deCordova, Trustee of the deCordova Trust recorded in Volume 2577, Page 155, Official Public Records, GRAYSON County, Texas;

THENCE South 03 degrees 15 minutes 00 seconds West, with an East line of both said 297.715 acre tract and Mason Survey, the West line of both said Kinnamon Survey and North Tract, passing the Southeast corner of said Pettus Survey, the most Northerly Northeast corner of said Mason Survey and continuing for a total distance of 1680.66 feet to a found spike nail maintaining a Southeast corner of said 297.715 acre tract, the Northeast corner of a 3.00 acre tract of land conveyed by Anna Houck Trust to AHG Trust by Deed dated January 30, 2002, recorded in Volume 3194, Page 458, Official Public Records, GRAYSON County, Texas;

THENCE North 87 degrees 04 minutes 00 seconds West with the North line of said 3.00 acre tract, a distance of 626.13 feet to a found 1/2 inch rebar maintaining its Northwest corner;

THENCE South 03 degrees 15 minutes 00 seconds West, with the West line of said 3.00 acre tract, at a distance of 208.71 feet passing a found 1/2 inch rebar maintaining its Southwest corner and continuing for a total distance of 711.76 feet to the PLACE OF BEGINNING and CONTAINING 288.92 acres of land, more or less.

## TRACT 2

All that certain tract or parcel of land situated in the Robert Mason Survey, Abstract Number 784 County of Grayson, State of Texas, said tract being part of a called 69 1/2 acres tract as described in Deed to Marshall E. Anderson et ux, Marquerite Anderson, filed 11 January 1962, and Recorded in Volume 947 Page 387 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the northeast corner of the tract being described herein at a set 1/2 inch Steel Square Tubing, said tubing being the northeast corner of said Anderson tract, and the southeast corner of a called 100 acres tract as described in the First Tract, and on the west line of a called 1.56 acre tract as described in the Second tract in Deed to Joe D. Johnson, filed 30 March 1961, and Recorded in Volume 930 Page 211 of said Deed Records;

Thence: South 03 degrees 29 minutes 22 seconds West, with the east line of said Anderson tract, and with the west line of said Johnson Second Tract, a distance of 609.07 feet to a found 1/2 inch Steel Square Tubing for the northeast corner of a 1.25 acre tract as surveyed out for Dennis Keating dated 27 December 1999;

Thence: North 86 degrees 56 minutes 26 seconds West, with the north line of said Keating tract, a distance of 124.72 feet to a found 1/2 inch Steel Square Tubing for the northwest corner of said Keating tract;

Thence: South 03 degrees 32 minutes 41 seconds West, with the west line of said Keating tract, a distance of 435.58 feet to a found 1/2 inch Steel Square Tubing for the southwest corner of said Heating tract, and on the north Right-of-Way line of Farm-to-Market Road Number 121 as described in Deed to The State of Texas, filed 11 November 1953 and Recorded in Volume 744 Page 72 of said Deed Records

Thence: North 87 degrees 07 minutes 47 seconds West, with the south line of said Anderson tract, and the north ROW line of said FM 121, a distance of 1856.89 feet to a found State of Texas Concrete Right-of-Way Monument for a corner;

Thence: North 73 degrees 24 minutes 31 seconds West, with the south line of said Anderson tract, and the north ROW line of FM 121, a distance of 332.15 feet to a found 1/2 inch Steel Square Tubing for the southeast corner of a 5 acre tract as described in Deed to Ronald R. Baker et ux, Joanie C. Baker, filed 06 November 1995, and Recorded in Volume 2428 Page 31 of said Deed Records;

Thence: North 29 degrees 08 minutes 03 seconds West, with the east line of said Baker tract, a distance of 1078.23 feet to a found 1/2 inch Steel Square Tubing for the northeast corner of said Baker tract, and on the south line of a tract as described in Deed to Steve Bryant et ux, Judy Bryant, filed 02 January 2003, and Recorded in Volume 3393 Page 846 of said Deed Records;

Thence: South 88 degrees 17 minutes 06 seconds East, with the north line of said Anderson tract, and with the south line of said Bryant tract, a distance of 1574.07 feet to a found 1/2 inch Steel Rebar at the base of a wood fence corner post for the southeast corner of said Bryant tract, and the southwest corner of said Johnson First tract;

Thence: South 87 degrees 58 minutes 16 seconds East, with the north line of said Anderson tract, and the south line of said Johnson First Tract, a distance of 1313.83 feet to the POINT OF BEGINNING and containing 58.946 acres of land.

### TRACT 3

All that certain tract or parcel of land situated in the Robert Mason Survey, Abstract Number 784 and the Sarah Shoto Survey, Abstract Number 1079, County of Grayson, State of Texas, said tract being all of a called 100 acres tract as described in the First Tract, and all of a called 1.56 acre tract as described in the Second tract in Deed to Joe D. Johnson, filed 30 March 1961, and Recorded in Volume 930 Page 211 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the southeast corner of the tract being described herein at a found 1½ inch Steel Square Tubing, said tubing being the southeast corner of said Johnson tract, and the southwest corner of a called 223.457 acre tract as described in Deed to Gunter 223, LTD, filed 06 June 2005, and Recorded in Volume 3870 Page 800 of said Deed Records, said tubing also being on the north Right-of-Way line of Farm-to-Market Road Number 121 as described in Deed to The State of Texas, filed 11 November 1953 and Recorded in Volume 744 Page 72 of said Deed Records;

Thence: North 86 degrees 52 minutes 52 seconds West, with the south line of said Johnson Seconds Tract, and with the north ROW line of said FM 121, a distance of 20.00 feet to a found 1½ inch Steel Square Tubing for the southwest corner of said Johnson Seconds Tract, and the southeast corner of a 1.25 acre tract as surveyed out for Dennis Keating dated 27 December 1999;

Thence: North 03 degrees 29 minutes 02 seconds East, with the west line of said Johnson Second tract, a distance of 1044.78 feet to a set 1½ inch Steel Square Tubing with a plastic cap marked COX 4577 for the southeast corner of said Johnson First tract and the northeast corner of a tract as described in Deed to Marshall E. Anderson et ux, Marquerite Anderson, filed 11 January 1962, and Recorded in Volume 947 Page 387 of said Deed Records;

Thence: North 87 degrees 58 minutes 16 seconds West, with the south line of said Johnson First Tract, and with the north line of said Anderson tract, a distance of 1313.82 feet to a found 1½ inch Steel Rebar for the southwest corner of said Johnson First Tract, and the southeast corner of a tract as described in Deed to Steve Bryant et ux, Judy Bryant, filed 02 January 2003, and Recorded in Volume 3393 Page 846 of said Deed Records;

Thence: North 03 degrees 21 minutes 26 seconds East, with the west line of said Johnson First Tract, a distance of 3311.44 feet to a Wood Fence corner Post for the northwest corner of said Johnson First Tract;

Thence: South 86 degrees 54 minutes 56 seconds East, with the north line of said Johnson First Tract, a distance of 1313.67 feet to a set 1½ inch Steel Square Tubing for the northeast corner of said Johnson First Tract, and on the west line of a called 288.92 acre tract as described in Deed to Inwood Plaza Joint Venture, filed 07 January 2004, and Recorded in Volume 3594 Page 147 of said Deed Records;

Thence: South 03 degrees 27 minutes 34 seconds West, with the east line of said Johnson First Tract, a distance of 960.75 feet to a found 1½ inch Steel Rebar at the base of a Wood Fence corner Post for the northwest corner of said Johnson Second Tract, and the southwest corner of said Inwood Plaza Joint Venture tract;

Thence: South 87 degrees 14 minutes 29 seconds East, with the north line of said Johnson Second Tract, and with the south line of said Inwood Plaza tract, a distance of 20.98 feet to a found 1½ inch Steel Rebar at the base of a wood fence corner post for the northeast corner of said Johnson Second Tract, and the northwest corner of said Gunter 223 tract;

Thence: South 03 degrees 20 minutes 36 seconds West, with the east line of said Johnson Second Tract, and the west line of said Gunter 223 tract, a distance of 2326.24 feet to a Wood Fence corner Post for an angle point;

Thence: South 03 degrees 29 minutes 00 seconds West, with the east line of said Johnson Second Tract, and the west line of said Gunter 223 tract, a distance of 1045.16 feet to the POINT OF BEGINNING and containing 101.005 acre of land.

SECTION 3.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 3.04. This article takes effect September 1, 2007.

ARTICLE 4. KIMBERLIN RANCH MUNICIPAL  
UTILITY DISTRICT NO. 3 OF GRAYSON COUNTY

SECTION 4.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8266 to read as follows:

CHAPTER 8266. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT  
NO. 3 OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8266.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District

No. 3 of Grayson County.

Sec. 8266.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8266.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8266.023 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Grayson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8266.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 4.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 4.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the legality or operation of the district or the board.

[Sections 8266.005-8266.020 reserved for expansion]

#### SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8266.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8266.023; or

(2) the date this chapter expires under Section 8266.003.

Sec. 8266.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8266.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 4.02 of the article creating this chapter.

Sec. 8266.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8266.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8266.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8266.026-8266.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8266.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8266.052-8266.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8266.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8266.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8266.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8266.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8266.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 4.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8266.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8266.107-8266.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8266.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8266.201.

[Sections 8266.152-8266.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8266.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8266.101 or 8266.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8266.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8266.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 4.02. The Kimberlin Ranch Municipal Utility District No. 3 of Grayson County includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the Ricardo Garcia Survey, Abstract Number 446 and the M.S. Herrera Survey, Abstract Number 545, County of Grayson, State of Texas, said tract being all of a 303.943 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 26 October 1996, and Recorded in Volume 2364 Page 637, and all of a 20.333 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 02 May 2003, and Recorded in Volume 3446 Page 71, and all of a 22.469 acre tract as described in Deed to Morris Morgan Jr., et ux, Bonita Morgan, filed 20 February 2004, and Recorded in Volume 3616 Page 79 of the Deed Records of the County of Grayson, State of Texas, and being more fully described as follows:

Beginning for the southeast corner of the tract being described herein at a found  $3\frac{1}{4}$  inch Steel Rod, said rod being the southeast corner of said Morgan 303.943 acre tract, and the northeast corner of a tract as described in Deed to Martinek Grain & Bin Inc., filed 03 August 1994, and Recorded in Volume 2352 Page 18 of said Deed Records, said rod also being in Scharff Road (gravel surfaced);

Thence: South 88 degrees 48 minutes 47 seconds West, with the south line of said Morgan 303.943acre tract, and passing at 22.90 feet a wood fence corner post on the west side of said road, and continuing on said course for a total distance of 3725.83 feet to a found  $1\frac{1}{2}$  inch Steel Square Tubing with a plastic cap marked Cox 4577 for the southwest corner of said Morgan 303.943 acre tract, and the southeast corner of said Morgan 20.333 acre tract;

Thence: South 89 degrees 50 minutes 58 seconds West, with the south line of said Morgan 20.333 acre tract, a distance of 624.98 feet to a found  $1\frac{1}{2}$  inch Steel Square Tubing with a plastic cap marked COX 4577 for the southwest corner of said Morgan 20.333 acre tract, and the southeast corner of said Morgan 22.469 acre tract;

Thence: South 89 degrees 52 minutes 55 seconds West, with the south line of said Morgan 22.469 acre tract, a distance of 719.91 feet to a found  $1\frac{1}{2}$  inch Steel Square Tubing with a plastic cap marked COX 4577 for the southwest corner of said Morgan 22/469 acre tract;

Thence: North 01 degrees 01 minutes 06 seconds West, with the west line of said Morgan 22.469 acre tract, a distance of 1400.92 feet to a found  $1\frac{1}{2}$  inch Steel Rebar by a wood Fence corner Post for the northwest corner of said Morgan 22.469 acre tract, and an ell corner of said Morgan 303.943 acre tract;

Thence: North 01 degrees 01 minutes 06 seconds West, with the west line of said Morgan 303.943 acre tract, a distance of 1583.19 feet to a found  $1\frac{1}{2}$  inch Steel Rebar by a wood Fence corner Post for the northwest corner of said Morgan 303.943 acre tract;

Thence: North 89 degrees 11 minutes 45 seconds East, with the north line of said Morgan 303.943acre tract, a distance of 1378.61 feet to a found  $1\frac{1}{2}$  inch Steel Rebar by a wood fence corner post for a corner;

Thence: North 89 degrees 04 minutes 46 seconds East, with the north line of said Morgan 303.943 tract, a distance of 3678.41 feet to a found  $3\frac{1}{4}$  inch Steel Rod for th3e northeast corner of said Morgan 303.943 acre tract, and in Scharff Road.

Thence: South 01 degrees 16 minutes 42 seconds East, with the east line of said Morgan 303.943 tract, and in said road, a distance of 2982.52 feet to the POINT OF BEGINNING and containing 347.744 acres of land.

SECTION 4.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 4.04. This article takes effect September 1, 2007.

ARTICLE 5. KING'S CROSSING MUNICIPAL  
UTILITY DISTRICT OF GRAYSON COUNTY

SECTION 5.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8251 to read as follows:

CHAPTER 8251. KING'S CROSSING MUNICIPAL UTILITY DISTRICT OF  
GRAYSON COUNTY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8251.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the King's Crossing Municipal Utility District of Grayson County.

Sec. 8251.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8251.003. FINDING OF PUBLIC USE AND BENEFIT. The district is created to serve a public use and benefit.

Sec. 8251.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8251.024 before September 1, 2009:

(1) the district shall, as soon as it reasonably knows the district will not be confirmed and before September 1, 2009:

(A) pay any debts incurred; and

(B) transfer to Grayson County any assets that remain after the payment of debts;

(2) the district is dissolved September 1, 2009; and

(3) this chapter expires September 1, 2009.

Sec. 8251.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 5.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 5.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes; or

(3) the legality or operation of the board.

[Sections 8251.006-8251.020 reserved for expansion]

SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8251.021. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Hill Johnson;
- (2) Joe Henneburger;
- (3) Bill Casanova;
- (4) Adrian Butler; and
- (5) Kevin Eddy.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Commission on Environmental Quality shall appoint the necessary number of persons to fill all vacancies on the board.

(c) Temporary directors serve until the earlier of:

- (1) the date directors are elected under Section 8251.024; or
- (2) the date this chapter expires under Section 8251.004.

Sec. 8251.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the organizational meeting shall be at the Grayson County Courthouse.

Sec. 8251.023. DEVELOPMENT AGREEMENT REQUIRED. The temporary directors may not hold an election under Section 8251.024 or approve the issuance of bonds until a district landowner enters into a development agreement regarding district land with the City of Howe.

Sec. 8251.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8251.025. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8251.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8251.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2009.

[Sections 8251.027-8251.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8251.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8251.052-8251.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8251.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8251.102. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or improvements in aid of those roads, inside or outside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is not located in the corporate limits or extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each county in which the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by resolution. If the district is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by resolution.

Sec. 8251.103. ROAD CONTRACTS. The district may contract for a road project in the manner provided by Subchapter I, Chapter 49, Water Code.

Sec. 8251.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY OUTSIDE CORPORATE LIMITS OF MUNICIPALITY. If district territory, or a portion of district territory, is located outside the corporate limits of a municipality, the district shall:

(1) maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located; and

(2) pay for the cost of performing the district's duties under Subdivision (1).

[Sections 8251.105-8251.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8251.151. OPERATION AND MAINTENANCE TAX. The district may impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107, Water Code.

Sec. 8251.152. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of and interest on bonds issued under Section 8251.201.

Sec. 8251.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code;

(4) a cable operator as defined by 47 U.S.C. Section 522; or

(5) a person who provides to the public advanced telecommunications services.

[Sections 8251.154-8251.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8251.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance the construction, maintenance, or operation of projects under Section 8251.102.

(b) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money.

(c) The district may not issue bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects authorized by Section 8251.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8251.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 5.02. The King's Crossing Municipal Utility District of Grayson County initially includes all the territory contained in the following described area:

#### TRACT 1

BEING a tract of land situated in the J. ARMENDARIS SURVEY, ABSTRACT NO. 39, the J. MARSHALL SURVEY, ABSTRACT NO. 868, the C. MASON SURVEY, ABSTRACT NO. 859 and the E. REYNOLDS SURVEY, ABSTRACT NO. 1008, in Grayson County, Texas, and being all of a called 146 acre tract of land described in a deed to W. C. King recorded in Volume 464, Page 531 of the Deed Records of Grayson County, Texas, part of a called 273.2255 acre tract described in a deed to W. C. King recorded in Volume 418, Page 320 of said Deed Records, (both of said King tracts being subsequently conveyed in part to Joe C. King, Nancy Jane Yarborough and the Mary Ann Arterbury Revocable Trust by deeds recorded in Volume 2182, Page 950, Volume 2192, Page 234, Volume 2249, Page 895, and Volume 3259, Page 266, all of said Deed Records), all of a called 60.2 acre tract of land described as Tract One in a deed to Nancy McElreath King recorded in Volume 953, Page 307 of said Deed Records, all of a called 12.5 acre tract of land described as Tract Two in said deed, and all of a called 40 acre tract of land described as Tract Three in said deed, and being more particularly described as follows:

BEGINNING at a railroad spike found at the intersection of the center of Farmington Road (undedicated public road) with the center of Hall Cemetery Road (undedicated public road), said point being the southwest corner of said 60.2 acre tract;

THENCE North 00 degrees 57 minutes 32 seconds West, along the approximate center of Farmington Road, and along the west lines of said 60.2 acre tract and said 146 acre tract, a distance of 2577.20 feet to a 1-inch iron pipe found for the most westerly northwest corner of said 146 acre tract and the south corner of a called 34 acre tract of land described in a deed to the Burks Family Trusts recorded in Volume 3128, Page 820 of said Deed Records;

THENCE North 34 degrees 38 minutes 57 seconds East, along the common line between said 34 acre tract and said 146 acre tract, a distance of 2574.44 feet to a 1-inch iron pipe found at an angle point in the approximate center of Davis Road (undedicated public road) for the east corner of said 34 acre tract and the most southerly southeast corner of a called 123.8843 acre tract of land described in a deed to C. J. Matthews and wife Dorothy Matthews recorded in Volume 1180, Page 590 of said Deed Records;

THENCE North 33 degrees 34 minutes 50 seconds East, along the common line between said 146 acre tract and said 123.8843 acre tract, and along the approximate center of Davis Road, a distance of 989.01 feet to a 1-inch iron pipe found at an angle point in said road for most northerly northwest corner of said 146 acre tract;

THENCE South 89 degrees 56 minutes 45 seconds East, along the approximate center of Davis Road and the north lines of said 146 acre tract and said 273.2255 acre tract, a distance of 3122.85 feet to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for corner;

THENCE South 00 degrees 55 minutes 04 seconds East, along the prolongation of and the west lines of a called 0.923 acre tract described in a deed to Joe C. King and wife Katie Mae King recorded in Volume 1518, Page 747 of said Deed Records, a called 3.086 acre tract of land described in a deed to Joe C. King and wife Katie Mae King recorded in Volume 1331, Page 150, a tract of land described in a deed to Joe C. King recorded in Volume 1293, Page 77 of said Deed Records, a distance of 3195.54 feet to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for a point of the north line of Western Hills, an addition to the City of Howe according to the plat thereof recorded in Volume 3, Page 76 of the Map Records of Grayson County, Texas.

THENCE South 89 degrees 24 minutes 28 seconds West, along the north line of Western Hills, and addition to the City of Howe, a distance of 1.52 feet to the northwest corner of said Western Hills to a 5/8-inch iron rod with cap marked "PETITT RPLS 4087" set for corner;

THENCE South 00 degrees 48 minutes 45 seconds East, departing the northwest corner of said Western Hills, and along the most southerly east line of said 273.2255 acre tract, a distance of 410.53 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set for the most southerly southeast corner of

said 273.2255 acre tract and the northeast corner of a called 111.5 acre tract described in a deed to Robert Glen Sollis, Jr., recorded in Volume 2352, Page 222 of said Deed Records;

THENCE North 89 degrees 21 minutes 25 seconds West, along the common line between said 273.2255 acre tract and said 111.5 acre tract, a distance of 2591.12 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set for the northwest corner of said 111.5 acre tract and the northeast corner of said 40 acre tract;

THENCE South 00 degrees 48 minutes 45 seconds East, along the common line between said 111.5 acre tract and said 40 acre tract, a distance of 1904.72 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" set in the approximate center of Hall Cemetery Road for the southeast corner of said 40 acre tract;

THENCE South 89 degrees 13 minutes 54 seconds West, along the approximate center of Hall Cemetery Road and the south lines of said 40 acre tract, said 12.5 acre tract and said 60.2 acre tract, a distance of 2582.24 feet to the POINT OF BEGINNING and containing 470.470 acres of land, more or less.

TRACT 2

BEING A TRACT OF LAND SITUATED IN THE J. ARMENDARIS SURVEY, ABSTRACT NO. 39, THE J. MARSHALL SURVEY, ABSTRACT NO. 825, AND THE E. REYNOLDS SURVEY, ABSTRACT NO. 1008, IN GRAYSON COUNTY, TEXAS, AND BEING A PORTION OF A CALLED 57.898 ACRE TRACT DESCRIBED IN A DEED TO JOE CLYDE KING RECORDED IN VOLUME 3693, PAGE 147 OF THE DEED RECORDS OF GRAYSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A NAIL FOUND IN THE APPROXIMATE CENTER OF DAVIS ROAD (UNDEDICATED PUBLIC ROAD) FOR THE NORTHEAST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHWEST CORNER OF A CALLED 29.732 ACRE TRACT OF LAND DESCRIBED AS TRACT 1 IN A DEED TO JERRY L. KING AND DONNA KING BEDGOOD RECORDED IN VOLUME 2001, PAGE 107 OF SAID DEED RECORDS;

THENCE ALONG THE COMMON LINE BETWEEN SAID 29.732 ACRE TRACT AND SAID 57.898 ACRE TRACT AS FOLLOWS:

SOUTH 26 DEGREES 30 MINUTES 31 SECONDS EAST, A DISTANCE OF 274.02 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER;

SOUTH 22 DEGREES 04 MINUTES 49 SECONDS EAST, A DISTANCE OF 371.90 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER;

SOUTH 64 DEGREES 31 MINUTES 10 SECONDS EAST, A DISTANCE OF 174.55 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR THE MOST EASTERLY NORTHEAST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHWEST CORNER OF WESTERN HILLS COMMERCIAL, AN ADDITION TO THE CITY OF HOWE ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3, PAGE 79 OF THE PLAT RECORDS OF GRAYSON COUNTY, TEXAS;

THENCE SOUTH 00 DEGREES 54 MINUTES 15 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID 57.898 ACRE TRACT AND THE WEST LINE OF SAID WESTERN HILLS COMMERCIAL, A DISTANCE OF 360.57 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET FOR CORNER FROM WHICH A 1/2-INCH IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID WESTERN HILLS COMMERCIAL BEARS SOUTH 00 DEGREES 54 MINUTES 15 SECONDS EAST, A DISTANCE OF 305.41 FEET;

THENCE SOUTH 89 DEGREES 31 MINUTES 09 SECONDS WEST, DEPARTING SAID EASTERLY AND WEST LINES AND OVER AND ACROSS SAID 57.898 ACRE TRACT, A DISTANCE OF 905.24 FEET TO A 5/8-INCH IRON ROD WITH CAP MARKED "PETITT - RPLS 4087" SET IN THE WEST LINE OF SAID 57.898 ACRE TRACT SAME BEING THE EAST LINE OF A TRACT OF LAND DESCRIBED IN A DEED TO AP HOWE LIMITED PARTNERSHIP FILED IN VOLUME 3814, PAGE 898, OF SAID DEED RECORDS;

THENCE NORTH 00 DEGREES 55 MINUTES 04 SECONDS WEST, ALONG SAID EAST AND WEST LINES, A DISTANCE OF 1030.55 FEET TO A NAIL FOUND IN THE APPROXIMATE CENTER OF SAID DAVIS ROAD FOR THE NORTHWEST CORNER OF SAID 57.898 ACRE TRACT AND THE NORTHEAST CORNER OF SAID AP HOWE LIMITED PARTNERSHIP TRACT;

THENCE SOUTH 89 DEGREES 56 MINUTES 50 SECONDS EAST, ALONG THE NORTH LINE OF SAID 57.898 ACRE TRACT AND THE APPROXIMATE CENTER OF SAID DAVIS ROAD, A DISTANCE OF 160.56 FEET TO A RAILROAD SPIKE FOUND FOR AN ANGLE POINT;

THENCE NORTH 89 DEGREES 31 MINUTES 33 SECONDS EAST, CONTINUING ALONG SAID NORTH LINE AND THE APPROXIMATE CENTER OF SAID DAVIS ROAD, A DISTANCE OF 335.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 762,300 SQUARE FEET, OR 17.500 ACRES OF LAND, MORE OR LESS.

SECTION 5.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 5.04. This article takes effect immediately if this Act 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 article takes effect September 1, 2007.

ARTICLE 6. PLATINUM RANCH MUNICIPAL  
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 6.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8256 to read as follows:

CHAPTER 8256. PLATINUM RANCH MUNICIPAL UTILITY DISTRICT  
NO. 1 OF GRAYSON COUNTY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8256.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Platinum Ranch Municipal Utility District No. 1 of Grayson County.

Sec. 8256.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8256.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8256.055 before September 1, 2009:

(1) the district is dissolved September 1, 2009, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Grayson County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8256.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 6.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 6.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or other indebtedness; or

(4) the legality or operation of the district or the board.

Sec. 8256.005. ANNEXATION INTO CITY OF GUNTER. (a) Notwithstanding any other law, if all of the territory of the district is annexed by the City of Gunter into the corporate limits of that municipality before the date of the election held to confirm the creation of the district, the district is not dissolved and shall continue in full force and effect.

(b) Any future annexation or inclusion of additional territory into a district governed by this chapter may not occur unless the City of Gunter is allowed to voluntarily annex the same territory into the municipality's corporate limits.

Sec. 8256.006. DISSOLUTION. Section 43.074, Local Government Code, applies to the dissolution of the district.

[Sections 8256.007-8256.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8256.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8256.053, directors serve staggered four-year terms.

Sec. 8256.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8256.053. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) Mark McClure;
- (2) Greg Meador;
- (3) Lance Hancock;
- (4) David Howell; and
- (5) Mark Smith.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2008, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2010.

(c) This section expires September 1, 2011.

Sec. 8256.054. INCORPORATION OF DISTRICT TERRITORY INTO MUNICIPALITY REQUIRED. The directors may not hold an election under Section 8256.055 until all of the territory of the district is included in the corporate limits of the City of Gunter.

Sec. 8256.055. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The initial directors shall hold an election to confirm the creation of the district.

[Sections 8256.056-8256.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8256.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. (a) The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

(b) Notwithstanding Subsection (a), the district may not act as a retail provider of water or wastewater service.

(c) The district shall make the district's water and wastewater facilities available to an entity holding the applicable certificate of convenience and necessity.

Sec. 8256.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulatory ordinances of the municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) If a portion of the territory of the district is excluded from the corporate limits of the City of Gunter, the district shall:

(1) improve, maintain, repair, and operate the roads located in that portion of territory in accordance with the ordinances and rules of the political subdivision possessing jurisdiction over the roads in that portion of territory; and

(2) pay the entire cost of performing the district's duties under Subdivision (1).

Sec. 8256.103. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) each new district is within the corporate limits of the City of Gunter.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) At the time of creation, any new district created by the division of the district may not contain any land outside the area described by Section 6.02 of the article creating this chapter.

[Sections 8256.104-8256.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8256.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8256.201.

[Sections 8256.152-8256.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8256.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8256.101 or 8256.102.

(b) The district may not issue bonds to finance projects authorized by Section 8256.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8256.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 6.02. The Platinum Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the William Richards Survey, Abstract Number 998, the Robert Mason Survey, Abstract Number 784, the J.R. Worrall Survey, Abstract Number 1357, and the William Wells Survey, Abstract Number 1354, County of Grayson, State of Texas and being all that called 339.24 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16

February 2001 and recorded in Volume 3033 Page 185 of the Deed Records of the County of Grayson, State of Texas, and being all that called 300.264 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16 February 2001 and recorded in Volume 3033 Page 189 of said Deed Records, and being all that called 100.00 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 01 March 2001 and recorded in Volume 3038 Page 100 of said Deed Records, and being all that called 851.808 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 16 May 2001 and recorded in Volume 3072 Page 217 of said Deed Records, and being all that called 78.427 acre tract of land as described in Deed to Platinum Ranch Venture, LTD, filed 23 May 2002 and recorded in Volume 3253 Page 743 of said Deed Records, and being more fully described as follows:

BEGINNING for the Southeast corner of the tract being described herein at a found 1/2 inch iron rod at the intersection of Old Scaggs School Road and Merilee Roads for the Southeast corner of said 851.808 acre tract, said rod being on the South line of said Mason Survey;

Thence: South 89 degrees 57 minutes 55 seconds West, with the South line of said 851.808 acre tract and said Mason Survey, along the centerline of said Marilee Road, a distance of 3186.43 feet to a found 1/2 inch iron rod for the Southwest corner of said 851.808 acre tract and the Southeast corner of said 329.424 acre tract;

Thence: North 89 degrees 22 minutes 52 seconds West, with the South line of said 329.424 acre tract, continuing along the centerline of said road, and passing at 4174.77 feet the Southwest corner of said 329.424 acre tract and the Southeast corner of said 100.00 acre tract, and continuing along said course, a total distance of 5198.85 feet to a found 1/2 inch steel square tube for corner at the intersection of said Marilee Road and County Road Number 10;

Thence: North 88 degrees 59 minutes 54 seconds West, continuing with the South line of said 100.00 acre tract, along the centerline of said Marilee Road, a distance of 244.55 feet to a found 1/2 inch steel square tube at the intersection of said Marilee Road and Blaine Road for the Southwest corner of said 100.00 acre tract;

Thence: North 00 degrees 07 minutes 57 seconds West, with the West line of said 100.00 acre tract, along the centerline of said Blaine Road, and passing at 3425.72 feet the Northwest corner of said 100.00 acre tract and the Southwest corner of said 300.264 acre tract, and continuing along said course and road, and passing at 5630.58 feet the Northwest corner of said 300.264 acre tract and the Southwest corner of said 78.427 acre tract, and continuing along said course and road, a total distance of 7236.34 feet to a found 1/2 inch steel square tube at the intersection of said Blaine Road and Jaresh Road for the Northwest corner of said 78.427 acre tract;

Thence: North 88 degrees 26 minutes 13 seconds East, with the North line of said 78.427 acre tract, along the centerline of said Jaresh Road, a distance of 2076.20 feet to a found 1/2 inch iron rod for the Northeast corner of said 78.427 acre tract;

Thence: South 01 degrees 09 minutes 52 seconds East, with the East line of said 78.427 acre tract, and passing at 14.0 feet a cross-tie fence corner post on the South side of said Jaresh Road, and continuing along said course, along and near a fence, a total distance of 1662.51 feet to a found 1½ inch steel square tube for the Southeast corner of said 78.427 acre tract, said tubing being on the North line of said 300.264 acre tract, said tubing also being the Southwest corner of a called 252.043 tract of land as described in Deed to Ronald Evans Box, et ux Nita Gay Box, filed 15 December 1992 and recorded in Volume 2246 Page 173 of said Deed Records;

Thence: North 89 degrees 32 minutes 42 seconds East, with the North line of said 300.264 acre tract and the South line of said Box tract, with a fence, a distance of 1771.60 feet to a bois d' arc post for corner;

Thence: North 89 degrees 04 minutes 11 seconds East, continuing with the North line of said 300.264 acre tract and the South line of said Box tract, with a fence, a distance of 1940.19 feet to a cross-tie fence corner post for an ell corner of this tract, said corner also being the Southeast corner of said Box tract;

Thence: North 00 degrees 40 minutes 31 seconds West, with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1208.96 feet to a wood fence corner post for an ell corner of this tract and a Northeast corner of said Box tract;

Thence: South 87 degrees 48 minutes 54 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1749.62 feet to a pipe fence corner post for corner;

Thence: North 01 degrees 29 minutes 27 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1664.74 feet to a pipe fence corner post for corner;

Thence: North 87 degrees 51 minutes 31 seconds East, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, 849.86 feet to a pipe fence corner post for corner;

Thence: North 01 degrees 26 minutes 50 seconds West, continuing with the West line of said 851.808 acre tract and the East line of said Box tract, along and near a fence, a distance of 1216.06 feet to a pipe fence corner post for the Northwest corner of said 851.808 acre tract, said post also being the Southwest corner of a called 374.17 acre tract of land as described in Deed to Martinek Grain & Bins, Inc., filed 01 June 1993 and recorded in Volume 2272 Page 912 of said Deed Records;

Thence: North 87 degrees 58 minutes 36 seconds East, with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with the general course of a fence, a distance of 973.27 feet to a wood post for corner;

Thence: North 87 degrees 53 minutes 22 seconds East, continuing with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with said fence, a distance of 1091.88 feet to a wood fence corner post for corner;

Thence: North 89 degrees 57 minutes 15 seconds East, continuing with the North line of said 851.808 acre tract and the South line of said 374.17 acre tract, with said fence, a distance of 1491.72 feet to a cross-tie fence corner post for the Northeast corner of said 851.808 acre tract, said post also being the most

Westerly Northwest corner of a called 178.842 acre tract of land as described in Deed to Martinek Grain & Bins, Inc., dated 03 August 1994 and recorded in Volume 2352 Page 18 of said Deed Records;

Thence: South 02 degrees 33 minutes 15 seconds East, with the East line of said 851.808 acre tract, along and near a fence, a distance of 960.89 feet to a found 1/2 inch iron rod for a Southwest corner of said 178.842 acre tract, said rod also being the Northwest corner of a called 112.268 acre tract of land as described in Deed to Marion Cole, et ux Linda Cole, dated 27 May 1999 and recorded in Volume 2796 Page 848 of said Deed Records;

Thence: South 02 degrees 57 minutes 08 seconds East, continuing with the East line of said 851.808 acre tract and the West line of said Cole tract, along and near a fence, a distance of 1552.77 feet to a found 1/2 inch iron rod for the Southwest corner of said Cole tract;

Thence: South 89 degrees 54 minutes 04 seconds East, continuing with the East line of said 851.808 acre tract and the South line of said Cole tract, along and near a fence, and passing a cross-tie fence corner post on the West side of Old Skaggs School Road, and continuing along said course, a distance of 3118.80 feet to a set 1/2 inch steel square tube with a plastic cap marked COX 4577 in the centerline of said Old Skaggs School Road for the Southeast corner of said Cole tract;

Thence: South 00 degrees 04 minutes 13 seconds East, continuing with the East line of said 851.808 acre tract, along the center of said Old Skaggs School Road, a distance of 1561.21 feet to a found 1/2 inch iron rod for corner, said road making a turn to the West at this corner;

Thence: North 89 degrees 46 minutes 04 seconds West, continuing with the East line of said 851.808 acre tract, along the center of said Old Skaggs School Road, a distance of 3072.50 feet to a found nail for corner, said nail being at a turn of said Old Skaggs School Road;

Thence: South 00 degrees 51 minutes 03 seconds East, continuing with the East line of said 851.808 acre tract, along the center of said Old Scaggs School Road, a distance of 5800.26 feet to the POINT OF BEGINNING and containing 1659.998 acres of land.

SECTION 6.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 6.04. This article takes effect September 1, 2007.

ARTICLE 7. SANGANI RANCH MUNICIPAL  
UTILITY DISTRICT NO. 1 OF GRAYSON COUNTY

SECTION 7.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8258 to read as follows:

CHAPTER 8258. SANGANI RANCH MUNICIPAL UTILITY DISTRICT NO.  
I OF GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8258.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Sangani Ranch Municipal Utility District No. 1 of Grayson County.

Sec. 8258.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8258.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8258.023 before September 1, 2009:

(1) the district is dissolved September 1, 2009, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Grayson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8258.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 7.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 7.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the legality or operation of the district or the board.

[Sections 8258.005-8258.020 reserved for expansion]

SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8258.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8258.023; or

(2) the date this chapter expires under Section 8258.003.

Sec. 8258.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8258.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

(b) The temporary directors may not hold the election until the City of Gunter has annexed into its corporate limits all territory described by Section 7.02 of the article creating this chapter.

Sec. 8258.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8258.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8258.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8258.026-8258.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8258.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

[Sections 8258.052-8258.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8258.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8258.102. WATER AND WASTEWATER FACILITIES AND SERVICES. (a) The district shall make available any district water or wastewater facility to each person that holds a certificate of convenience and necessity for land in the district.

(b) The district may not provide retail water or wastewater services.

Sec. 8258.103. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8258.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY EXCLUDED FROM CITY. If the City of Gunter excludes district territory from the city's corporate limits, the district shall maintain, improve, operate, and repair any road located in that territory in accordance with the ordinances and rules of each political subdivision in whose jurisdiction the road is located.

Sec. 8258.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) Any new district created by the division of the district may not, at the time the new district is created, contain any land:

(1) outside the area described by Section 7.02 of the article creating this chapter; or

(2) outside the corporate limits of the city of Gunter.

Sec. 8258.106. LIMITATION ON ANNEXATION. (a) The district may not add land to the district under Subchapter J, Chapter 49, Water Code, if the land is located outside the corporate limits of the city of Gunter.

(b) Section 43.075, Local Government Code, does not apply to the district.

[Sections 8258.107-8258.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8258.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8258.201.

[Sections 8258.152-8258.200 reserved for expansion]

#### SUBCHAPTER E. BONDS

Sec. 8258.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of a project under Section 8258.101 or 8258.103.

(b) The district may not issue bonds or other obligations to finance projects authorized by Section 8258.103 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8258.103 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 7.02. The Sangani Ranch Municipal Utility District No. 1 of Grayson County includes all the territory contained in the following area:

## Tract 1

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being part of a called Tract No. 3 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows:

Beginning at a 1/2" iron rod found in the south line of said Tract No. 3 and in the east right-of-way line of State Highway 289 and also in an asphalt road under apparent public use posted as Mackey Road;

Thence North 00 Degrees 32 Minutes 59 Seconds West with the said east monumented right-of-way line and generally with a fence line, a distance of 114.58 feet to a right-of-way monument found for corner;

Thence North 45 Degrees 35 Minutes 10 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 180.50 feet to a right-of-way monument found for corner;

Thence North 40 Degrees 07 Minutes 07 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 329.14 feet to a 1/2" capped iron rod set for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 1391.07 feet to a 1/2" capped iron rod set for corner;

Thence North 51 Degrees 15 Minutes 05 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 494.20 feet to a concrete monument for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 131.23 feet to a 1/2" capped iron rod set for corner;

Thence North 42 Degrees 32 Minutes 58 Seconds East with the said east monumented right-of-way line and generally with a fence line, a distance of 315.33 feet to a concrete monument for corner;

Thence North 45 Degrees 35 Minutes 13 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 98.43 feet to a 1/2" capped iron rod set for corner;

Thence North 40 Degrees 15 Minutes 20 Seconds East with the said east right-of-way line and generally with a fence line, a distance of 354.85 feet to a 1/2" capped iron rod set for the north corner of said Tract No. 3 and at the northwest corner of a called 26.14 acre tract of land described in a deed to Penny S. Avery as recorded in Volume 2670, Page 802, Deed Records of Grayson County, Texas;

Thence South 01 Degrees 16 Minutes 21 Seconds East with the east line of said Tract No. 3 and with the west line of said 26.14 acre tract and also with or near a fence line, passing a 1/2" iron rod found at 2400.96 feet and continuing along said coarse for a total distance of 2425.74 feet to a 60 D nail found at the southeast corner of said Tract No. 3 and at the southwest corner of said 26.14 acre tract and also in said asphalt road;

Thence South 89 Degrees 39 Minutes 37 Seconds West with the south line of said Tract No. 3 and along said asphalt road, a distance of 2379.51 feet to the POINT OF BEGINNING and containing in total 69.234 acres of land and in the occupied road way and a total of 1.413 acres of land.

Tract 2

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being part of a called Tract No. 2 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows:

Beginning at a 1/2" capped iron rod set at the southwest corner of said Tract No. 2 and in an asphalt road under apparent public use posted as Fallow Road and also in the west line of said Hartfield Survey;

Thence North 00 Degrees 57 Minutes 46 Seconds East with the west line of said Tract No. 2 and along said asphalt road most of the way and also with the said west line, a distance of 1786.81 feet to a 1/2" capped iron rod set for corner in the southeast right-of-way line of S.C. & S.F. RAILROAD;

Thence North 12 Degrees 29 Minutes 16 Seconds East with the west line of said Tract No. 2 and with the said southeast right-of-way line, a distance of 1260.61 feet to a 1/2" capped iron rod set for corner at the start of a curve to the right having a radius of 3699.71 feet;

Thence with said curve to the right and with the said west line and also with the said southeast right-of-way line an arc length of 991.94 feet and said curve having a chord bearing of North 20 Degrees 16 Minutes 14 Seconds East, a distance of 988.97 feet to a 1/2" capped iron rod set for corner at the start of a curve to the right having a radius of 3772.73 feet;

Thence with said curve to the right and with the said west line and also with the said southeast right-of-way line an arc length 1350.21 feet and said curve having a chord bearing of North 38 Degrees 02 Minutes 43 Seconds East, a distance of 1343.02 feet to a 60 D nail found at the northwest corner of said Tract No. 2 and in an asphalt road under apparent public use posted as Savage Road;

Thence South 89 Degrees 33 Minutes 30 Seconds East with the north line of said Tract No. 2 and along said asphalt road, a distance of 969.10 feet to a 60 D nail found for corner;

Thence South 89 Degrees 58 Minutes 51 Seconds East with the said north line and along said asphalt road, a distance of 2702.37 feet to a point for the northeast corner of said Tract No. 2 and in the west right-of-way line of State Highway 289;

Thence South 00 Degrees 40 Minutes 28 Seconds West with the said west monumented right-of-way line, a distance of 198.93 feet to a 1/2" iron rod found in concrete for corner;

Thence South 45 Degrees 35 Minutes 18 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 967.85 feet to a brass capped monument found for corner;

Thence South 51 Degrees 18 Minutes 23 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.83 feet to a brass capped monument found for corner;

Thence South 45 Degrees 49 Minutes 03 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 97.35 feet to a brass capped monument found for corner;

Thence South 39 Degrees 52 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.65 feet to a brass capped monument found for corner;

Thence South 45 Degrees 35 Minutes 18 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 1205.10 feet to a brass capped monument found for corner;

Thence South 51 Degrees 19 Minutes 11 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 329.75 feet to a brass capped monument found for corner;

Thence South 45 Degrees 28 Minutes 36 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 98.33 feet to a brass capped monument found for corner;

Thence South 48 Degrees 35 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 315.45 feet to a brass capped monument found for corner;

Thence South 45 Degrees 56 Minutes 27 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 130.31 feet to a brass capped monument found for corner;

Thence South 39 Degrees 47 Minutes 37 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 495.56 feet to a brass capped monument found for corner;

Thence South 45 Degrees 35 Minutes 13 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 1226.52 feet to a concrete monument found for corner;

Thence South 51 Degrees 18 Minutes 15 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 494.51 feet to a concrete monument found for corner;

Thence South 46 Degrees 15 Minutes 32 Seconds West with the said west monumented right-of-way line and generally near a fence line, a distance of 97.79 feet to a concrete monument found for corner;

Thence South 37 Degrees 09 Minutes 28 Seconds West with the said west right-of-way line, a distance of 409.29 feet to a 1/2" capped iron rod set at the southeast corner of said Tract No. 2;

Thence South 89 Degrees 39 Minutes 37 Seconds West with the south line of said Tract No. 2, a distance of 261.85 feet to the POINT OF BEGINNING and containing in total 278.933 acres of land and in the occupied in roadway and a total of 6.477 acres of land.

Tract 3

All that certain tract or parcel of land situated in the A. S. A. Hartfield Survey, Abstract Number 490, Grayson County, Texas, and being all of a called Tract No. 1 and all of a called Tract No. 4 as described in a deed from Jack A. Turpin to JMS & Co., a Texas General Partnership as recorded in Volume 1963, Page 451, Deed Records of Grayson County, Texas, and being more particularly described as follows:

Beginning at a 1/2" capped iron rod set at the northwest corner of said Tract No. 1 and at the northwest corner of said Hartfield Survey and also in an asphalt road under apparent public use posted as Fallow Road;

Thence South 89 Degrees 33 Minutes 30 Seconds East with the north line of said Tract No. 1 and with the north line of said Hartfield Survey, a distance of 1212.54 feet to a 60 D nail found for the northeast corner of said Tract No. 4 and in an asphalt road under apparent public use posted as Savage Road and in the northwest right-of-way line of S.C. & S.F. RAILROAD and also in a curve to the left having a radius of 3872.73 feet;

Thence with said curve to the left and with the said northwest right-of-way line an arc length of 1276.90 feet and said curve having a chord bearing of South 37 Degrees 14 Minutes 32 Seconds West, a distance of 1271.12 feet to a 1/2" capped iron rod set for corner at the start of a curve to the left having a radius of 3799.71 feet;

Thence with said curve to the left and with said northwest line an arc length of 1018.75 feet and said curve having a chord bearing of South 20 Degrees 16 Minutes 14 Seconds West, a distance of 1015.70 feet to a 1/2" capped iron rod set for corner;

Thence South 12 Degrees 29 Minutes 16 Seconds West with the said northwest right-of-way line, a distance of 771.10 feet to a 60 D nail set for the south corner of said Tract No. 1 and in said Fallow Road and also in the west line of said Hartfield Survey;

Thence North 00 Degrees 57 Minutes 32 Seconds East with the west line of said Tract No. 1 and with the said west line and also with said Fallow Road, a distance of 1721.54 feet to a 60 D nail set for corner;

Thence North 01 Degrees 57 Minutes 45 Seconds East with the west line of said Tract No. 1 and with the said west line and also with said Fallow Road, a distance of 866.75 feet to a 60 D nail set for corner;

Thence North 06 Degrees 54 Minutes 43 Seconds East with the west line of said Tract No. 1, a distance of 140.40 feet to the POINT OF BEGINNING and containing in total 26.861 acres of land and in an occupied road way and a total of 2.173 acres of land.

SECTION 7.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 7.04. This article takes effect September 1, 2007.

ARTICLE 8. FOUR SEASONS RANCH MUNICIPAL  
UTILITY DISTRICT NO. 1 OF DENTON COUNTY

SECTION 8.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8208 to read as follows:

CHAPTER 8208. FOUR SEASONS RANCH MUNICIPAL UTILITY  
DISTRICT NO. 1 OF DENTON COUNTY  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8208.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Four Seasons Ranch Municipal Utility District

No. 1 of Denton County.

Sec. 8208.002. NATURE OF DISTRICT. The district is a municipal utility district in Denton County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8208.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8208.024 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

- (A) pay any debts incurred;
- (B) transfer to Denton County any assets that remain after the payment of debts; and
- (C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8208.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 9.02 of the article creating this chapter.

(b) The boundaries and field notes contained in Section 9.02 of the article creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or other indebtedness; or
- (4) the legality or operation of the board.

[Sections 8208.005-8208.020 reserved for expansion]

SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8208.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2007, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8208.024; or

(2) the date this subchapter expires under Section 8208.026.

Sec. 8208.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8208.023. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8208.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, if any, has adopted a resolution consenting to the creation of the district.

Sec. 8208.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8208.025. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8208.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8208.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8208.027-8208.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8208.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8208.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8208.053-8208.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8208.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8208.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads, or improvements in aid of those roads, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution.

(d) The district shall, at its sole cost and expense, maintain, improve, operate, and repair all roads constructed or acquired by the district unless the municipality or county in which a road is located voluntarily assumes the obligation. An assumption of an obligation under this subsection is not valid or binding unless the assumption is in writing, executed by the necessary parties, and filed in the land records of the county in which the road is located.

Sec. 8208.103. COMPLIANCE WITH MUNICIPAL ORDINANCES OR RESOLUTIONS. The district shall comply with all applicable requirements of any ordinance or resolution adopted by the governing body of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8208.104. ANNEXATION OF LAND IN GRAYSON COUNTY. The district may not annex land located in Grayson County without the prior consent of the Commissioners Court of Grayson County.

Sec. 8208.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) A new district, at the time it is created by the division of the district, may not contain land outside the area described by Section 9.02 of the article creating this chapter.

[Sections 8208.106-8208.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8208.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of and interest on bonds issued under Section 8208.201.

[Sections 8208.152-8208.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8208.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance the construction, maintenance, or operation of projects under Sections 8208.101 and 8208.102.

(b) The district may not issue bonds to finance projects authorized by Section 8208.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8208.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 8.02. The Four Seasons Ranch Municipal Utility District No. 1 of Denton County initially includes all the territory contained in the following area:

All that certain tract or parcel of land situated in the Juana Curbello Survey, Abstract Number 213, and the A. H. Gee Survey, Abstract Number 1522, County of Denton, State of Texas, said tract being all of a Tract, as described in deed to Sadot Venture, LTD , filed 03 December 2003, and recorded in clerk number 2003-195563, and being all of a tract as described in deed to McKinney 17 Venture L.T.D., filed 28 May 2002, and recorded in volume 3257 page 22 of the Deed Records of the County of Grayson, State of Texas, and recorded in volume 5094 page 2020 of the Deed Records of the County of Denton, State of Texas, said tract being all of a Tract, as described in deed to Sadot Venture, LTD , filed 17 December 2003, and recorded in clerk number 2003-203006, and being all of a tract as described in deed to Netzer Environmental Consulting, filed 28 May 2002, and recorded in volume 5094 page 2014 of the Deed Records of the County of Denton, State of Texas and being more fully described as follows:

Beginning for the southwest corner of the tract being described herein at a found 1½ inch rebar at the intersection of Garell Road and Fritcher Road, said rebar being the southwest corner of said Brock South tract;

Thence: North 00 degrees 32 minutes 08 seconds West, with the west line of said Brock South tract, and with the center of said Garell Road, a distance of 2487.12 feet to a found 1½ inch rebar for an angle point in the west line of said Brock South tract, same being an angle point in said road;

Thence: North 00 degrees 01 minutes 19 seconds West, with the west line of said Brock South tract, and with the center of said road, a distance of 1439.64 feet to a found 1½ inch rebar for the northwest corner of said Brock South tract, same being a turn in said road;

Thence: North 86 degrees 29 minutes 35 seconds East, with the north line of said Brock South tract, and with the center of said road, a distance of 256.11 feet to a found 1½ inch rebar for an ell corner of this tract, and said rebar being the southwest corner of said Street tract, same being a turn in said road, said rebar also being an angle point in the north line of said Brock South tract;

Thence: North 02 degrees 34 seconds 12 seconds East, with the west line of said Netzer tract, and with the center of said road, a distance of 2019.60 feet to a point for an ell corner of this tract;

Thence: North 89 degrees 56 minutes 50 seconds East, a distance of 27.25 feet to a found 1½ inch steel rebar for a corner of this tract;

Thence: North 02 degrees 25 seconds 53 seconds East, with the west line of said Venture tract, and with the east side of said road, a distance of 1028.83 feet to a point for an ell corner of this tract;

Thence: North 89 degrees 53 minutes 08 seconds East, a distance of 521.59 feet to a found 1½ inch rebar;

Thence: North 00 degrees 00 minutes 32 seconds East, with the west line of said venture tract, a distance of 4225.1 feet to a found 1½ inch steel square tubing for the northwest corner of said Venture tract;

Thence: North 89 degrees 31 minutes 51 seconds East, with the north line of said Venture tract, a distance of 866.39 feet to a set 1½ inch steel square tubing for an ell corner of this tract;

Thence: South 00 degrees 06 minutes 09 seconds East, a distance of 18.01 feet to a set 1½ inch steel square tubing for an ell corner of this tract;

Thence: North 89 degrees 45 minutes 28 seconds East, with the north line of said Brock North tract, and with the center of said road, a distance of 1130.35 feet for a corner of this tract;

Thence: South 00 degrees 07 minutes 51 seconds East, with the approximate location of the county line, a distance of 2818.67 feet for a corner of this tract;

Thence: North 89 degrees 45 minutes 28 seconds East, with the approximate location of the county line a distance of 2100.00 feet for a corner of this tract;

Thence: South 89 degrees 59 minutes 54 seconds East, a distance of 244.55 feet to a found 1½ inch steel square tubing, said tubing being in the intersection of Merilee Road and County Road Number 10;

Thence: South 00 degrees 17 minutes 37 seconds East, with the center of said road, a distance of 1409.82 feet to a found 1½ inch rebar;

Thence: South 00 degrees 18 minutes 38 seconds East, with the east line of said Street tract, and with the center of said road, and passing at 3031.32 feet the southeast corner of said Street tract, same being the northeast corner of said Brock South tract, and continuing on said course a total distance of 3071.37 feet to a found 1½ inch rebar for an angle point in said road;

Thence: South 00 degrees 23 minutes 56 seconds East, with the east line of said Brock South tract, and with the center of said road, a distance of 1104.84 feet to a found 1½ inch rebar for the most easterly southeast corner of said Brock South tract;

Thence: North 89 degrees 30 minutes 05 seconds West, a distance of 27.25 feet to a old wood fence corner post;

Thence: South 00 degrees 19 minutes 28 seconds East, with the east line of said road, a distance of 1292.99 feet to a pipe fence corner post for an ell corner of this tract;

Thence: North 89 degrees 31 minutes 21 seconds West, with the south line of said Venture tract, a distance of 3326.78 feet to a pipe fence corner post for an ell corner of said Venture South tract;

Thence: South 00 degrees 41 minutes 02 seconds East, a distance of 1534.63 feet to a found nail for the southeast corner of said Venture tract, said nail being in the center of Fritcher Road;

Thence: North 89 degrees 30 minutes 14 seconds West, with the south line of said Venture tract, and with the center of said road, a distance of 527.38 feet to a found 1/2 inch rebar for an ell corner of said Venture tract;

Thence: South 89 degrees 34 minutes 19 seconds West, with the south line of said Venture tract, and with the center of said road, a distance of 1437.85 feet to the POINT OF BEGINNING and containing 979.408 acres of land.

SECTION 8.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION 8.04. This article takes effect September 1, 2007.

### **HB 4110 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4110**, A bill to be entitled An Act relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.

Representative Coleman moved to concur in the senate amendments to **HB 4110**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1732): 145 Yeas, 0 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; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; 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; 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; 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 — Gonzales; Puente.

Absent — Isett; Moreno.

### STATEMENT OF VOTE

When Record No. 1732 was taken, my vote failed to register. I would have voted yes.

Isett

### Senate Committee Substitute

**CSHB 4110**, A bill to be entitled An Act relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.

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

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3859 to read as follows:

CHAPTER 3859. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3859.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Harris County Improvement District No. 9.

Sec. 3859.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9. A special district known as the "Harris County Improvement District No. 9" is a governmental agency and political subdivision of this state.

Sec. 3859.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing

Harris County, the City of Houston, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of September 1, 2007, to the area in the district or to release the county or the city from the obligations of each entity to provide services to that area. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3859.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Each improvement project or service authorized by this chapter is essential to carry out a public purpose.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing public art and pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty;

(4) promote and benefit commercial development and commercial areas in the district; and

(5) promote and develop public transportation and pedestrian facilities and systems using new and alternative means that are attractive, safe, and convenient, including securing expanded and improved transportation and pedestrian facilities and systems, to:

(A) address the problem of traffic congestion in the district, the need to control traffic and improve pedestrian safety, and the limited availability of money; and

(B) benefit the land and other property in the district and the residents, employers, employees, visitors, and consumers in the district and the public.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3859.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

(1) Section 3859.106;

(2) Subchapter J, Chapter 49, Water Code; or

(3) other law.

(b) The boundaries and field notes of the district contained in Section 2 of this Act form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, and validity;

(2) the district's right to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) the district's right to impose and collect an assessment or tax; or

(4) the legality or operation of the district or the board.

(c) A description of the district's boundaries shall be filed with the Texas Commission on Environmental Quality. The commission by order may correct a mistake in the description of the district's boundaries.

Sec. 3859.006. TORT LIABILITY. The district is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Sec. 3859.007. ELIGIBILITY FOR REINVESTMENT ZONES. All or any part of the area of the district is eligible to be included in a tax increment reinvestment zone created by the City of Houston under Chapter 311, Tax Code.

Sec. 3859.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3859.009-3859.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3859.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of 11 directors who serve staggered terms of four years with five or six directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may increase or decrease the number of directors on the board, but only if a majority of the board finds that it is in the best interest of the district to do so. The board may not:

- (1) increase the number of directors to more than 15; or
- (2) decrease the number of directors to fewer than five.

(c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and 49.060, Water Code, apply to the board.

(d) Subchapter D, Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3859.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. If the board increases the number of directors under Section 3859.051, the board shall appoint qualified persons to fill the new director positions and shall provide for staggering the terms of the directors serving in the new positions. On expiration of the term of a director appointed under this section, a succeeding director shall be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code.

Sec. 3859.053. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Danny Perkins</u>
<u>2</u>	<u>Helen Bonsall</u>
<u>3</u>	<u>George Yeiter</u>
<u>4</u>	<u>Sue DeHaven</u>
<u>5</u>	<u>Ann Collum</u>
<u>6</u>	<u>Mary Case</u>
<u>7</u>	<u>Marjorie Evans</u>
<u>8</u>	<u>Joann Lemon</u>
<u>9</u>	<u>Darryl Bailey</u>
<u>T0</u>	<u>Sushma Jasti</u>
<u>T1</u>	<u>Edwin Lowe</u>

(b) Of the initial directors, the terms of directors appointed for positions 1 through 6 expire June 1, 2011, and the terms of directors appointed for positions 7 through 11 expire June 1, 2009.

(c) Section 3859.051 does not apply to this section.

(d) This section expires September 1, 2011.

[Sections 3859.054-3859.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3859.101. DISTRICT POWERS. The district has:

(1) all powers necessary to accomplish the purposes for which the district was created;

(2) the rights, powers, privileges, authority, and functions of a district created under Chapter 375, Local Government Code;

(3) the powers, duties, and contracting authority specified by Subchapters H and I, Chapter 49, Water Code;

(4) the powers given to a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that section; and

(5) the powers of a housing finance corporation created under Chapter 394, Local Government Code.

Sec. 3859.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3859.103. ELECTIONS. (a) District elections must be held in the manner provided by Subchapter L, Chapter 375, Local Government Code.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 3859.104. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. The district may contract with:

(1) Harris County or the City of Houston for the county or city to provide law enforcement and security services for a fee; and

(2) a private entity for the private entity to provide supplemental security services.

Sec. 3859.105. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money, including bond proceeds;  
and

(2) provide district personnel and services.

(b) The district has all of the powers of a municipality under Chapter 380, Local Government Code.

(c) The district is eligible to receive a grant from a municipality under Chapter 380, Local Government Code.

Sec. 3859.106. ANNEXATION OR EXCLUSION OF TERRITORY. The district may annex or exclude land from the district in the manner provided by Subchapter C, Chapter 375, Local Government Code.

Sec. 3859.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3859.108-3859.150 reserved for expansion]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3859.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED.

(a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) Before the district may act under Subsection (a), a petition must be filed with the district requesting the action with regard to a public transit system. The petition must be signed by owners of property representing a majority of either the total assessed value or the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located. The determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3859.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for the parking of motor vehicles; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(b) A parking facility of the district must be either leased to or operated on behalf of the district by a private entity or an entity other than the district. The district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

(c) The district's public parking facilities and any lease to a private entity are exempt from the payment of ad valorem taxes and state and local sales and use taxes.

Sec. 3859.153. RULES. The district may adopt rules covering its public transit system or its public parking facilities except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3859.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) The district may use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) The district may set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and may issue bonds or notes to finance the cost of these facilities.

(c) Except as provided by Section 3859.151, if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3859.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. If the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, the district shall pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

[Sections 3859.156-3859.200 reserved for expansion]

#### SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3859.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. The district may impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function or to accomplish a purpose or duty for which the district was created.

Sec. 3859.202. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 3859.103, the district may impose an annual ad valorem tax on taxable property in the district to maintain, restore, replace, or operate the district and improvements that the district constructs or acquires or the district's facilities, works, or services.

(b) The board shall determine the tax rate.

Sec. 3859.203. ASSESSMENT IN PART OF DISTRICT. An assessment may be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3859.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose an assessment or finance a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district or in the area of the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 persons who own real property in the district or the area of the district that will be subject to the assessment, if more than 25 persons own real property in the district or area that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County.

Sec. 3859.205. ASSESSMENTS CONSIDERED TAXES. For purposes of a title insurance policy issued under Title 11, Insurance Code, an assessment is a tax.

Sec. 3859.206. LIENS FOR ASSESSMENTS; SUITS TO RECOVER ASSESSMENTS. (a) An assessment imposed on property under this chapter is a personal obligation of the person who owns the property on January 1 of the year for which the assessment is imposed. If the person transfers title to the property, the person is not relieved of the obligation.

(b) On January 1 of the year for which an assessment is imposed on a property, a lien attaches to the property to secure the payment of the assessment and any interest accrued on the assessment. The lien has the same priority as a lien for district taxes.

(c) Not later than the fourth anniversary of the date on which a delinquent assessment became due, the district may file suit to foreclose the lien or to enforce the obligation for the assessment, or both, and for any interest accrued.

(d) In addition to recovering the amount of the assessment and any accrued interest, the district may recover reasonable costs, including attorney's fees, that the district incurs in foreclosing the lien or enforcing the obligation. The costs may not exceed an amount equal to 20 percent of the assessment and interest.

(e) If the district does not file a suit in connection with a delinquent assessment on or before the last date on which the district may file suit under Subsection (c), the assessment and any interest accrued is considered paid.

Sec. 3859.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES. The district may not impose an impact fee or assessment on the property, including equipment or facilities, of:

(1) an electric utility as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a cable operator as defined by 47 U.S.C. Section 522.

Sec. 3859.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

(1) burying or removing electrical power lines, telephone lines, cable or fiber optic lines, or any other type of electrical or optical line;

(2) removing poles and any elevated lines using the poles; and

(3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may acquire, operate, or charge fees for the use of the district conduits for:

(1) another person's:

(A) telecommunications network;

(B) fiber-optic cable; or

(C) electronic transmission line; or

(2) any other type of transmission line or supporting facility.

(c) The district may not require a person to use a district conduit.

Sec. 3859.209. DEBT. The district may issue bonds, notes, or other debt obligations in accordance with Subchapters I and J, Chapter 375, Local Government Code, for a purpose specified by that chapter or as required to exercise a power or function or to accomplish a purpose or duty for which the district was created.

[Sections 3859.210-3859.250 reserved for expansion]

**SUBCHAPTER F. DISSOLUTION**

Sec. 3859.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The district may be dissolved as provided by Subchapter M, Chapter 375, Local Government Code, except that Section 375.264, Local Government Code, does not apply to the district.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms.

**SECTION 2. BOUNDARIES.** As of the effective date of this Act, the Harris County Improvement District No. 9 includes all territory contained in the following described area:

BEGINNING at the intersection of the north boundary of Dixie and the east right of way line of Interstate 45 South;

Then southerly along the east right of way line of Interstate 45 South to its intersection with the south right of way line of Almeda Genoa;

Then westerly along the south right of way line of Almeda Genoa to its intersection with the west right of line of Telephone;

Then southerly along the west right of way line of Telephone to its intersection with the south right of way line of Almeda Genoa;

Then westerly along the south right of way line of Almeda Genoa to its intersection with the west right of way line of Mykawa;

Then northerly along the west right of way line of Mykawa to its intersection with the north boundary of Dixie;

Then easterly along the north boundary of Dixie to the POINT OF BEGINNING.

**SECTION 3. LEGISLATIVE FINDINGS.** The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. INAPPLICABILITY OF NOTICE LAW. Section 313.006, Government Code, does not apply to this Act.

SECTION 5. EFFECTIVE DATE. 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.

**SB 1123 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Miles, the house granted the request of the senate for the appointment of a conference committee on **SB 1123**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1123**: Miles, chair; Coleman, Veasey, Heflin, and Hodge.

**SB 199 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Rose, the house granted the request of the senate for the appointment of a conference committee on **SB 199**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 199**: Rose, chair; J. Davis, S. King, Parker, and Pierson.

**SB 218 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hartnett, the house granted the request of the senate for the appointment of a conference committee on **SB 218**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 218**: Hartnett, chair; J. Davis, Dutton, Hughes, and Parker.

**SB 12 - REQUEST OF SENATE GRANTED  
MOTION TO INSTRUCT CONFEREES  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Bonnen, the house granted the request of the senate for the appointment of a conference committee on **SB 12**.

Representative Thompson moved to instruct the conference committee on **SB 12** to retain the substance of the house amendments in the text of the conference committee report.

A record vote was requested.

The motion to instruct conferees was lost by (Record 1733): 58 Yeas, 73 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Escobar; Farias; Farrar; Gallego; Giddings; Gonzalez Toureilles; Guillen; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Isett; Jones; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Mowery; Naishtat; Oliveira; Olivo; Ortiz; Pickett; Pierson; Raymond; Rodriguez; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo; West.

Nays — Anderson; Aycocock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Delisi; Driver; Eissler; Elkins; England; Farabee; Flynn; Garcia; Gattis; Geren; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Hughes; Jackson; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Macias; Madden; Merritt; Miller; Morrison; O'Day; Orr; Otto; Parker; Patrick; Paxton; Pitts; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales; Puente.

Absent — Christian; Eiland; Flores; Frost; Hill; King, S.; Laubenberg; McClendon; Miles; Moreno; Murphy; Noriega; Peña; Phillips; Quintanilla; Zerwas.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1733. I intended to vote yes.

Bohac

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 12**: Bonnen, chair; Driver, Hancock, Ritter, and Taylor.

### HB 4139 - VOTE RECONSIDERED

Representative Flynn moved to reconsider the vote by which the house concurred in senate amendments to **HB 4139**.

The motion to reconsider prevailed.

### HB 4139 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

**HB 4139**, A bill to be entitled An Act relating to the creation of a county court at law in Van Zandt County.

Representative Flynn 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 4139**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4139**: Flynn, chair; Berman, R. Cook, Hartnett, and Hopson.

### **PROVIDING FOR ADJOURNMENT**

Representative Miles moved that, pending the signing of bills and resolutions by the speaker and receipt of messages from the senate, the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

(Strama in the chair)

### **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. 48).

### **MESSAGES FROM THE SENATE**

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

(Miller in the chair)

### **ADJOURNMENT**

In accordance with a previous motion, the house, at 7:04 p.m., adjourned until 10 a.m. tomorrow.

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### **ADDENDUM**

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### **REFERRED TO COMMITTEES**

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

#### **List No. 1**

**HR 2499** (By Chavez), Honoring Maria Castanon-Williams for serving as Democratic chair of Precinct 90 in El Paso County.

To Rules and Resolutions.

**HR 2546** (By Vaught), In memory of poet Wendy Dimmette of Dallas.

To Rules and Resolutions.

**HR 2547** (By S. King), Honoring Jack Maxwell for the creation of the sculpture Jacob's Dream for Abilene Christian University.

To Rules and Resolutions.

**HR 2548** (By Hernandez), Honoring Rose Springs for serving as Democratic Party precinct chair of Precinct 229 in Harris County.

To Rules and Resolutions.

**HR 2549** (By Hernandez), Honoring Tony Valdez for serving as Democratic Party precinct chair of Precinct 79 in Harris County.

To Rules and Resolutions.

**HR 2550** (By Hernandez), Honoring Wilbert F. Biggs for serving as Democratic Party precinct chair of Precinct 81 in Harris County.

To Rules and Resolutions.

**HR 2551** (By Hernandez), Honoring Myrna Green for serving as Democratic Party precinct chair of Precinct 266 in Harris County.

To Rules and Resolutions.

**HR 2552** (By Hernandez), Honoring Joe R. Reyna for serving as Democratic Party precinct chair of Precinct 188 in Harris County.

To Rules and Resolutions.

**HR 2553** (By Hernandez), Honoring Jan C. Crenshaw for serving as Democratic Party precinct chair of Precinct 375 in Harris County.

To Rules and Resolutions.

**HR 2554** (By Hernandez), Honoring James Lopez for serving as Democratic Party precinct chair of Precinct 530 in Harris County.

To Rules and Resolutions.

**HR 2555** (By Hernandez), Honoring Eric Zuniga for serving as Democratic Party precinct chair of Precinct 62 in Harris County.

To Rules and Resolutions.

**HR 2556** (By Hernandez), Honoring Richard V. Cortez for serving as Democratic Party precinct chair of Precinct 64 in Harris County.

To Rules and Resolutions.

**HR 2557** (By Hernandez), Honoring Robert C. Clowers for serving as Democratic Party precinct chair of Precinct 208 in Harris County.

To Rules and Resolutions.

**HR 2558** (By Hernandez), Honoring Patricia Montoya for serving as Democratic Party precinct chair of Precinct 191 in Harris County.

To Rules and Resolutions.

**HR 2559** (By Hernandez), Honoring Wayne Nichols for serving as Democratic Party precinct chair of Precinct 163 in Harris County.

To Rules and Resolutions.

**HR 2561** (By Bohac), Congratulating Raymond Jacob Garcia of Houston on achieving the rank of Eagle Scout.

To Rules and Resolutions.

**HR 2562** (By Escobar), Honoring Coach Richard Cundiff on his retirement as head football coach at Texas A&M University-Kingsville.

To Rules and Resolutions.

**HR 2563** (By Escobar), In memory of Andres Roman Saenz of Falfurrias.

To Rules and Resolutions.

**HR 2564** (By Escobar), Congratulating Alice G. Mendoza of Kingsville on her appointment to the Texas State Board of Pharmacy.

To Rules and Resolutions.

**HR 2565** (By Escobar), Congratulating Tiffany Vargas of Raymondville for winning regional, state, and national powerlifting championships.

To Rules and Resolutions.

**HR 2566** (By Escobar), In memory of U.S. Navy Petty Officer Third Class Ronchester Mananga Santiago of Kingsville.

To Rules and Resolutions.

**HR 2567** (By Escobar), Honoring America's Last Patrol, Inc., for its efforts in behalf of POWs, MIAs, and their families.

To Rules and Resolutions.

**HR 2568** (By Escobar), In memory of the Honorable Reynaldo M. Munoz, justice of the peace of Precinct 1 in Kleberg County.

To Rules and Resolutions.

**HR 2569** (By Escobar), Congratulating Roberto Gonzalez of Falfurrias on his athletic achievements.

To Rules and Resolutions.

**HR 2570** (By Escobar), Commending Juanita Tijerina for her work as a legislative aide in the office of State Representative Juan Manuel Escobar.

To Rules and Resolutions.

**HR 2571** (By Deshotel), In memory of Yolanda King.

To Rules and Resolutions.

**HR 2572** (By Geren), Recognizing the Patriot Guard Riders for their tributes to our nation's fallen military personnel and for their support of those individuals' families and communities.

To Rules and Resolutions.

**HR 2573** (By Gattis), Honoring Judge John Doerfler on his retirement as county judge of Williamson County.

To Rules and Resolutions.

**HR 2574** (By Gattis), Commending Jane Tableriou for her years of service to Williamson County.

To Rules and Resolutions.

**HR 2575** (By Bohac), Honoring John L. Oden of Houston on his 101st birthday.

To Rules and Resolutions.

**HR 2577** (By Herrero), Honoring the state-qualifying powerlifters of Banquete High School.

To Rules and Resolutions.

**HR 2578** (By Dutton), Congratulating Linda and David Brooks of Austin on the birth of their daughter, Julia Hazel Brooks.

To Rules and Resolutions.

**HR 2579** (By Raymond), Commending the Honorable Dr. Jimmie Don Aycock of Killeen for his outstanding military service to this country.

To Rules and Resolutions.

**HR 2580** (By Raymond), Commending the Honorable Thomas R. Latham of Sunnyvale for his outstanding military service to his country.

To Rules and Resolutions.

**HR 2582** (By Frost), Commemorating the 10th anniversary of the founding of the West Bowie County Rotary Club.

To Rules and Resolutions.

**HR 2584** (By Krusee), Congratulating Isaac Norman of Taylor on the inclusion of his house in the National Register of Historic Places.

To Rules and Resolutions.

**HR 2585** (By Flynn), Honoring East Tawakoni on its 40th anniversary.

To Rules and Resolutions.

**HR 2586** (By Harper-Brown), Congratulating Ray and Ida Massey of Irving on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 2587** (By McCall), In memory of former First Lady of Texas Idanell "Nellie" Connally.

To Rules and Resolutions.

**HR 2589** (By Craddick), Commending the students of Midland ISD who volunteered their time to Midland Teen Court.

To Rules and Resolutions.

**HR 2590** (By Macias), In memory of U.S. Army Corporal Anthony M. Bradshaw of New Braunfels.

To Rules and Resolutions.

**HR 2591** (By Murphy), Honoring Salim Jaradi Ahmad for serving as Republican Party precinct chair of Precinct 96 in Harris County.

To Rules and Resolutions.

**HR 2592** (By Murphy), Honoring Charles Alcorn for serving as Republican Party precinct chair of Precinct 438 in Harris County.

To Rules and Resolutions.

**HR 2593** (By Bolton), Honoring Liz Rawls on her retirement from the office of the Texas Comptroller of Public Accounts.

To Rules and Resolutions.

**HR 2594** (By Murphy), Honoring Bob Blackmer for serving as Republican Party precinct chair of Precinct 338 in Harris County.

To Rules and Resolutions.

**HR 2595** (By Murphy), Honoring Helen Bledsoe for serving as Republican Party precinct chair of Precinct 626 in Harris County.

To Rules and Resolutions.

**HR 2596** (By Murphy), Honoring Paulette Burkhart for serving as Republican Party precinct chair of Precinct 493 in Harris County.

To Rules and Resolutions.

**HR 2597** (By Murphy), Honoring Steve Dorman for serving as Republican Party precinct chair of Precinct 130 in Harris County.

To Rules and Resolutions.

**HR 2598** (By Murphy), Honoring Shelly Hillman for serving as Republican Party precinct chair of Precinct 504 in Harris County.

To Rules and Resolutions.

**HR 2599** (By Murphy), Honoring Jack Jones for serving as Republican Party precinct chair of Precinct 499 in Harris County.

To Rules and Resolutions.

**HR 2600** (By Murphy), Honoring Robert Kerr for serving as Republican Party precinct chair of Precinct 508 in Harris County.

To Rules and Resolutions.

**HR 2601** (By Murphy), Honoring Roman Klein for serving as Republican Party precinct chair of Precinct 437 in Harris County.

To Rules and Resolutions.

**HR 2602** (By Murphy), Honoring Mary K. Maxwell for serving as Republican Party precinct chair of Precinct 483 in Harris County.

To Rules and Resolutions.

**HR 2603** (By Murphy), Honoring Stewart Mayer for serving as Republican Party precinct chair of Precinct 492 in Harris County.

To Rules and Resolutions.

**HR 2604** (By Murphy), Honoring Jim McSpadden for serving as Republican Party precinct chair of Precinct 727 in Harris County.

To Rules and Resolutions.

**HR 2605** (By Murphy), Honoring Larry Pound for serving as Republican Party precinct chair of Precinct 356 in Harris County.

To Rules and Resolutions.

**HR 2606** (By Murphy), Honoring Sandy Steffes for serving as Republican Party precinct chair of Precinct 395 in Harris County.

To Rules and Resolutions.

**HR 2607** (By Murphy), Honoring Warren Stevens for serving as Republican Party precinct chair of Precinct 429 in Harris County.

To Rules and Resolutions.

**HR 2608** (By Murphy), Honoring Jeff Williams for serving as Republican Party precinct chair of Precinct 625 in Harris County.

To Rules and Resolutions.

**HR 2609** (By Rodriguez), Commending Damon Martinez for his service as a legislative intern in the office of Representative Eddie Rodriguez.

To Rules and Resolutions.

**HR 2610** (By Rodriguez), Honoring attorney Barbara Hines for her work in behalf of immigrant rights.

To Rules and Resolutions.

**HR 2612** (By Hernandez), Commending all the participants in the Texas Legislative Internship Program during the 80th Legislative Session.

To Rules and Resolutions.

**HR 2613** (By Noriega), Congratulating Lieutenant Colonel William M. Pina on his retirement from the Texas Army National Guard.

To Rules and Resolutions.

**HR 2614** (By Noriega), Congratulating Gary Walston on his retirement from the Texas ESGR program.

To Rules and Resolutions.

**HR 2615** (By Corte), Honoring Derba Mills, the founder of Clothesline Cleaners.

To Rules and Resolutions.

**HR 2616** (By Corte), Honoring Thomas H. Dickerson for his service to his profession and community.

To Rules and Resolutions.

**HR 2620** (By Gallego), In memory of U.S. Army Private Oscar Saucedo, Jr., of Del Rio.

To Rules and Resolutions.

**HR 2621** (By Taylor), In memory of Israel Louis Schwartz.

To Rules and Resolutions.

**HR 2622** (By Hughes), Honoring the 60th anniversary of KMHT Radio in Marshall.

To Rules and Resolutions.

**HR 2623** (By Raymond), Commending the Honorable Allen Vaught of Dallas for his outstanding military service to this country.

To Rules and Resolutions.

**HR 2625** (By S. King), Honoring Renee Clark of Wylie High School for her work with the school's UIL academic team.

To Rules and Resolutions.

**HR 2626** (By S. King), Honoring Terri Burke for her years of service to the Abilene Reporter-News.

To Rules and Resolutions.

**HR 2627** (By Mowery), In memory of U.S. Army Specialist Lance C. Springer III of Fort Worth.

To Rules and Resolutions.

**HR 2629** (By Krusee), In memory of U.S. Marine Sergeant Christopher M. Zimmerman of Stephenville.

To Rules and Resolutions.

**HR 2630** (By Hill), Congratulating the Richardson High School mock trial team on its state championship and its success at the national championships.

To Rules and Resolutions.

**HR 2631** (By Hill), Congratulating the Richardson High School Robotics Team on winning the Bots IQ 2007 national competition.

To Rules and Resolutions.

**HR 2632** (By Hill), Recognizing Melissa Henderson of Berkner High School in Richardson on her selection as the 2006-2007 Gatorade National Girls Soccer Player of the Year.

To Rules and Resolutions.

**HR 2633** (By Hardcastle), In memory of U.S. Army Specialist Ryan Collins of Vernon.

To Rules and Resolutions.

**HR 2634** (By Hilderbran), Commemorating the 250th anniversary of the founding of the Presidio de San Saba and Mission Santa Cruz de San Saba in Menard.

To Rules and Resolutions.

**HR 2636** (By Parker), Honoring Stacie McClinton for her kidney donation to her husband, Clay McClinton, and commending both Mr. and Mrs. McClinton for their efforts to encourage organ donation.

To Rules and Resolutions.

**HR 2637** (By Hernandez), Honoring Harold Boone, Jr., for his participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2638** (By Pickett), Recognizing the 150th anniversary of the historic El Paso & Southwestern Locomotive No. 1.

To Rules and Resolutions.

**HR 2639** (By Hernandez), Honoring Kimberly Player for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2640** (By Hernandez), Honoring Keshia Babin for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2641** (By Hernandez), Honoring Heather Ragsdale for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2642** (By Hernandez), Honoring Angela Owens of Houston for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2643** (By Hernandez), Honoring Namitha Jacob of Missouri City for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2644** (By Hernandez), Honoring James C. Lacey for his participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2645** (By Hernandez), Honoring Stefani Garcia of Houston for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2646** (By Hernandez), Honoring Cynthia D. Brum for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2647** (By Hernandez), Honoring Edwin Ortiz of Austin for his participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2648** (By Hernandez), Honoring Rashandra Hayes for her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2649** (By Hernandez), Honoring Michael Floissac of Houston for his participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

**HR 2650** (By Craddick), Congratulating Don and Virginia McPeak of Midland on their 65th wedding anniversary.

To Rules and Resolutions.

**HR 2651** (By Flynn), Congratulating Tommy and Ann Evans of Quinlan on their 50th wedding anniversary.

To Rules and Resolutions.

**HR 2669** (By T. Smith), Providing for the election of the speaker.

To Rules and Resolutions.

**HR 2671** (By T. Smith), Providing for the election of the speaker.

To Rules and Resolutions.

### **SIGNED BY THE SPEAKER**

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

#### **House List No. 45**

**HB 47, HB 89, HB 142, HB 177, HB 199, HB 261, HB 278, HB 309, HB 335, HB 343, HB 373, HB 412, HB 431, HB 432, HB 433, HB 455, HB 485, HB 487, HB 541, HB 567, HB 573, HB 621, HB 649, HB 755,**

HB 831, HB 888, HB 916, HB 959, HB 964, HB 1022, HB 1034, HB 1121, HB 1158, HB 1166, HB 1183, HB 1212, HB 1241, HB 1254, HB 1275, HB 1297, HB 1352, HB 1370, HB 1374, HB 1381, HB 1385, HB 1411, HB 1427, HB 1456, HB 1471, HB 1493, HB 1500, HB 1545, HB 1573, HB 1587, HB 1614, HB 1687, HB 1728, HB 1737, HB 1747, HB 1759, HB 1795, HB 1815, HB 1841, HB 1847, HB 1849, HB 1915, HB 1920, HB 1921, HB 1995, HB 2002, HB 2070, HB 2077, HB 2087, HB 2091, HB 2092, HB 2101, HB 2103, HB 2112, HB 2115, HB 2117, HB 2151, HB 2174, HB 2218, HB 2256, HB 2267, HB 2283, HB 2352, HB 2353, HB 2358, HB 2368, HB 2385, HB 2442, HB 2445, HB 2484, HB 2540, HB 2549, HB 2551, HB 2569, HB 2608, HB 2617, HB 2627, HB 2639, HB 2646, HB 2651, HB 2654, HB 2660, HB 2694, HB 2761, HB 2766, HB 2984, HB 2990, HB 2991, HB 3008, HB 3011, HB 3017, HB 3024, HB 3038, HB 3070, HB 3093, HB 3098, HB 3114, HB 3131, HB 3147, HB 3171, HB 3182, HB 3195, HB 3210, HB 3211, HB 3225, HB 3236, HB 3261, HB 3266, HB 3270, HB 3273, HB 3290, HB 3291, HB 3295, HB 3300, HB 3352, HB 3353, HB 3355, HB 3367, HB 3392, HB 3407, HB 3435, HB 3439, HB 3457, HB 3470, HB 3485, HB 3495, HB 3502, HB 3558, HB 3593, HB 3619, HB 3647, HB 3659, HB 3688, HB 3723, HB 3735, HB 3736, HB 3764, HB 3770, HB 3787, HB 3832, HB 3834, HB 3934, HB 3954, HB 3979, HB 3980, HB 3982, HB 3988, HB 3989, HB 3991, HB 3992, HB 3993, HB 3997, HB 3998, HB 4004, HB 4006, HB 4008, HB 4009, HB 4010, HB 4017, HB 4018, HB 4019, HB 4022, HB 4024, HB 4085, HCR 208, HCR 209, HCR 218, HCR 221, HCR 228, HCR 231, HCR 232, HCR 234, HCR 242, HCR 244, HCR 245, HCR 250, HCR 251, HCR 262, HCR 264, HJR 30, HJR 40, HJR 54

**Senate List No. 48**

SB 162, SB 191, SB 230, SB 297, SB 309, SB 333, SB 401, SB 415, SB 469, SB 556, SB 585, SB 589, SB 610, SB 653, SB 683, SB 684, SB 685, SB 704, SB 707, SB 791, SB 878, SB 994, SB 1046, SB 1051, SB 1070, SB 1071, SB 1083, SB 1127, SB 1128, SB 1138, SB 1205, SB 1254, SB 1271, SB 1380, SB 1414, SB 1433, SB 1440, SB 1483, SB 1495, SB 1548, SB 1619, SB 1668, SB 1669, SB 1713, SB 1733, SB 1762, SB 1946, SB 1955, SB 1969, SB 1976, SB 1987, SB 1988, SB 1989, SB 1990, SB 1991, SB 2029, SB 2033, SB 2042, SB 2043

**MESSAGES FROM THE SENATE**

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

**Message No. 1**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 24, 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 3** Puente SPONSOR: Averitt  
Relating to the management of the water resources of the state, including the protection of instream flows and freshwater inflows.  
(Committee Substitute/Amended)

**HB 4** Puente SPONSOR: Averitt  
Relating to water conservation.  
(Amended)

**HB 12** Hilderbran SPONSOR: Estes  
Relating to the funding, powers, duties, and responsibilities of the Parks and Wildlife Department and the Texas Historical Commission.  
(Committee Substitute/Amended)

**HB 15** Chisum SPONSOR: Ogden  
Relating to making supplemental appropriations and reductions in appropriations and giving direction, transfer authority, and other adjustment authority regarding appropriations.  
(Committee Substitute/Amended)

**HB 160** Menendez SPONSOR: Wentworth  
Relating to rail relocation and improvement in the state.  
(Committee Substitute/Amended)

**HB 442** Phillips SPONSOR: Deuell  
Relating to taking or attempting to take a stun gun from a peace officer or certain other officers.  
(Amended)

**HB 539** Smith, Wayne SPONSOR: West, Royce  
Relating to the regulation of fireworks and fireworks displays.  
(Amended)

**HB 735** Straus SPONSOR: Williams  
Relating to the discontinuation of the Telecommunications Infrastructure Fund.  
(Amended)

**HB 946** Miller SPONSOR: Whitmire  
Relating to conduct that constitutes the offense of endangering a child.  
(Amended)

**HB 1137** Hochberg SPONSOR: Zaffirini  
Relating to eligibility and attendance requirements in public schools.  
(Amended)

**HB 1168** Menendez SPONSOR: Shapleigh

Relating to licensing and regulation of certain facilities providing personal care to elderly or disabled persons; providing penalties.

(Committee Substitute/Amended)

**HB 1267**

Pena

SPONSOR: Seliger

Relating to the compensation of counsel appointed to defend an indigent defendant in a criminal proceeding.

(Amended)

**HB 1565**

Puente

SPONSOR: Uresti

Relating to the governing body, boundaries, and functions of the Bexar Metropolitan Water District.

(Committee Substitute/Amended)

**HB 1742**

Giddings

SPONSOR: West, Royce

Relating to urban land bank demonstration programs.

(Committee Substitute/Amended)

**HB 1775**

Christian

SPONSOR: Zaffirini

Relating to authorizing the issuance of revenue bonds for the expansion of school of nursing facilities at Stephen F. Austin State University.

**HB 2198**

Flores

SPONSOR: Janek

Relating to authorizing certain public junior colleges to offer baccalaureate degree programs.

(Amended)

**HB 2207**

Gallego

SPONSOR: Watson

Relating to the conveyance of certain residential real property encumbered by a lien.

(Amended)

**HB 2383**

Lucio III

SPONSOR: Lucio

Relating to the provision of certain subsidies and scholarships to particular public school students or graduates.

(Amended)

**HB 2427**

Truitt

SPONSOR: Whitmire

Relating to the continuation and functions of the Teacher Retirement System of Texas; providing penalties.

**HB 2532**

Patrick

SPONSOR: Shapiro

Relating to the expulsion and placement in alternative settings of public school students who engage in conduct constituting certain felonies.

(Amended)

**HB 2701**

Flores

SPONSOR: Lucio

Relating to the regulation of horse and dog racing.

(Amended)

**HB 2702**

Truitt

SPONSOR: Shapiro

Relating to the exemption from tuition and fees at a public institution of higher education for adopted students.

(Amended)

**HB 2884**

Dutton

SPONSOR: West, Royce

Relating to juvenile delinquency; providing penalties.  
(Amended)

**HB 2936** Farrar SPONSOR: Ellis  
Relating to exempting certain community development corporations from the Texas Residential Construction Commission Act.

**HB 2949** Merritt SPONSOR: Eltife  
Relating to certain fees in the administration of the teen court program in the Texas-Louisiana border region.

**HB 2978** Morrison SPONSOR: Shapiro  
Relating to engineering recruitment programs established by the Texas Higher Education Coordinating Board.  
(Amended)

**HB 2994** Bonnen SPONSOR: Hegar  
Relating to certain agreements made with electric power generation facilities under the Property Redevelopment and Tax Abatement Act and to similar agreements and compliance reports under the Texas Economic Development Act.  
(Committee Substitute)

**HB 3107** Isett, Carl SPONSOR: Ogden  
Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.  
(Amended)

**HB 3200** Madden SPONSOR: Whitmire  
Relating to funding for community supervision and corrections departments.  
(Amended)

**HB 3271** Eiland SPONSOR: Janek  
Relating to the biennial hearing concerning title insurance and related information.  
(Committee Substitute/Amended)

**HB 3309** Bolton SPONSOR: Hinojosa  
Relating to the ability of certain advocacy and support groups to provide services for children confined in Texas Youth Commission facilities.  
(Committee Substitute)

**HB 3314** Keffer, Jim SPONSOR: Duncan  
Relating to administration, collection, and enforcement of state taxes; providing penalties.  
(Amended)

**HB 3315** Keffer, Jim SPONSOR: Duncan  
Relating to the imposition and collection of certain insurance taxes, the adoption of certain reciprocal or multistate agreements relating to those taxes, and the adoption of rules relating to those taxes.  
(Amended)

**HB 3319** Keffer, Jim SPONSOR: Duncan  
Relating to the sales and use tax.

(Amended)

**HB 3378** Truitt SPONSOR: Brimer  
Relating to the requirements governing municipal consent to the creation or expansion of certain water districts.  
(Committee Substitute/Amended)

**HB 3430** Strama SPONSOR: Hegar  
Relating to the online availability of information about state expenditures, including the creation of a state database containing information on state expenditures, and to certain comptroller reports.  
(Committee Substitute/Amended)

**HB 3443** Howard, Donna SPONSOR: West, Royce  
Relating to the Texas hospital-based nursing education partnership grant program.  
(Committee Substitute/Amended)

**HB 3554** Isett, Carl SPONSOR: Duncan  
Relating to the program for the regulation and remediation of underground and aboveground storage tanks.  
(Committee Substitute/Amended)

**HB 3560** Swinford SPONSOR: Janek  
Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities and renaming the commission the Texas Facilities Commission.  
(Committee Substitute/Amended)

**HB 3584** Pena SPONSOR: Van de Putte  
Relating to the creation of the offense of organized retail theft.  
(Amended)

**HB 3674** Davis, John SPONSOR: Jackson, Mike  
Relating to the operation of property owners' associations.  
(Amended)

**HB 3678** Howard, Charlie SPONSOR: Williams  
Relating to voluntary student expression of religious viewpoints in public schools.  
(Committee Substitute)

**HB 3692** Straus SPONSOR: Wentworth  
Relating to the denial or revocation of bail for a person who violates certain court orders or conditions of bond related to victim or community safety.  
(Committee Substitute/Amended)

**HB 3694** Deshotel SPONSOR: Janek  
Relating to the enterprise zone program.  
(Committee Substitute/Amended)

**HB 3699** McCall SPONSOR: Williams  
Relating to the management of public school land and the investment of the permanent school fund.

(Committee Substitute)

**HB 3838** Gonzalez Tourelles SPONSOR: Hegar  
Relating to regulation of injection wells used for in situ uranium recovery by the Texas Commission on Environmental Quality.

(Committee Substitute)

**HB 3851** Morrison SPONSOR: Shapiro  
Relating to the admission of high school graduates and undergraduate transfer students to certain institutions of higher education, the computation of a student's high school grade point average for purposes of determining eligibility for admission, and policies to promote the admission of undergraduate transfer students.

(Amended)

**HB 3873** Menendez SPONSOR: West, Royce  
Relating to the administration of the Texas Department of Housing and Community Affairs; providing a penalty.

(Amended)

**HB 3984** Phillips SPONSOR: Estes  
Relating to the creation of the Double Platinum Ranch Water Control and Improvement District No. 1 of Grayson County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**HB 3990** Aycok SPONSOR: Fraser  
Relating to the creation of the Burnet County Water Control and Improvement District No. 1; providing authority to impose a tax and issue bonds.

**HB 4015** Otto SPONSOR: Williams  
Relating to the powers and duties of the East Montgomery County Improvement District; providing authority to impose a tax.

**HB 4032** Cook, Robby SPONSOR: Hegar  
Relating to the creation of the Colorado County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

(Committee Substitute/Amended)

**HB 4053** Eiland SPONSOR: Jackson,  
Mike  
Relating to the creation of the Galveston Grand Beach Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

(Committee Substitute)

**HB 4065** Otto SPONSOR: Watson  
Relating to the establishment by the Texas Workforce Commission of a pilot program to provide grants for the construction of certain facilities for job training and employment services.

**HB 4094** Swinford SPONSOR: Seliger  
Relating to the fees assessed in certain cases filed in the Midland County courts at law.

**HB 4113** Cohen SPONSOR: Ellis  
Relating to the Buffalo Bayou Management District.

(Committee Substitute/Amended)

**HCR 151** Bohac SPONSOR: Patrick, Dan  
Designating the cowboy boot as the official State Shoe of Texas.

**HJR 19** Branch SPONSOR: Carona  
Proposing a constitutional amendment to require a house of the legislature to take a record vote on certain legislative measures and actions and to provide for public Internet access to those record votes.

(Committee Substitute/Amended)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 24, 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:

**HB 426** Madden SPONSOR: Zaffirini  
Relating to standards for the operation of school district disciplinary alternative education programs.  
(Committee Substitute)

**HB 556** Hilderbran SPONSOR: Fraser  
Relating to voting station requirements for elections held by the Hickory Underground Water Conservation District No. 1.  
(Amended)

**HB 581** Deshotel SPONSOR: Van de Putte  
Relating to exempting from certain employment restrictions the employment of certain children engaged in the direct sale of newspapers to the general public.  
(Committee Substitute)

**HB 610** Brown, Fred SPONSOR: Hegar  
Relating to a plan to provide services to an area annexed by a municipality.  
(Amended)

**HB 779** Dutton SPONSOR: Gallegos  
Relating to the dismissal of certain enforcement actions alleging the failure to pay child support.  
(Amended)

- HB 814** Dutton SPONSOR: Ellis  
Relating to the payment of child support obligations on behalf of persons wrongfully imprisoned.  
(Amended)
- HB 860** Paxton SPONSOR: Williams  
Relating to management, investment, and expenditure of institutional funds and adoption of the Uniform Prudent Management of Institutional Funds Act.  
(Amended)
- HB 866** Davis, Yvonne SPONSOR: West, Royce  
Relating to local control of firefighter and police officer employment matters in certain municipalities.  
(Amended)
- HB 967** Guillen SPONSOR: Zaffirini  
Relating to the reappraisal for ad valorem tax purposes of agricultural or open-space land on which the Texas Animal Health Commission has established a temporary quarantine for ticks.
- HB 971** King, Tracy SPONSOR: Uresti  
Relating to a documented member of the Kickapoo Traditional Tribe of Texas hunting certain deer.
- HB 1113** Turner SPONSOR: Uresti  
Relating to prohibitions on and reporting research on children within the juvenile probation system.  
(Amended)
- HB 1287** Chisum SPONSOR: Estes  
Relating to public school elective courses providing academic study of the Bible.
- HB 1459** Guillen SPONSOR: Janek  
Relating to the application of the sales and use tax to certain telecommunications services provided through the use of a pay phone.
- HB 1503** Lucio III SPONSOR: Hinojosa  
Relating to allowing certain assistant district and county attorneys to carry weapons.  
(Committee Substitute/Amended)
- HB 1524** Guillen SPONSOR: Zaffirini  
Relating to sports and community venue projects.
- HB 1671** Homer SPONSOR: Seliger  
Relating to limiting the authority of a property owner to erect a gate on certain third-class and neighborhood roads.
- HB 1801** Zerwas SPONSOR: Hegar  
Relating to the date by which a prosecuting attorney may appeal certain orders, rulings, or sentences in a criminal case and to the posting of notice for a criminal court docket.  
(Committee Substitute)
- HB 1919** Smith, Todd SPONSOR: Van de Putte

Relating to health benefit plan coverage for treatment for certain brain injuries and serious mental illnesses.

(Amended)

**HB 1960**

Ortiz, Jr.

SPONSOR: Hinojosa

Relating to access to records or files concerning a child who is subject to the juvenile justice system.

(Committee Substitute)

**HB 1988**

Martinez, "Mando"

SPONSOR: Hinojosa

Relating to the issuance of a protective order for a victim of the offense of sexual assault, aggravated sexual assault, or indecency with a child.

(Committee Substitute)

**HB 2190**

Truitt

SPONSOR: Duncan

Relating to eligibility to serve as the executive director of the Teacher Retirement System of Texas.

**HB 2222**

Heflin

SPONSOR: Uresti

Relating to the membership of the Food and Fibers Research Council.

**HB 2265**

Haggerty

SPONSOR: Averitt

Relating to the award of prizes in, and the conduct of, a progressive bingo game.

(Amended)

**HB 2300**

Paxton

SPONSOR: Hegar

Relating to the carrying of weapons by certain judges and justices and district and county attorneys.

(Amended)

**HB 2402**

Truitt

SPONSOR: Brimer

Relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

(Committee Substitute/Amended)

**HB 2460**

Flynn

SPONSOR: Deuell

Relating to the continuation and functions of the Texas Commission on the Arts.

(Committee Substitute/Amended)

**HB 2523**

Parker

SPONSOR: Nelson

Relating to the authority of the Denton County Municipal Utility District No. 6 to divide into two districts.

**HB 2524**

McClendon

SPONSOR: Van de Putte

Relating to the establishment of a pilot project to construct a public safety triage and detoxification unit and the provision of mental health and substance abuse treatment.

**HB 2541**

Leibowitz

SPONSOR: Uresti

Relating to emergency response costs and certain other requirements concerning solid waste facilities, including recycling facilities.

(Committee Substitute)

**HB 2566**

Madden

SPONSOR: Carona

Relating to a document or instrument filed by an inmate with a court concerning real or personal property.

(Committee Substitute)

**HB 2605** Hochberg SPONSOR: Whitmire  
Relating to the existence of a common nuisance on premises for which certain alcoholic beverage permits or licenses are held or sought.

(Committee Substitute/Amended)

**HB 2667** Latham SPONSOR: Deuell  
Relating to certain insurance-related matters involving rural volunteer firefighters, volunteer police force members, or emergency services districts.

(Amended)

**HB 2982** Hardcastle SPONSOR: Seliger  
Relating to the ad valorem tax appraisal of oil or gas interests.

(Amended)

**HB 3057** Callegari SPONSOR: Janek  
Relating to the acquisition of real property for public use.

(Amended)

**HB 3382** Naishtat SPONSOR: Uresti  
Relating to providing certain computerized instructional material for blind and visually impaired students and students with dyslexia who are enrolled at public institutions of higher education.

(Committee Substitute/Amended)

**HB 3630** Van Arsdale SPONSOR: Hegar  
Relating to the appraisal for ad valorem tax purposes of a parcel of land that is used for single-family residential purposes and is contiguous to a parcel of agricultural or open-space land owned by the same person.

(Amended)

**HB 3693** Straus SPONSOR: Fraser  
Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

(Committee Substitute/Amended)

**HB 3826** Morrison SPONSOR: Zaffirini  
Relating to high school curriculum requirements for admission to public institutions of higher education and to the admission to public institutions of higher education of the children of certain public servants killed in the line of duty.

(Committee Substitute/Amended)

**HB 4029** Morrison SPONSOR: Hegar  
Relating to the creation of the Lavaca County Groundwater Conservation District; providing authority to impose a tax.

(Committee Substitute/Amended)

**HCR 233** Strama SPONSOR: Watson  
In memory of Teresa Terry of Pflugerville.

**HJR 6** Straus SPONSOR: Wentworth

Proposing a constitutional amendment authorizing the denial of bail to a person who violates certain court orders or conditions of release in a felony or family violence case.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 24, 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:

**HB 828** Hochberg SPONSOR: Shapiro  
Relating to the amount of the guaranteed yield under the Foundation School Program.  
(Amended)

**HB 2543** Kolkhorst SPONSOR: Ellis  
Relating to the continuation and operation of the Texas Animal Health Commission; providing penalties.

**HB 2833** Driver SPONSOR: Seliger  
Relating to the licensing and regulation of certain private security services.  
(Amended)

**HB 3618** Raymond SPONSOR: Zaffirini  
Relating to certain health programs and grants and other related funds for school districts located in the border region.  
(Amended)

**HB 3776** Puente SPONSOR: Wentworth  
Relating to the authority of the Texas Water Development Board to approve the regional water plan for Region L and include the plan in the state water plan.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 4**MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 24, 2007 - 4

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

## THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 3154**                      Laubenberg                      SPONSOR: Deuell  
Relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.  
(Amended)

**HCR 207**                      Hilderbran                      SPONSOR: Wentworth  
Honoring retired United States Air Force Lieutenant Colonel Richard Cole, the last surviving member of General Jimmy Doolittle's crew.

**HCR 266**                      Hilderbran                      SPONSOR: Duncan  
Honoring the 100th anniversary of Saint Joseph Catholic Church in Rowena.

**HCR 267**                      Hilderbran                      SPONSOR: Fraser  
In memory of Emma Louise Stengel Bean of Menard.

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

**SB 7**                              (30 Yeas, 0 Nays)  
**SB 29**                              (30 Yeas, 0 Nays)  
**SB 155**                              (30 Yeas, 0 Nays)  
**SB 161**                              (30 Yeas, 0 Nays)  
**SB 772**                              (30 Yeas, 0 Nays)  
**SB 778**                              (30 Yeas, 0 Nays)  
**SB 831**                              (30 Yeas, 0 Nays)  
**SB 1169**                              (30 Yeas, 0 Nays)  
**SB 1531**                              (30 Yeas, 0 Nays)  
**SB 1723**                              (30 Yeas, 0 Nays)  
**SB 2000**                              (30 Yeas, 0 Nays)  
**SJR 29**                              (30 Yeas, 0 Nays)

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

**SB 6**

Senate Conferees: Zaffirini - Chair/Averitt/Carona/Eltife/Hinojosa

**SB 8**

Senate Conferees: Janek - Chair/Averitt/Seliger/Van de Putte/Zaffirini

**SB 548**

Senate Conferees: Carona - Chair/Averitt/Lucio/Van de Putte/Watson

**SB 765**

Senate Conferees: Eltife - Chair/Averitt/Estes/Ogden/Watson

**SB 903**

Senate Conferees: Brimer - Chair/Deuell/Hegar/Lucio/Williams

**SB 1154**

Senate Conferees: Carona - Chair/Hinojosa/Seliger/West, Royce/Williams

**SB 1383**

Senate Conferees: Seliger - Chair/Averitt/Eltife/Lucio/Zaffirini

**SB 1499**

Senate Conferees: Zaffirini - Chair/Averitt/Carona/Ellis/Eltife

**SB 1714**

Senate Conferees: Seliger - Chair/Eltife/Estes/Hegar/Hinojosa

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

**HB 119**

Senate Conferees: Ogden - Chair/Ellis/Hegar/Lucio/Nichols

**HB 463**

Senate Conferees: Carona - Chair/Brimer/Fraser/Watson/Wentworth

**HB 899**

Senate Conferees: Deuell - Chair/Estes/Hinojosa/Nichols/Van de Putte

**HB 1060**

Senate Conferees: Harris - Chair/Brimer/Janek/Lucio/Watson

**HB 1594**

Senate Conferees: Carona - Chair/Fraser/Nelson/Van de Putte/Watson

**HB 1610**

Senate Conferees: Whitmire - Chair/Hegar/Hinojosa/Seliger/Williams

**HB 1623**

Senate Conferees: Carona - Chair/Brimer/Ellis/Wentworth/Williams

**HB 1973**

Senate Conferees: Nelson - Chair/Deuell/Janek/Nichols/Uresti

**HB 2458**

Senate Conferees: Brimer - Chair/Averitt/Eltife/Shapleigh/Whitmire

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 2261** (30 Yeas, 0 Nays)Respectfully,  
Patsy Spaw  
Secretary of the Senate**Message No. 5**MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 24, 2007 - 5The 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 470** Rodriguez SPONSOR: Watson  
Relating to the creation, operation, management, and programs of homestead preservation districts.  
(Amended)**HB 1207** Keffer, Jim SPONSOR: Ogden  
Relating to corrections to the revised franchise tax transition provisions of **HB 3**, 79th Legislature, 3rd Called Session, 2006.**HB 1526** Smith, Wayne SPONSOR: Seliger  
Relating to incentives for and the use of supplemental leak detection technologies for air contaminants.  
(Committee Substitute/Amended)**HB 2501** Gonzalez Toureilles SPONSOR: Watson  
Relating to certain suits affecting the parent-child relationship referred to an associate judge.

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

**SB 10**

Senate Conferees: Nelson - Chair/Deuell/Janek/Lucio/Uresti

**SB 23**

Senate Conferees: Nelson - Chair/Duncan/Jackson, Mike/Whitmire/Williams

**SB 36**

Senate Conferees: Nelson - Chair/Deuell/Janek/Uresti/West, Royce

**SB 1119**

Senate Conferees: Carona - Chair/Deuell/Ellis/Watson/Wentworth

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

**HB 155**

Senate Conferees: Lucio - Chair/Carona/Ellis/Hegar/Van de Putte

**HB 3928**

Senate Conferees: Ogden - Chair/Averitt/Fraser/Lucio/Van de Putte

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 103** (30 Yeas, 0 Nays)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 6**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 24, 2007 - 6

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 1751**

Cohen

SPONSOR: West, Royce

Relating to the imposition and use of a fee on certain sexually oriented businesses.

(Amended)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**ENGROSSED**

**May 23 - HCR 206**

**ENROLLED**

**May 23 - HB 14, HB 52, HB 120, HB 198, HB 199, HB 573, HB 643, HB 649, HB 755, HB 868, HB 1022, HB 1082, HB 1187, HB 1204, HB 1346, HB 1418, HB 1471, HB 3070, HB 3143, HB 3325, HB 3485, HB 3495, HB 3972, HB 3995, HB 4085, HCR 208, HCR 209, HCR 217, HCR 218, HCR 221, HCR 228, HCR 231, HCR 234, HCR 242, HCR 244, HCR 245, HCR 250, HCR 251, HCR 262, HCR 264, HJR 30, HJR 40, HJR 54**

**RECOMMENDATIONS FILED WITH THE SPEAKER**

**May 23 - HB 4059, HB 4061, HB 4067, HB 4069, HB 4073, HB 4075, HB 4079, HB 4080, HB 4081, HB 4083, HB 4085, HB 4089, HB 4091, HB 4092, HB 4093, HB 4095, HB 4096, HB 4097, HB 4098, HB 4099, HB 4102, HB 4103, HB 4109, HB 4111, HB 4113, HB 4115, HB 4117, HB 4121, HB 4122, HB 4123, HB 4127, HB 4131, HB 4132, HB 4137**

**SENT TO THE GOVERNOR**

**May 23 - HB 44, HB 48, HB 54, HB 95, HB 188, HB 271, HB 273, HB 321, HB 413, HB 429, HB 530, HB 536, HB 604, HB 662, HB 890, HB 902, HB 921, HB 1029, HB 1129, HB 1170, HB 1268, HB 1293, HB 1355, HB 1420, HB 1446, HB 1602, HB 1700, HB 1709, HB 1720, HB 1767, HB 1798, HB 1804, HB 2095, HB 2144, HB 2195, HB 2248, HB 2345, HB 2391, HB 2565, HB 2589, HB 2591, HB 2626, HB 3140, HB 3259, HB 3446, HB 3473, HB 3505, HB 3634, HB 3827, HB 3900, HCR 114, HCR 199, HCR 203, HCR 240, HCR 248**

**SIGNED BY THE GOVERNOR**

**May 23 - HB 66, HB 991, HB 1071, HB 1311, HB 1312, HB 1622, HB 1956, HB 3169, HB 3564, HB 3718, HCR 162, HCR 238**