

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

SEVENTY-SEVENTH DAY — SATURDAY, MAY 23, 2009

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

The roll of the house was called and a quorum was announced present (Record 1062).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Kuempel.

Absent — Riddle.

The invocation was offered by Representative D. Howard.

The chair recognized Representative D. Howard who led the house in the pledges of allegiance to the United States and Texas flags.

### **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. 36 and Senate List No. 37).

**HCR 255 - MOTION TO SUSPEND RULES**  
**(by Rose)**

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HCR 255**.

There being objection, the motion was lost.

**HCR 255 - NOTICE OF MOTION TO SUSPEND RULES**

Pursuant to the provisions of Rule 14, Section 4 of the House Rules, at 10:42 a.m., the chair announced that Representative Rose would, in at least one hour, be recognized for the purpose of suspending the regular order of business to take up **HCR 255** out of its regular order.

**HB 3218 - VOTE RECONSIDERED**

Representative Naishtat moved to reconsider the vote by which the house concurred in senate amendments to **HB 3218** on May 21 by Record No. 1038.

The motion to reconsider prevailed.

**HB 3218 - HOUSE REFUSES TO CONCUR**  
**IN SENATE AMENDMENTS**  
**CONFERENCE COMMITTEE APPOINTED**

**HB 3218**, A bill to be entitled An Act relating to the filing of sworn complaints with the Texas Ethics Commission.

Representative Naishtat 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 3218**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3218**: Naishtat, chair; Herrero, Phillips, Patrick, and T. King.

**SB 1152 - REQUEST OF SENATE GRANTED**  
**CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Anchia, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1152**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1152**: Anchia, chair; Marquez, McCall, T. Smith, and Heflin.

**NOTICE OF MOTION TO SUSPEND RULES**

Pursuant to the provisions of Rule 14, Section 4 of the House Rules, at 10:50 a.m., the chair announced that Representative Dunnam would, in at least one hour, be recognized for the purpose of suspending the regular order of business to take up **SB 14**, **SB 1077**, and **SB 409** out of their regular order.

The following members gave notice of a standing objection, to be in effect until 11:59 p.m, May 23, to suspending the regular order of business:

Berman, Aycock, Elkins, Fletcher, Swinford, S. King, Woolley, Phillips, J. Davis, Craddick, Eissler, Jackson, Hardcastle, Darby, Weber, B. Brown, Flynn, Cook, F. Brown, C. Howard, Crownover, Laubenberg, Morrison, Hartnett, Isett, Gattis, Chisum, Madden, W. Smith, S. Miller, Truitt, McCall, Patrick, Hamilton, Christian, Hancock, Otto, Lewis, Orr, Hunter, Sheffield, Button, Branch, D. Miller, Bonnen, Taylor, Zerwas, Legler, Geren, Harper-Brown, Kleinschmidt, Anderson, P. King, Shelton, Parker, Harless, Keffer, Smithee, Pitts, Paxton, Kolkhorst, and Hughes.

### **SB 2306 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative D. Miller submitted the conference committee report on **SB 2306**.

Representative D. Miller moved to adopt the conference committee report on **SB 2306**.

The motion to adopt the conference committee report on **SB 2306** prevailed by (Record 1063): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Kuempel.

Absent — Corte; Heflin; Naishtat; Riddle; Villarreal.

### STATEMENT OF VOTE

When Record No. 1063 was taken, my vote failed to register. I would have voted yes.

Naishtat

#### **SB 434 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cohen submitted the conference committee report on **SB 434**.

Representative Cohen moved to adopt the conference committee report on **SB 434**.

The motion to adopt the conference committee report on **SB 434** prevailed by (Record 1064): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Eiland(C); Harper-Brown.

Absent, Excused — Kuempel.

Absent — Callegari; Hunter; Marquez; Miller, S.; Riddle.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1064. I intended to vote no.

Hughes

I was shown voting yes on Record No. 1064. I intended to vote no.

Laubenberg

When Record No. 1064 was taken, I was in the house but away from my desk. I would have voted yes.

Marquez

I was shown voting yes on Record No. 1064. I intended to vote no.

Paxton

**HB 1084 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1084**, A bill to be entitled An Act relating to shipment of wine to ultimate consumers.

Representative Truitt moved to concur in the senate amendments to **HB 1084**.

The motion to concur in the senate amendments to **HB 1084** prevailed by (Record 1065): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Kuempel.

Absent — Corte; Pitts; Riddle.

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

Amend **HB 1084** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike amended Section 16.09(e)(3), Alcoholic Beverage Code (page 1, lines 16-19), and substitute the following:

(3) deliver to the same consumer in this state more than nine ~~[three]~~ gallons of wine within any calendar month or more than 36 gallons of wine within any 12-month period [30 day period to the same consumer in this state].

(2) In SECTION 2 of the bill, strike amended Section 54.02(3), Alcoholic Beverage Code (page 1, lines 27-30), and substitute the following:

(3) deliver to the same consumer in this state more than ~~nine~~ [three] gallons of wine within any calendar month or more than 36 gallons of wine within any 12-month period [~~30-day period to the same consumer in this state~~]; or

**HB 2283 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

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

**HB 2283**, A bill to be entitled An Act relating to increasing state employee participation in the TexaSaver program.

Representative Truitt moved to concur in the senate amendments to **HB 2283**.

The motion to concur in the senate amendments to **HB 2283** prevailed by (Record 1066): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Kuempel.

Absent — Pickett; Pitts; Riddle.

**Senate Committee Substitute**

**CSHB 2283**, A bill to be entitled An Act relating to increasing state employee participation in the TexaSaver program.

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

SECTION 1. Section 609.006(a), Government Code, is amended to read as follows:

(a) A deferred compensation plan must conform to federal law to provide that deferred amounts and investment income are not includable, for federal income tax purposes, in the gross income of a participating employee until distributed to the employee, subject to the employee's option to designate all or a portion of deferred amounts as Roth contributions under Section 609.5021, the federal income tax treatment of which is governed by Section 402A, Internal Revenue Code of 1986.

SECTION 2. Subchapter C, Chapter 609, Government Code, is amended by adding Section 609.5021 to read as follows:

Sec. 609.5021. ROTH CONTRIBUTION PROGRAMS. The board of trustees may:

(1) establish a qualified Roth contribution program in accordance with Section 402A, Internal Revenue Code of 1986, under which an employee may designate all or a portion of the employee's contribution under a 401(k) plan as a Roth contribution at the time the contribution is made; and

(2) if authorized by federal law, establish a program in accordance with the applicable federal law under which an employee may designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made.

SECTION 3. Section 609.5025(d), Government Code, is amended to read as follows:

(d) At any time, an employee participating in a 401(k) plan under this section may, in accordance with rules adopted by the board of trustees, elect to end participation in the 401(k) plan, to contribute to a different investment product, ~~or~~ to contribute a different amount to the plan, or to designate all or a portion of the employee's contribution as a Roth contribution subject to the availability of a Roth contribution program under Section 609.5021.

SECTION 4. Subchapter C, Chapter 609, Government Code, is amended by adding Section 609.5026 to read as follows:

Sec. 609.5026. STATE MATCHING CONTRIBUTIONS. Subject to a separate legislative appropriation for that purpose, the Employees Retirement System of Texas may make matching contributions to a 401(k) plan on behalf of employees participating in the plan solely from, and in an amount specified by, the appropriation.

SECTION 5. This Act takes effect September 1, 2009.

**HB 72 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 72**, A bill to be entitled An Act relating to the waiting period for issuing a decree in certain suits for divorce.

Representative Peña 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 72**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 72**: Guillen, chair; Phillips, Gonzalez Toureilles, Hunter, and Gonzales.

#### **LEAVE OF ABSENCE GRANTED**

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

Corte on motion of Hilderbran.

#### **HB 4498 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 4498**, A bill to be entitled An Act relating to ballot issues for a local option election to prohibit the sale of alcoholic beverages.

Representative Hamilton 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 4498**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4498**: Hamilton, chair; Geren, Chisum, Quintanilla, and Thompson.

#### **HB 407 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 407**, A bill to be entitled An Act relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.

Representative Hamilton moved to concur in the senate amendments to **HB 407**.

The motion to concur in the senate amendments to **HB 407** prevailed by (Record 1067): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless;



Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Corte; Kuempel.

Absent — Deshotel; Peña; Riddle; Villarreal.

### Senate Committee Substitute

**CSHB 407**, A bill to be entitled An Act relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.

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

SECTION 1. Section 841.001, Government Code, is amended by amending Subdivisions (1), (6), and (17) and adding Subdivision (1-a) to read as follows:

(1) "Actuarial equivalent" means a benefit that, at the time it is begun, has the same present value as the benefit it replaces, based on seven percent annual interest and either:

(A) the mortality table published by the Conference of Actuaries in Public Practice and known as the UP-1984 table with an age setback of five years for retired or disabled annuitants and an age setback of 10 years for beneficiaries, with a 30-percent reserve refund assumption for the standard benefit; or

(B) a mortality basis adopted under Section 845.110(c).

(1-a) "Accrued benefit" means the sum of a member's accumulated contributions and service credit calculated as of a specified date.

(6) "Compensation" means the sum of payments that are made to an employee for performance of personal services as certified by a participating subdivision, including nonmonetary compensation, the value of which is determined by the governing body of the subdivision, on which contributions by an employee to the retirement system are based [that do not exceed the amount established by board rule], which may not exceed either the limit provided by Section 401(a)(17) of the Internal Revenue Code of 1986 [(26 U.S.C. Section 417)], as indexed in the manner provided by that section, or a lesser amount established by rule of the board of trustees. The term includes amounts by which payment for earnings is reduced because of employer pick-up of employee contributions to the retirement system under Section 845.403, deferral of compensation under benefit plans or tax-sheltered annuity programs adopted by the subdivision under Section 401(k), 403(b), or 457 of the Internal Revenue

Code of 1986, the costs of benefits furnished under qualified cafeteria plans adopted by the subdivision under Section 125 of the Internal Revenue Code of 1986, and deductions for Federal Insurance Contribution Act taxes, federal income taxes, or other obligations of the employee [and that are made to an employee of a participating subdivision by the subdivision for service, including nonmonetary compensation, the value of which is determined by the governing body of the subdivision]. The term does not include workers' compensation benefits received by a member under Section 504.011, Labor Code.

(17) "Subdivision" means a political subdivision of the state that is not eligible to participate in any other statewide retirement system or that is not currently participating in a retirement system established by the legislature. The term includes the Texas Association of Counties, the retirement system [Texas County and District Retirement System], and a city-county hospital jointly managed under Subchapter B, Chapter 265, Health and Safety Code. The term does not include a branch, division, department, employee classification group, or other separately identified component of a political subdivision.

SECTION 2. Section 841.006, Government Code, is amended to read as follows:

Sec. 841.006. EXEMPTION FROM EXECUTION. (a) All retirement annuity payments, other benefit payments, and a member's accumulated contributions are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation.

(b) Notwithstanding Subsection (a), the board of trustees by rule may authorize the retirement system, in accordance with a retiree's voluntary election, to:

(1) deduct qualified health insurance premiums from the retirement annuity otherwise distributable to a retiree who is an eligible public safety officer or a retiree who meets any expanded eligibility provision for a similar tax exemption under subsequent federal legislation; and

(2) pay the deducted amount directly to the health plan provider, subject to the requirements of Section 402(l), Internal Revenue Code of 1986, or other applicable federal law, and the rules adopted by the board.

SECTION 3. Subchapter A, Chapter 841, Government Code, is amended by adding Section 841.0091 to read as follows:

Sec. 841.0091. DIVISION OF BENEFITS ON DIVORCE OF MEMBER.

(a) On receipt of a qualified domestic relations order incident to a divorce that awards a portion of a member's accrued benefit to a former spouse of the member and that strictly follows the terms and format of the model qualified domestic relations order, as well as any other requirements, adopted by the board of trustees for this purpose, the retirement system shall divide the accrued benefit into two separate benefits that, in combination at the time of division, are actuarially equivalent to the undivided accrued benefit.

(b) Following a division described by Subsection (a), the portion of the accrued benefit awarded the alternate payee is considered the alternate payee's sole and separate property in which the member has no interest. The board of trustees by rule shall define and specify the rights and responsibilities of the

alternate payee and the terms and features of the benefit awarded the alternate payee under the order, but in no event may the alternate payee vest in the accrued benefit before the member vests or attain greater rights than are attained by the member or the member's beneficiary.

(c) Notwithstanding Section 804.101, the board of trustees by rule may prescribe terms on which the interest awarded the alternate payee under a qualified domestic relations order described by this section may be transferred at the alternate payee's death.

(d) The board of trustees has sole authority and discretion to:

(1) specify the terms and format that are required for a qualified domestic relations order to be acceptable for purposes of Subsection (a);

(2) require strict compliance for qualification;

(3) specify the dates on which a distribution to an alternate payee may or must begin; and

(4) establish rules for the administration of this section.

(e) This section applies to all domestic relations orders described by this section that the retirement system first determines to be qualified on or after September 1, 2009, and to those domestic relations orders determined to be qualified before September 1, 2009, that the system further determines can be construed to allow a division described by this section without harm or injury to the member's interest awarded under the original qualified order. The actuarial equivalent value of the accrued benefit payable to an alternate payee may not be greater than the actuarial equivalent value of the accrued benefit as if there had been no division and the accrued benefit had been payable to the member in the form of an annuity.

SECTION 4. Section 842.108, Government Code, is amended to read as follows:

Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS.

(a) [(b)] A member who has separated from employment with a participating subdivision may submit an application to withdraw the member's accumulated contributions attributable to service with that subdivision. A withdrawal cancels the person's [credited service and] service credit attributable to service with that subdivision on the date the retirement system makes payment of any portion of the member's accumulated contributions[. — Credited service that has been canceled may not be used to determine eligibility for a later retirement unless it is reestablished under Section 803.203, 843.003, or 843.0031].

(b) [(e)] Except for a [terminated] membership terminated under prior law or in accordance with Section 842.109(b) [described by Subsection (a)], interest is computed on the balance in the member's individual account in the employees saving fund on January 1 of the year of withdrawal through the month before the month in which the withdrawal occurs [for a person described by Subsection (b)].

(c) [(d)] If a person eligible to receive a withdrawal or another non-periodic distribution [under this section or Section 844.401] elects to have all or a portion of the distribution [accumulated contributions] paid directly to an eligible retirement plan and specifies the plan to which the distribution is [contributions are] to be paid on forms approved by the board of trustees, the retirement system

shall make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

(d) Notwithstanding Subsection (c), the board of trustees shall adopt rules to administer this section as necessary to maintain the retirement system as a qualified plan under Section 401(a) of the Internal Revenue Code of 1986. The rules may include the adoption of definitions and limitations relating to distributions, eligible recipients, and eligible retirement plans.

SECTION 5. The heading to Section 842.110, Government Code, is amended to read as follows:

Sec. 842.110. RESUMPTION OF SERVICE AFTER WITHDRAWAL OR RETIREMENT ~~[BY RETIREE].~~

SECTION 6. Sections 842.110(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), a person who has withdrawn the person's accumulated contributions or who has retired from a participating subdivision with a service retirement annuity based on a bona fide termination of employment and with a break in service of not less than one calendar month resumes membership in the retirement system without repayment of the amount distributed or cancellation ~~[suspension]~~ of the person's annuity if the person becomes an employee of any participating subdivision.

(b) A person who resumes employment with the same subdivision from which the person was previously employed and does not meet the requirements of Subsection (a) is considered not to have been eligible for a withdrawal and not to have retired with respect to that subdivision. The person's membership will be restored, the person's service retirement annuity will be canceled ~~[discontinued, the person's membership will be restored]~~, and the person must return any amounts distributed and payments received. Appropriate adjustments will be made for any amounts not returned.

SECTION 7. Section 843.001, Government Code, is amended to read as follows:

Sec. 843.001. TYPES OF CREDITABLE SERVICE. The types of service creditable as credited service in the retirement system are prior service, current service, and optional service. A member may not be credited in this system with more than one month of credited service for a specific calendar month, regardless of the number of employers of the member, the positions held, or the types of service.

SECTION 8. The heading to Section 843.0031, Government Code, is amended to read as follows:

Sec. 843.0031. ~~[REESTABLISHMENT OF CREDITED SERVICE;]~~ OPTION TO PAY LUMP-SUM AMOUNT.

SECTION 9. Section 843.0031(b), Government Code, is amended to read as follows:

(b) A member who has withdrawn accumulated contributions from the retirement system and who subsequently resumes employment with a subdivision may at any time before retirement pay to the system a lump sum in any amount

that does not exceed the actuarial present value of the additional benefits that would have been attributable to the withdrawn contributions. Any amount paid under this subsection and interest accrued on the amount may not be considered in the computation of service credit ~~[credits]~~.

SECTION 10. Section 843.004, Government Code, is amended to read as follows:

Sec. 843.004. COMPOSITION OF SERVICE CREDIT. Service credit consists of allocated prior service credit, current service credit, and multiple matching credit as authorized by a participating subdivision ~~[and accumulated interest under this subtitle]~~.

SECTION 11. Section 843.201, Government Code, is amended to read as follows:

Sec. 843.201. SERVICE CREDIT FOR CERTAIN PUBLIC EMPLOYMENT. ~~[(a)]~~ In accordance with rules adopted by the board of trustees, the governing body of a participating subdivision by order may authorize the establishment of credited service and prior service credit in the retirement system for service performed in a public hospital, utility, or other public facility or governmental function during a time the facility was operated or function was performed by a unit of government other than the subdivision and before the date that the public hospital, utility, or other public facility or governmental function was taken over by the subdivision [~~+~~

~~[(1) the effective date of the subdivision's participation in the retirement system, if the facility was acquired or the governmental function was taken over by the subdivision before that date; or~~

~~[(2) the date of acquisition of the facility or the date the governmental function was taken over, if the facility was acquired or the governmental function was taken over after the effective date of the subdivision's participation in the retirement system].~~

~~[(b) A member eligible to establish credited service and prior service credit under this section after an order under Subsection (a) is one who was employed by a public facility or by an entity performing the governmental function:~~

~~[(1) on the effective date of subdivision participation, for service under Subsection (a)(1); or~~

~~[(2) on the date of acquisition of the facility or the date the governmental function was taken over, for service under Subsection (a)(2).~~

~~[(c) The allocated prior service credit percentage allowable under this section may be limited by the order of the governing body to zero or to any percentage that is a multiple of five percent.]~~

SECTION 12. Section 843.401, Government Code, is amended to read as follows:

Sec. 843.401. CURRENT SERVICE GENERALLY. Current service is service performed by an employee of a participating subdivision while a member of the retirement system and credited as provided under this subtitle and in accordance with rules adopted by the board of trustees ~~[section]~~. ~~[The retirement~~

~~system shall credit a member with one month of current service for each month for which the required contributions are made, reported, and certified by the employing subdivision.]~~

SECTION 13. Sections 843.502(a), (b), and (c), Government Code, are amended to read as follows:

(a) In this section:

(1) "Qualified [~~], "qualified]~~ military service" means service in the uniformed services, as that term is defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), that meets the requirements of that Act as it now exists or is amended as to the character of service performed.

(2) "USERRA" means the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(b) All members of the retirement system are entitled to be credited with service for qualified military service that is subject to USERRA [~~the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.)~~]. Notwithstanding any provision of this subtitle to the contrary, contributions, benefits, credited service, and service credit for qualified military service will be provided in accordance with USERRA and Section 414(u) of the Internal Revenue Code of 1986. The board of trustees may adopt rules for the administration of this section, including rules that modify the terms of this subtitle for the purpose of compliance with the provisions of USERRA [~~that Act~~].

(c) An eligible member may establish [~~The governing body of a participating subdivision also may, on the terms provided by Section 844.704, authorize the establishment of]~~ credited service in the retirement system for qualified active duty military service not creditable under Subsection (b) [~~as provided by this subsection~~]. Qualified military service includes military service before becoming an employee of the subdivision. A member eligible to establish credited service under this subsection is one who is vested, based on credited service only in this system and without regard to service that may be established under this subsection, in a service retirement annuity that may begin at the age of 60 [~~has credited service in the retirement system for at least the minimum period required to receive a service retirement annuity at the age of 60 from the subdivision from which credit under this subsection is sought~~]. An eligible member may establish not more than five years of credited service under this subsection by filing an application with the retirement system.

SECTION 14. Section 843.504, Government Code, is amended to read as follows:

Sec. 843.504. NO DOUBLE CREDITING OF SERVICE. Except as provided by Chapter 803, only one month of credited service may [~~not~~] be established in the retirement system [~~under this subchapter~~] for any calendar month for all [~~of~~] service that is creditable [~~credited~~] under [~~another section of~~] this subtitle [~~or by another retirement system or program established or governed by state law~~].

SECTION 15. Subchapter F, Chapter 843, Government Code, is amended by adding Section 843.505 to read as follows:

Sec. 843.505. CREDITED SERVICE PREVIOUSLY ELIGIBLE FOR RECOGNITION UNDER PROPORTIONATE RETIREMENT PROGRAM. The board of trustees by rule may authorize the retirement system, on application by a member and for the sole purpose of determining eligibility for retirement from this system, to recognize service performed under another system participating under Chapter 803 that would have been recognized by this system under that chapter if the service had not been canceled by a withdrawal of contributions.

SECTION 16. Section 844.003, Government Code, is amended by amending Subsections (c) and (e) and adding Subsection (f) to read as follows:

(c) The effective date of a member's disability retirement is the date the member designates at the time the member applies for retirement under Section 844.301, but the date must be the last day of a calendar month and may not precede the later of the date the member became disabled or the date the member terminated [~~terminates~~] employment with all participating subdivisions.

(e) Notwithstanding Subsections (a), (b), (b-1), [~~and~~] (c), and (f), the effective retirement date of a member may not precede the first anniversary of the effective date of participation of the subdivision.

(f) The board of trustees by rule may authorize a retiring member to designate an effective service or disability retirement date that is not more than six months before the date the retirement system receives the retirement application. A rule adopted under this section may not suspend another requirement provided by this section for retirement.

SECTION 17. Sections 844.006(d) and (f), Government Code, are amended to read as follows:

(d) The [~~If a qualified domestic relations order, as that term is defined by Section 804.001, so provides, the~~] benefit payable to a retiree who is receiving payments of a standard or optional retirement annuity [~~computed on the joint lives of the retiree and the person designated as beneficiary by the retiree~~] may be divided by the retirement system into two annuities in accordance with the terms of a model qualified domestic relations order adopted by the board of trustees by rule [~~if~~]:

(1) the person who was designated as beneficiary by the retiree is the same person as the alternate payee;

(2) the order specifies that one of the two annuities is payable over the remaining life of the retiree, with no payments to be made under that annuity after the death of the retiree; and

(3) the order specifies that the annuity payable to the alternate payee is payable over the remaining life of that person, with no payments to be made under that annuity after the death of the alternate payee named in the order].

(f) The board of trustees has sole authority and discretion to specify the terms and format that are required for a domestic relations order to be acceptable for purposes of this section, to require strict compliance for qualification, and to define the terms and features of the benefit awarded an alternate payee under the order. The board [~~retirement system~~] by rule may establish requirements for forms, documentation, and procedures necessary or desirable for the administration of this section.

SECTION 18. Section 844.008, Government Code, is amended to read as follows:

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS.

(a) Notwithstanding any other provision of this subtitle, the benefit payable to a retiree of the retirement system may not exceed the maximum benefit permitted under Section 415(b) of the Internal Revenue Code of 1986 [~~(26 U.S.C. Section 415(b))~~] as adjusted in accordance with Section 415(d) of that code. Any adjustments are applicable to the postretirement benefits of retirees as well as to the benefits of retiring members. For the purpose of determining whether the benefit of a retiring member or retiree exceeds the limitations provided in this section, all defined benefit plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of the Internal Revenue Code of 1986 are to be treated as one defined benefit plan [~~and all defined contribution plans of the employer and of entities required to be aggregated with the employer~~] for purposes of Section 415 of that code [~~are to be treated as one defined contribution plan~~]. The limitation year for determining maximum benefits is the calendar year.

(b) An employer may not provide employee retirement [~~or deferred~~] benefits under a defined benefit plan other than the retirement system to the extent that the provision of the benefits, when considered together with the benefits provided under the retirement system, would result in the failure of the retirement system to meet any of the limitation requirements of Section 415 of the Internal Revenue Code of 1986 [~~(26 U.S.C. Section 415)~~], and the benefits of the other plan will automatically be reduced, eliminated, or adjusted to the extent necessary to prevent the failure.

SECTION 19. Section 844.101, Government Code, is amended to read as follows:

Sec. 844.101. APPLICATION FOR SERVICE RETIREMENT ANNUITY. To receive a retirement annuity for service, an eligible member must apply by filing a valid application with the retirement system [~~on or before the member's effective retirement date designated on the application~~].

SECTION 20. Section 844.301(a), Government Code, is amended to read as follows:

(a) A member may apply for disability retirement by filing a valid application for retirement with the retirement system [~~on or before the member's effective retirement date designated on the application~~].

SECTION 21. Section 844.404, Government Code, is amended to read as follows:

Sec. 844.404. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit, including any optional group term life benefit, payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable to a person who would be entitled under this subtitle to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's estate.



(b) The retirement system is not required to change the recipient of benefits under this section [~~pay a benefit under Subsection (a)~~] unless it receives actual notice of the conviction of a beneficiary [~~the person who would have been entitled to the benefits~~]. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The retirement system is not liable for any benefit paid to a convicted person before the date the system receives actual notice of the conviction, and any payment made before that date is a complete discharge of the system's obligation with regard to that benefit payment. The convicted person holds all payments received in constructive trust for the rightful recipient.

(d) If an annuity is in pay status, the [~~(e) The~~] retirement system shall pay in a lump sum the actuarial equivalent of [~~convert~~] the remainder of any annuity or payments that would otherwise have been payable to [~~throughout the life of~~] the convicted person to the person entitled to the benefit under Subsection (a) or to the decedent's estate [~~an actuarially equivalent annuity payable to the decedent's estate in 60 monthly annuity payments~~]. The time of the actuarial equivalence is the earlier of the time the retirement system receives the notice of the conviction under Subsection (b) or the time the retirement system begins the delay in payment of a benefit under Subsection (b).

(e) [(d)] For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of competent jurisdiction of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

SECTION 22. Subchapter G, Chapter 844, Government Code, is amended by adding Section 844.601 to read as follows:

Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a) This section applies only to a county that began participation in the retirement system before January 1, 1992, and has not adopted the provisions of Subchapter H.

(b) Except as provided by Subsections (c) and (d), the county shall contribute to its account in the subdivision accumulation fund at the same rate of current service compensation as the employee contribution rate for the county.

(c) If in any year the retirement system's actuary determines that the contributions of the county to the subdivision accumulation fund under Subsection (b) will not finance the county's obligations to the fund within the closed or open amortization period recommended by the actuary and adopted by the board of trustees for all subdivisions, the governing body of the county shall adopt an order to reduce the amortization period to the maximum period

established by the board. The actuary shall determine appropriate remedies for review and adoption by the county. An order adopted under this subsection must first be approved by the board of trustees and must require:

(1) a reduction in the employee contribution rate to a rate not less than four percent of current service compensation;

(2) additional employer contributions under a supplemental contribution rate as provided by Subsection (e);

(3) a reduction in the percentage for determining multiple matching credits in five percent increments for contributions made after the effective date of the reduction; or

(4) any combination of these actions.

(d) An order adopted under Subsection (c) takes effect on the first day of the calendar year that begins after the date the retirement system's actuary makes a determination described by Subsection (c).

(e) A supplemental contribution rate under this section is the rate of contribution by the county to its account in the subdivision accumulation fund, in addition to the contributions required under Subsection (b), that the retirement system's actuary determines and certifies is required to amortize the obligations of the county to the subdivision accumulation fund within the established amortization period.

(f) A county that has not adopted the provisions of Subchapter H may not adopt additional options and may not increase service credits or benefits otherwise allowable under this subtitle except for an increase in the rate of employee contributions or an increase in the percentage of multiple matching credits to a rate or percentage that does not exceed the rate or percentage in effect on January 1, 2010.

SECTION 23. Section 844.701, Government Code, is amended to read as follows:

Sec. 844.701. APPLICABILITY. Except for a county described by Section 844.601, this [(a) This] subchapter applies to each subdivision that participates [begins participation] in the retirement system [after December 31, 1994].

[(b) The governing body of any subdivision participating before January 1, 1992, by order or resolution may adopt the plan provisions of this subchapter to be effective on January 1 of the year following the year in which the order or resolution is received by the system.

[(c) Other provisions of this subtitle apply to the plan provisions of this subchapter except as modified by this subchapter.]

SECTION 24. Section 844.704, Government Code, is amended to read as follows:

Sec. 844.704. BENEFITS. (a) The [On the adoption of the plan provisions of this subchapter, the] governing body of a [the] subdivision shall select a percentage for determining multiple matching credits [under Section 843.402. The governing body shall select a percentage] of zero or any percentage that is a multiple of five percent and that does not exceed 150 percent[, or it may select the multiple matching percentage that the subdivision has in effect on the date of its adoption of the plan provisions of this

~~subchapter~~. The governing body may later increase the percentage used in determining multiple matching credits under Section 843.402 to any percentage that is a multiple of five percent and that does not exceed 150 percent, to take effect on the next January 1 after the date the increase is adopted, ~~except that the sum of the percentage for current service credits under Section 843.402 and the percentage for multiple matching credits may not exceed 250 percent~~. In its order or resolution, the governing body may provide that the increased percentage will be used in determining multiple matching credits ~~[under Section 843.402]~~ only for employee contributions made after the effective date of the increase or that the increased percentage will be used both prospectively and retroactively in determining the multiple matching credits for all employee contributions not otherwise matched at a higher percentage. The governing body may thereafter reduce the percentage used in determining multiple matching credits ~~[under Section 843.402]~~ for contributions made after the effective date of the reduction to zero or any percentage that is a multiple of five percent, to take effect on the next January 1 after the date of the reduction.

(b) ~~The [On the adoption of the plan provisions of this subchapter, the]~~ governing body shall select a percentage for determining allocated prior service credits of zero or any percentage ~~[under Section 843.105. The governing body shall select a percentage]~~ that is a multiple of five percent. ~~[For a subdivision that began participation before January 1, 1992, the percentage cannot be less than the percentage in effect immediately before the adoption of the plan.]~~ The governing body may increase the percentage used in determining allocated prior service credits ~~[under Section 843.105]~~, to take effect on the next January 1 after the date of the increase. The percentage may not exceed one-half of the percentage that results from adding 200 percent to the lowest percentage for determining multiple matching credit currently applicable to any employee contribution with respect to the subdivision.

(c) The subdivision shall provide current service credits in accordance with Section 843.402.

(d) With the approval of the board of trustees, the [The] governing body of a subdivision may adopt any benefit increase or additional benefit, option, right, or feature as authorized under this subtitle [or authorize:

~~(1) an increase in retirement annuities under Section 844.209;~~

~~(2) an increase in retirement annuities under Section 844.208;~~

~~(3) the reestablishment of service credit previously forfeited under Section 843.003;~~

~~(4) the establishment of credited service for military service under Section 843.502(e);~~

~~(5) an optional service retirement eligibility provision described by Section 844.1021; or~~

~~(6) the partial lump sum distribution on service retirement under Section 844.009].~~

(e) The governing body may not adopt an increase or addition to the subdivision's plan [the benefits of this section] if the adoption would result in the combined rates of the subdivision's normal contributions and prior service

contributions for the first calendar year following the adoption exceeding the maximum rate prescribed by Section 844.703(c), unless a waiver under that section is in effect.

(f) Other than an order or resolution of initial participation in the retirement system and except as otherwise authorized by the board of trustees, an ~~an~~ order or resolution under this section must be filed with the retirement system not later than December 15 of the year preceding the year in which it will take effect and may not take effect until the order or resolution is approved by the board of trustees as meeting the requirements of this section. An ~~After approval by the board, an~~ order or resolution adopted after participation begins may take effect only on January 1 of a year~~, except that an order or resolution for a subdivision that begins participation after January 1, 1992, may take effect on the date the subdivision begins participation~~.

SECTION 25. Section 845.107, Government Code, is amended to read as follows:

Sec. 845.107. AUDITS AND REVIEWS ~~[AUDIT]~~. (a) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or of the United States or initiated or commissioned by the board of trustees. The term includes a financial audit, compliance audit, economy and efficiency audit, effectiveness audit, performance audit, risk audit, and investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) internal or external communications relating to the audit that are made or received in the course of the audit; and

(B) drafts of an audit report or portions of those drafts.

(b) Annually, or more often, the board of trustees shall have the accounts of the retirement system audited by a certified public accountant.

(c) In addition to the financial audit required by Subsection (b), the board of trustees may initiate or commission an audit or investigation of activities, functions, or operations of the retirement system as the board determines appropriate.

(d) Audit working papers prepared, maintained, or assembled by the retirement system or an agent of the system are not a record of the board of trustees for purposes of Section 845.112, and are confidential and excepted from the disclosure requirements of Chapter 552.

(e) Unless made confidential under other law, an audit report, when accepted by the board of trustees in its final form, is a record of the board and public information.

SECTION 26. Section 845.110, Government Code, is amended by adding Subsection (c) to read as follows:

(c) On recommendation of the retirement system's actuary, the board of trustees by rule may adopt a mortality basis to be used in determining actuarial equivalents. A mortality basis adopted under this subsection may not be applied

in a manner that would reduce a participant's monthly benefit that has accrued before the later of the date the mortality basis is adopted or the date the mortality basis is implemented.

SECTION 27. Section 845.114(a), Government Code, is amended to read as follows:

(a) In this chapter [~~section~~], "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

SECTION 28. Section 845.1151, Government Code, is amended to read as follows:

Sec. 845.1151. ELECTRONIC INFORMATION. [~~(a) In this section, "participant" has the meaning assigned by Section 845.114(a).~~

~~(b)~~ The retirement system may provide confidential information electronically to a participant and to a subdivision and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

SECTION 29. Section 845.305(b), Government Code, is amended to read as follows:

(b) All assets of the pension trust of the retirement system shall be credited according to the purpose for which they are held to one of the following funds:

- (1) employees saving fund;
- (2) subdivision accumulation fund;
- (3) current service annuity reserve fund;
- (4) income [~~interest~~] fund;
- (5) endowment fund; or
- (6) expense fund.

SECTION 30. The heading to Section 845.309, Government Code, is amended to read as follows:

Sec. 845.309. INCOME [~~INTEREST~~] FUND.

SECTION 31. Section 845.309(a), Government Code, is amended to read as follows:

(a) The income [~~interest~~] fund shall account for the determination and allocation of net investment income or loss.

SECTION 32. Section 845.315(a), Government Code, is amended to read as follows:

(a) As of December 31 of each year, the board of trustees shall make the following allocations that in the aggregate equal the net investment income or loss for the year:

(1) to the current service annuity reserve fund, interest as allowed under this subtitle on the mean amount in the current service annuity reserve fund during that year;

(2) to the optional group term life ~~[supplemental death benefits]~~ fund, interest as allowed under this subtitle on the mean amount in the optional group term life ~~[supplemental death benefits]~~ fund during that year;

(3) to the general reserves account of the endowment fund, a positive or negative amount determined by the board;

(4) to the employees saving fund, current interest as allowed under this subtitle on the member account balances on January 1 of that year of all persons who are members on December 31 of that year;

(5) to the accounts of subdivisions, other than subdivisions otherwise described by this section, ~~[an amount derived by applying a]~~ positive or negative amounts ~~[rate,]~~ as determined under rules adopted by the board prescribing the allocation methodology for the accounts ~~[, to the January 1 balances of that year];~~ and

(6) to the accounts of subdivisions to which Section 842.052 or 842.053 applies, positive or negative amounts as determined by the board.

SECTION 33. Sections 845.402(b) and (c), Government Code, are amended to read as follows:

(b) After timely notice to the board of trustees, the ~~[The]~~ governing body of a participating subdivision may increase the rate of its member contributions effective with ~~[on]~~ the first pay period beginning in the following ~~[day of any]~~ calendar year.

(c) After timely notice to the board of trustees, the ~~[The]~~ governing body of a participating subdivision may reduce the rate of its member contributions effective with ~~[on]~~ the first pay period beginning in the following ~~[day of any]~~ calendar year ~~[if, at least 90 days before the date of the reduction, the subdivision has given written notice of the reduction to the board of trustees and if the actuary determines that the reduction would not impair the ability of the subdivision to fund all obligations against its account in the subdivision accumulation fund before the 20th anniversary of the subdivision's most recent actuarial valuation date].~~

SECTION 34. Subchapter E, Chapter 845, Government Code, is amended by adding Section 845.405 to read as follows:

Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE COMPLIANCE. (a) Notwithstanding any other provision of this subtitle, the board of trustees may authorize a subdivision to remit to the retirement system contributions, deposits, and other payments on the basis of a period that is less than a month, including a weekly, biweekly, or other semimonthly period. A subdivision authorized to remit amounts more frequently than monthly shall make reports and filings and perform other actions accordingly, and the retirement system shall credit payments accordingly.

(b) The board of trustees may make an authorization under Subsection (a) by rule applicable to all subdivisions similarly situated or by order applicable to designated subdivisions. A rule adopted under this subsection is amendable or revocable in the manner provided for adoption, amendment, or repeal of rules generally. An order adopted under this subsection is revocable wholly or partly by subsequent board order.

(c) If the board of trustees adopts a rule or order under Subsection (b), the board shall also adopt rules, applicable to a subdivision electing or designated to take actions described by this section more frequently than monthly, to alter the periods required for submission of payments and reports, including the period when a late penalty begins to accrue or is deducted from a subdivision's account in the subdivision accumulation fund, in a manner consistent with the periods provided by this subtitle.

(d) A participant may not receive less credited service, service credit, or benefits due to an authorization under this section than the participant would have received on a monthly basis.

SECTION 35. Section 845.407(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsections (c), (d), and (e), a participating subdivision that fails to provide the information required by Section 845.403 or to pay all contributions required by this subchapter to be made and remitted to the retirement system not later than the 15th day of the month in which they become due shall pay a penalty under this section. The penalty for a past-due monthly remission is equal to interest on the past-due amounts for each day past due at a nominal interest rate of 12 percent, plus a \$500 administrative fee. If the penalty is not paid within three months after the date notice of the penalty has been sent to the subdivision, the retirement system shall deduct the penalty from the subdivision's account in the subdivision accumulation fund. The interest portion of the penalty shall be deposited by the retirement system in the distributable income account of the income ~~[interest]~~ fund. The administrative fee portion of the penalty shall be deposited by the retirement system in the expense fund.

SECTION 36. Sections 845.503(a) and (b), Government Code, are amended to read as follows:

(a) The retirement system may reduce future payments of benefits based on the account of a member, a retiree, or other former member to recoup an amount overpaid or otherwise paid in error to or on the behalf of a participant ~~[the member, former member, retiree, annuitant, or beneficiary]~~. If no future payments are due, the retirement system may recover the overpayment in any manner that is permitted for the collection of any other debt.

(b) The retirement system may not recover from a participant ~~[member, former member, retiree, annuitant, or beneficiary]~~ any overpayment made more than three years before the date the overpayment is discovered. This subsection does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

SECTION 37. Section 844.601(b), Government Code, as added by this Act, applies only to employer contributions to the Texas County and District Retirement System that become due on or after January 1, 2010. A county subject to Section 844.601(b), Government Code, is obligated to make employer contributions to the Texas County and District Retirement System before January 1, 2010, at the rate in effect on August 31, 2009.

SECTION 38. The following laws are repealed:

- (1) Section 843.0031(a), Government Code;

- (2) Sections 843.502(d) and (e), Government Code;
- (3) Sections 844.605, 844.606, 844.607, 844.608, and 844.609, Government Code;
- (4) Section 845.115(f), Government Code; and
- (5) Section 95, Chapter 873 (**HB 1587**), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 39. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2010.

(b) Sections 841.0091 and 844.601, Government Code, as added by this Act, Section 845.315, Government Code, as amended by this Act, and Section 37 of this Act take effect September 1, 2009.

### **SB 1007 - POINT OF ORDER**

Representative P. King raised a point of order against the one hour notice to take up **SB 1007** out of its regular order under Rule 14, Section 4 of the House Rules on the grounds that the chair misstated the bill number when he advised the house of the notice.

The chair sustained the point of order.

### **SB 93 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Castro, the house granted the request of the senate for the appointment of a Conference Committee on **SB 93**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 93**: Castro, chair; Farias, Branch, Pitts, and Morrison.

### **HB 2991 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2991**, A bill to be entitled An Act relating to the exemption of special rangers and special Texas Rangers from certain required law enforcement education and training programs regarding persons with mental impairments.

Representative Christian moved to concur in the senate amendments to **HB 2991**.

The motion to concur in the senate amendments to **HB 2991** prevailed by (Record 1068): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock;



Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Corte; Kuempel.

Absent — Riddle.

### Senate Committee Substitute

**CSHB 2991**, A bill to be entitled An Act relating to the exemption of certain honorably retired special rangers and special Texas Rangers from certain required law enforcement education and training programs regarding persons with mental impairments.

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

SECTION 1. This Act shall be known as the Hal Wyatt Act.

SECTION 2. Section 1701.356, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) An honorably retired commissioned officer of the Department of Public Safety who is a special ranger under Section 411.023, Government Code, or who is a special Texas Ranger under Section 411.024, Government Code, may not be required to undergo training under Section 1701.253(j).

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, 2009.

(Speaker in the chair)

### **HB 4593 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4593**, A bill to be entitled An Act relating to the marketing of shrimp and aquaculture products.

Representative Eiland moved to concur in the senate amendments to **HB 4593**.

The motion to concur in the senate amendments to **HB 4593** prevailed by (Record 1069): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Harper-Brown; Hilderbran; Pickett; Riddle.

### STATEMENTS OF VOTE

When Record No. 1069 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

I was shown voting yes on Record No. 1069. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 1069. I intended to vote no.

Paxton

### Senate Committee Substitute

**CSHB 4593**, A bill to be entitled An Act relating to the marketing of shrimp and aquaculture products.

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

SECTION 1. Section 47.051(5), Agriculture Code, is amended to read as follows:

(5) "Texas-produced shrimp" means wild-caught shrimp commercially harvested from coastal waters by a shrimp boat licensed by the Parks and Wildlife Department [and produced within the borders of the state].

SECTION 2. Section 47.052(a), Agriculture Code, is amended to read as follows:

(a) The Texas shrimp marketing assistance program is established in the department to assist the Texas wild-caught shrimping [~~shrimp~~] industry in promoting and marketing Texas-produced shrimp and educating the public about the Texas wild-caught shrimping [~~shrimp~~] industry and Texas-produced shrimp.

SECTION 3. Section 47.053(b), Agriculture Code, is amended to read as follows:

(b) The advisory committee shall be composed of the following nine [~~10~~] members:

- (1) two owners of commercial bay shrimp boats;
- (2) two owners of commercial gulf shrimp boats;
- (3) [~~one member of the Texas shrimp aquaculture industry;~~
- [~~4~~] one retail wild-caught shrimp [~~fish~~] dealer;
- (4) [~~5~~] one wholesale wild-caught shrimp [~~fish~~] dealer;
- (5) [~~6~~] one person employed by an institution of higher education as a researcher or instructor specializing in the area of food science, particularly seafood;
- (6) [~~7~~] one member of the seafood restaurant industry; and
- (7) [~~8~~] one representative of the public.

SECTION 4. Section 47.054(b), Agriculture Code, is amended to read as follows:

(b) Unless otherwise expressly provided by the legislature, the source of funding for the payment of employee salaries shall be funds generated from the program, including the 10 percent license fee increase authorized by Section 77.002, Parks and Wildlife Code, ~~and the surcharge on license fees authorized by Section 134.014~~.

SECTION 5. Section 47.055, Agriculture Code, is amended to read as follows:

Sec. 47.055. PROMOTION, MARKETING, AND EDUCATION. The program shall promote and advertise the Texas wild-caught shrimping [~~shrimp~~] industry by:

- (1) developing and maintaining a database of Texas shrimp wholesalers that sell Texas-produced shrimp;
- (2) operating a toll-free telephone number to:
  - (A) receive inquiries from persons who wish to purchase a particular type of Texas-produced shrimp; and
  - (B) make information about the Texas wild-caught shrimping [~~shrimp~~] industry available to the public;
- (3) developing a wild-caught shrimping [~~shrimp~~] industry marketing plan to increase the consumption of Texas-produced shrimp;
- (4) educating the public about Texas-produced shrimp by providing publicity about the information in the program's database to the public and making the information available to the public through the department's toll-free telephone number and electronically through the Internet;
- (5) promoting the Texas wild-caught shrimping [~~shrimp~~] industry; and

(6) promoting and marketing, and educating consumers about, Texas-produced shrimp using any other method the commissioner determines appropriate.

SECTION 6. Section 134.014, Agriculture Code, is amended to read as follows:

Sec. 134.014. LICENSE FEES. ~~[(a)]~~ The department shall issue an aquaculture license or a fish farm vehicle license on completion of applicable license requirements and the payment of a fee by the applicant, as provided by department rule.

~~[(b) In addition to the fees under Subsection (a), the department shall assess and collect a surcharge on the annual license fee for aquaculture facilities producing shrimp for the purpose of funding the Texas shrimp marketing assistance program created under Subchapter B, Chapter 47. The amount of the surcharge shall be set each year, as provided by department rule, in an amount equal to 10 percent of the fees generated by the Parks and Wildlife Department under Section 77.002(e), Parks and Wildlife Code.]~~

~~[(c) The department shall deposit at the end of each quarter, to the credit of the shrimp marketing account, the fees received under Subsection (b) for use by the department to conduct and operate the Texas shrimp marketing assistance program created under Subchapter B, Chapter 47.]~~

SECTION 7. Section 77.002(b), Parks and Wildlife Code, is amended to read as follows:

(b) The shrimp marketing account is an account in the general revenue fund to be used by the Department of Agriculture solely for the purpose of the Texas shrimp marketing assistance program established under Subchapter B, Chapter 47, Agriculture Code. The account consists of funds deposited to the account under this section ~~[and Section 134.014(b), Agriculture Code]~~. The account is exempt from the application of Section 11.032 of this code and Section 403.095, Government Code.

SECTION 8. This Act takes effect September 1, 2009.

## **HB 2467 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2467**, A bill to be entitled An Act relating to the definition of a playground for purposes of certain places protected from certain criminal activities.

Representative Rodriguez moved to concur in the senate amendments to **HB 2467**.

The motion to concur in the senate amendments to **HB 2467** prevailed by (Record 1070): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb;

Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Quintanilla; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Guillen; McReynolds; Menendez; Oliveira; Pickett; Raymond; Riddle.

### Senate Committee Substitute

**CSHB 2467**, A bill to be entitled An Act relating to the definition of playgrounds and to including those playgrounds in the designation of certain places as drug-free zones for purposes of criminal penalties.

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

SECTION 1. Section 481.134(a)(3), Health and Safety Code, is amended to read as follows:

(3) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more play stations [~~separate apparatus~~] intended for the recreation of children, such as slides, swing sets, and teeterboards.

SECTION 2. Subsections (c), (d), (e), and (f), Section 481.134, Health and Safety Code, are amended to read as follows:

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of the premises of a school, the premises of [✶] a public or private youth center, or a playground; or

(2) on a school bus.

(d) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, ~~or~~ the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(e) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, ~~or~~ the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, ~~or~~ the premises of a public or private youth center, or a playground; or

(2) on a school bus.

SECTION 3. 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 covered 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 4. This Act takes effect September 1, 2009.

### **HB 4341 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4341**, A bill to be entitled An Act relating to the regulation of discount health care programs by the Texas Department of Insurance; providing penalties.

Representative Truitt moved to concur in the senate amendments to **HB 4341**.

The motion to concur in the senate amendments to **HB 4341** prevailed by (Record 1071): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee;

Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Guillen; King, P.; Menendez; Raymond; Riddle; Woolley.

### Senate Committee Substitute

**CSHB 4341**, A bill to be entitled An Act relating to the regulation of discount health care programs by the Texas Department of Insurance; providing penalties.

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

SECTION 1. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 562 to read as follows:

CHAPTER 562. UNFAIR METHODS OF COMPETITION AND  
UNFAIR OR DECEPTIVE ACTS OR PRACTICES REGARDING  
DISCOUNT HEALTH CARE PROGRAMS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 562.001. PURPOSE. The purpose of this chapter is to regulate trade practices in the business of discount health care programs by:

(1) defining or providing for the determination of trade practices in this state that are unfair methods of competition or unfair or deceptive acts or practices; and

(2) prohibiting those unfair or deceptive trade practices.

Sec. 562.002. DEFINITIONS. In this chapter:

(1) "Advertisement, solicitation, or marketing material" means material that is made, published, disseminated, circulated, or placed before the public:

(A) in a newspaper, magazine, or other publication;

(B) in a notice, circular, pamphlet, letter, or poster;

(C) over a radio or television station;

(D) through the Internet;

(E) in a telephone sales script; or

(F) in any other manner.

(2) "Discount health care program" means a business arrangement or contract in which an entity, in exchange for fees, dues, charges, or other consideration, offers its members access to discounts on health care services provided by health care providers. The term does not include an insurance policy, certificate of coverage, or other product otherwise regulated by the department or a self-funded or self-insured employee benefit plan.

(3) "Discount health care program operator" means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charge to members.

(4) "Health care services" includes physician care, inpatient care, hospital surgical services, emergency services, ambulance services, laboratory services, audiology services, dental services, vision services, mental health services, substance abuse services, chiropractic services, and podiatry services, and the provision of medical equipment and supplies, including prescription drugs.

(5) "Marketer" means a person who sells or distributes, or offers to sell or distribute, a discount health care program, including a private label entity that places its name on and markets or distributes a discount health care program, but does not operate a discount health care program.

(6) "Member" means a person who pays fees, dues, charges, or other consideration for the right to participate in a discount health care program.

(7) "Person" means an individual, corporation, association, partnership, or other legal entity.

(8) "Program operator" means a discount health plan program operator.

(9) "Provider" means a person who is licensed or otherwise authorized to provide health care services in this state.

Sec. 562.003. VENUE FOR ACTIONS INVOLVING DEPARTMENT OR COMMISSIONER. An action under this chapter in which the department or commissioner is a party must be brought in a district court in Travis County.

Sec. 562.004. APPLICABILITY. Except as otherwise provided by this chapter, a program operator, including the operator of a freestanding discount health care program or a discount health care program marketed by an insurer or a health maintenance organization, shall comply with this chapter.

Sec. 562.005. LIBERAL CONSTRUCTION. This chapter shall be liberally construed and applied to promote the underlying purposes as provided by Section 562.001.

[Sections 562.006-562.050 reserved for expansion]

#### SUBCHAPTER B. UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES DEFINED

Sec. 562.051. MISREPRESENTATION REGARDING DISCOUNT HEALTH CARE PROGRAM. It is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs to:

(1) misrepresent the price range of discounts offered by the discount health care program;



(2) misrepresent the size or location of the program's network of providers;

(3) misrepresent the participation of a provider in the program's network;

(4) suggest that a discount card offered through the program is a federally approved Medicare prescription discount card;

(5) use the term "insurance," except as:

(A) a disclaimer of any relationship between the discount health care program and insurance; or

(B) a description of an insurance product connected with a discount health care program; or

(6) use the term "health plan," "coverage," "copay," "copayments," "deductible," "preexisting conditions," "guaranteed issue," "premium," "PPO," or "preferred provider organization," or another similar term, in a manner that could reasonably mislead an individual into believing that the discount health care program is health insurance or provides coverage similar to health insurance.

Sec. 562.052. FALSE INFORMATION AND ADVERTISING. It is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs to make, publish, disseminate, circulate, or place before the public or directly or indirectly cause to be made, published, disseminated, circulated, or placed before the public an advertisement, solicitation, or marketing material containing an untrue, deceptive, or misleading assertion, representation, or statement regarding the discount health care program.

Sec. 562.053. FAILURE TO REGISTER OR RENEW REGISTRATION; FALSE REGISTRATION OR RENEWAL STATEMENT. (a) It is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs to:

(1) fail to register or renew registration as required under Chapter 7001;

or

(2) with intent to deceive:

(A) file with the department a false statement in connection with an application for registration as a program operator under Chapter 7001; or

(B) file with the department a false statement in connection with an application for renewal of a registration as a program operator under Chapter 7001.

(b) The commissioner may impose on a person operating a discount health care program for the person's failure to register or renew registration as required under Chapter 7001 any remedy that the commissioner is authorized to impose under Chapter 101 for the unauthorized business of insurance.

Sec. 562.054. MISREPRESENTATION OF DISCOUNT HEALTH CARE PROGRAMS. It is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs to misrepresent a discount health care program by:

(1) making an untrue statement of material fact;

(2) failing to state a material fact necessary to make other statements made not misleading, considering the circumstances under which the statements were made;

(3) making a statement in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact;

(4) making a material misstatement of law; or

(5) failing to disclose a matter required by law to be disclosed, including failing to make an applicable disclosure required by this code.

[Sections 562.055-562.100 reserved for expansion]

#### SUBCHAPTER C. REGULATION OF PRACTICES

Sec. 562.101. UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES PROHIBITED. A person may not engage in this state in a trade practice that is defined in this chapter as or determined under this chapter to be an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs.

Sec. 562.102. PROHIBITED CONTENT OF CERTAIN DISCOUNT HEALTH CARE PROGRAM ADVERTISING, SOLICITATION, OR MARKETING. Notwithstanding any other provision of this code, it is unlawful for a program operator or marketer to advertise, solicit, or market a discount health care program containing the words "approved by the Texas Department of Insurance" or words with a similar meaning.

Sec. 562.103. PROGRAM OPERATOR DUTIES. (a) A program operator shall:

(1) provide a toll-free telephone number and Internet website for members to obtain information about the discount health care program and confirm or find providers currently participating in the program; and

(2) remove a provider from the discount health care program not later than the 30th day after the date the program operator learns that the provider is no longer participating in the program or has lost the authority to provide services or products.

(b) A program operator shall issue at least one membership card to serve as proof of membership in the discount health care program that must:

(1) contain a clear and conspicuous statement that the discount health care program is not insurance; and

(2) if the discount health care program includes discount prescription drug benefits, include:

(A) the name or logo of the entity administering the prescription drug benefits;

(B) the international identification number assigned by the American National Standards Institute for the entity administering the prescription drug benefits;

(C) the group number applicable to the member; and

(D) a telephone number to be used to contact an appropriate person to obtain information relating to the prescription drug benefits provided under the program.

(c) Not later than the 15th day after the date of enrollment, a program operator shall issue at least one set of disclosure materials describing the terms and conditions of the discount health care program to each household in which a person is a member, including a statement that:

(1) the discount health care program is not insurance, with the word "not" capitalized;

(2) the member is required to pay the entire amount of the discounted rate;

(3) the discount health care program does not guarantee the quality of the services or products offered by individual providers; and

(4) if the member remains dissatisfied after completing the discount health care program's complaint system, the member may contact the member's state insurance department.

(d) A program operator shall ensure that an application form or other membership agreement:

(1) clearly and conspicuously discloses the duration of membership and the amount of payments the member is obligated to make for the membership; and

(2) contains a clear and conspicuous statement that the discount health care program is not insurance.

(e) A program operator shall allow any member who cancels a membership in the discount health care program not later than the 30th day after the date the person becomes a member to receive a refund, not later than the 30th day after the date the program operator receives a valid cancellation notice and returned membership card, of all periodic membership charges paid by that member to the program operator and the amount of any one-time enrollment fee that exceeds \$50.

(f) A program operator shall:

(1) maintain a surety bond, payable to the department for the use and benefit of members in a manner prescribed by the department, in the principal amount of \$50,000, except that a program operator that is an insurer that holds a certificate of authority under Title 6 is not required to maintain the surety bond;

(2) maintain an agent for service of process in this state; and

(3) establish and operate a fair and efficient procedure for resolution of complaints regarding the availability of contracted discounts or services or other matters relating to the contractual obligations of the discount health care program to its members.

Sec. 562.104. MARKETING OF PROGRAM. (a) A program operator may market directly or contract with marketers for the distribution of the program operator's discount health care programs.

(b) A program operator shall enter into a written contract with a marketer before the marketer begins marketing, promoting, selling, or distributing the program operator's discount health care program. The contract must prohibit the marketer from using an advertisement, solicitation, or other marketing material or a discount card that has not been approved in advance and in writing by the program operator.

(c) A program operator must approve in writing before their use all advertisements, solicitations, or other marketing materials and all discount cards used by marketers to market, promote, sell, or distribute the discount health care program.

(d) Each advertisement, solicitation, or marketing material of a discount health care program must clearly and conspicuously state that the discount health care program is not insurance.

Sec. 562.105. CONTRACT REQUIREMENTS. (a) A program operator shall contract, directly or indirectly, with a provider offering discounted health care services or products under the discount health care program. The written contract must contain all of the following provisions:

(1) a description of the discounts to be provided to a member;

(2) a provision prohibiting the provider from charging a member more than the discounted rate agreed to in the written agreement with the provider; and

(3) a provision requiring the provider to promptly notify the program operator if the provider no longer participates in the program or loses the authority to provide services or products.

(b) The program operator may not charge or receive from a provider any fee or other compensation for entering into the agreement.

(c) If the program operator contracts with a network of providers, the program operator shall obtain written assurance from the network that:

(1) the network has a written agreement with each network provider that includes a discounted rate that is applicable to a program operator's discount health care program and contains all of the terms described in Subsection (a); and

(2) the network is authorized to obligate the network providers to provide services to members of the discount health care program.

(d) The program operator shall require the network to:

(1) maintain and provide the program operator on a monthly basis an up-to-date list of providers in the network; and

(2) promptly remove a provider from its network if the provider no longer participates or loses the authority to provide services or products.

(e) The program operator shall maintain a copy of each written agreement the program operator has with a provider or a network for at least two years following termination of the agreement.

Sec. 561.106. SUBMISSION OF MATERIALS. If the commissioner reasonably believes that a program operator or a marketer may not be operating in compliance with this chapter, the commissioner by order may require the program operator or the marketer to submit to the commissioner any advertisement, solicitation, or marketing material, disclosure material, discount card, agreement, or other document requested by the commissioner.

[Sections 562.107-562.150 reserved for expansion]

#### SUBCHAPTER D. DETERMINATION OF UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES; ENFORCEMENT; SANCTIONS AND PENALTIES

Sec. 562.151. EXAMINATION AND INVESTIGATION. The department may examine and investigate the affairs of a person engaged in the business of discount health care programs in this state to determine whether the person:

(1) has or is engaged in an unfair method of competition or unfair or deceptive act or practice prohibited by this chapter; or

(2) has violated Subchapter B or C.

Sec. 562.152. STATEMENT OF CHARGES; NOTICE OF HEARING. (a) When the department has reason to believe that a person engaged in the business of discount health care programs in this state has engaged or is engaging in this state in an unfair method of competition or unfair or deceptive act or practice defined by Subchapter B or has violated Subchapter B or C and that a proceeding by the department regarding the charges is in the interest of the public, the department shall issue and serve on the person:

(1) a statement of the charges; and

(2) a notice of the hearing on the charges, including the time and place for the hearing.

(b) The department may not hold the hearing before the sixth day after the date the notice required by Subsection (a)(2) is served.

Sec. 562.153. HEARING. A person against whom charges are made under Section 562.152 is entitled at the hearing on the charges to have an opportunity to be heard and show cause why the department should not issue an order requiring the person to cease and desist from:

(1) performing the unfair method of competition or unfair or deceptive act or practice described in the charges; or

(2) violating Subchapter B or C.

Sec. 562.154. HEARING PROCEDURES. (a) Nothing in this chapter requires the observance of formal rules of pleading or evidence at a hearing under this subchapter.

(b) At a hearing under this subchapter, the department, on a showing of good cause, shall permit any person to intervene, appear, and be heard by counsel or in person.

Sec. 562.155. RECORD OF HEARING. (a) At a hearing under this subchapter, the department may, and at the request of a party to the hearing shall, make a record of the proceedings and the evidence presented at the hearing.

(b) If the department does not make a record and a person seeks judicial review of the decision made at the hearing, the department shall prepare a statement of the evidence and proceeding for use on review.

Sec. 562.156. COMPLIANCE WITH SUBPOENA. (a) If a person refuses to comply with a subpoena issued in connection with a hearing under this subchapter or refuses to testify with respect to a matter about which the person may be lawfully interrogated, on application of the department, a district court in Travis County or in the county in which the person resides may order the person to comply with the subpoena or testify.

(b) A court may punish as contempt a person's failure to obey an order under this section.

Sec. 562.157. DETERMINATION OF VIOLATION. After a hearing under this subchapter to determine whether a person has engaged in an unfair method of competition or unfair or deceptive act or practice prohibited by this chapter, the department shall determine whether:

(1) the method of competition or the act or practice considered in the hearing is defined as:

(A) an unfair method of competition or deceptive act or practice under Subchapter B; or

(B) a false, misleading, or deceptive act or practice under Section 17.46, Business & Commerce Code; and

(2) the person against whom the charges were made engaged in the method of competition or act or practice in violation of:

(A) this chapter; or

(B) Subchapter E, Chapter 17, Business & Commerce Code, as specified in Section 17.46, Business & Commerce Code.

Sec. 562.158. CEASE AND DESIST ORDER. On determining that a person committed a violation described by Section 562.157 or committed a violation of Subchapter B or C, the department shall:

(1) make written findings; and

(2) issue and serve on the person an order requiring the person to cease and desist from engaging in the method of competition or act or practice determined to be a violation or the violation of Subchapter B or C, as applicable.

Sec. 562.159. MODIFICATION OR SETTING ASIDE OF ORDER. On the notice and in the manner the department determines proper, the department may modify or set aside wholly or partly a cease and desist order issued under Section 562.158 at any time before a petition appealing the order is filed in accordance with Subchapter D, Chapter 36.

Sec. 562.160. ADMINISTRATIVE PENALTY FOR VIOLATION OF CEASE AND DESIST ORDER. (a) A person who violates a cease and desist order issued under Section 562.158 is subject to an administrative penalty under Chapter 84.

(b) In determining whether a person has violated a cease and desist order, the department shall consider the maintenance of procedures reasonably adapted to ensure compliance with the order.

(c) An administrative penalty imposed under this section may not exceed:

(1) \$1,000 for each violation; or

(2) \$5,000 for all violations.

(d) An order of the department imposing an administrative penalty under this section applies only to a violation of the cease and desist order committed before the date the order imposing the penalty is issued.

Sec. 562.161. CIVIL PENALTY FOR VIOLATION OF CEASE AND DESIST ORDER. (a) A person who is found by a court to have violated a cease and desist order issued under Section 562.158 is liable to the state for a penalty. The state may recover the penalty in a civil action.

(b) The penalty may not exceed \$50 unless the court finds the violation to be wilful, in which case the penalty may not exceed \$500.

[Sections 562.162-562.200 reserved for expansion]

#### SUBCHAPTER E. ENFORCEMENT BY ATTORNEY GENERAL

Sec. 562.201. INJUNCTIVE RELIEF. (a) The attorney general may bring an action under this section if the attorney general has reason to believe that:

(1) a person engaged in the business of discount health care programs in this state is engaging in, has engaged in, or is about to engage in an act or practice defined as unlawful under:

(A) this chapter; or

(B) Section 17.46, Business & Commerce Code; and

(2) the action is in the public interest.

(b) The attorney general may bring the action in the name of the state to restrain by temporary or permanent injunction the person's use of the method, act, or practice.

Sec. 562.202. VENUE FOR INJUNCTIVE ACTION. An action for an injunction under this subchapter may be commenced in a district court in:

(1) the county in which the person against whom the action is brought:

(A) resides;

(B) has the person's principal place of business; or

(C) is engaging in business;

(2) the county in which the transaction or a substantial portion of the transaction occurred; or

(3) Travis County.

Sec. 562.203. ISSUANCE OF INJUNCTION. (a) The court may issue an appropriate temporary or permanent injunction.

(b) The court shall issue the injunction without bond.

Sec. 562.204. CIVIL PENALTY. In addition to requesting a temporary or permanent injunction under Section 562.201, the attorney general may request a civil penalty of not more than \$20,000 for each violation on a finding by the court that the defendant has engaged in or is engaging in an act or practice defined as unlawful under this chapter or Section 17.46, Business & Commerce Code.

Sec. 562.205. COMPENSATION OR RESTORATION. The court may make an additional order or judgment as necessary to compensate an identifiable person for actual damages or for restoration of money or property that may have been acquired by means of an enjoined act or practice.

Sec. 562.206. CIVIL PENALTY FOR VIOLATION OF INJUNCTION. (a) A person who violates an injunction issued under this subchapter is liable for and shall pay to the state a civil penalty of not more than \$10,000 for each violation.

(b) The attorney general may, in the name of the state, petition the court for recovery of the civil penalty against the person who violates the injunction.

(c) The court shall consider the maintenance of procedures reasonably adapted to ensure compliance with the injunction in determining whether a person has violated an injunction.

(d) The court issuing the injunction retains jurisdiction and the cause is continued for the purpose of assessing a civil penalty under this section.

Sec. 562.207. REMEDIES NOT EXCLUSIVE. The remedies provided by this subchapter:

(1) are not exclusive; and

(2) are in addition to any other remedy or procedure provided by another law or at common law.

[Sections 562.208-562.250 reserved for expansion]

SUBCHAPTER F. ASSURANCE OF VOLUNTARY COMPLIANCE

Sec. 562.251. ACCEPTANCE OF ASSURANCE. (a) In administering this chapter, the department may accept assurance of voluntary compliance from a person who is engaging in, has engaged in, or is about to engage in an act or practice in violation of this chapter or Section 17.46, Business & Commerce Code.

(b) The assurance must be in writing and be filed with the department.

(c) The department may condition acceptance of an assurance of voluntary compliance on the stipulation that the person offering the assurance restore to a person in interest money that may have been acquired by the act or practice described in Subsection (a).

Sec. 562.252. EFFECT OF ASSURANCE. (a) An assurance of voluntary compliance is not an admission of a prior violation of this chapter or Section 17.46, Business & Commerce Code.

(b) Unless an assurance of voluntary compliance is rescinded by agreement, a subsequent failure to comply with the assurance is prima facie evidence of a violation of this chapter or Section 17.46, Business & Commerce Code.

Sec. 562.253. REOPENING. A matter closed by the filing of an assurance of voluntary compliance may be reopened at any time.

[Sections 562.254-562.300 reserved for expansion]

SUBCHAPTER G. CONSTRUCTION OF CHAPTER WITH OTHER LAWS

Sec. 562.301. LIABILITY UNDER OTHER LAW. An order of the department under this chapter, or an order by a court to enforce that order, does not relieve or absolve a person affected by either order from liability under another law of this state.

Sec. 562.302. POWERS IN ADDITION TO OTHER POWERS AUTHORIZED BY LAW. The powers vested in the department and the commissioner by this chapter are in addition to any other powers to enforce a penalty, fine, or forfeiture authorized by law with respect to a method of competition or act or practice defined as unfair or deceptive.

Sec. 562.303. DOUBLE RECOVERY PROHIBITED. A person may not recover damages and penalties for the same act or practice under both this chapter and another law.

SECTION 2. The Insurance Code is amended by adding Title 21 to read as follows:

TITLE 21. DISCOUNT HEALTH CARE PROGRAMS

CHAPTER 7001. REGISTRATION OF DISCOUNT HEALTH CARE PROGRAM OPERATORS

Sec. 7001.001. DEFINITIONS. In this chapter:

(1) "Discount health care program" means a business arrangement or contract in which an entity, in exchange for fees, dues, charges, or other consideration, offers its members access to discounts on health care services provided by health care providers. The term does not include an insurance policy, certificate of coverage, or other product otherwise regulated by the department or a self-funded or self-insured employee benefit plan.



(2) "Discount health care program operator" means a person who, in exchange for fees, dues, charges, or other consideration, operates a discount health care program and contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charge to members.

(3) "Health care services" includes physician care, inpatient care, hospital surgical services, emergency services, ambulance services, laboratory services, audiology services, dental services, vision services, mental health services, substance abuse services, chiropractic services, and podiatry services, and the provision of medical equipment and supplies, including prescription drugs.

(4) "Marketer" means a person who sells or distributes, or offers to sell or distribute, a discount health care program, including a private label entity that places its name on and markets or distributes a discount health care program, but does not operate a discount health care program.

(5) "Member" means a person who pays fees, dues, charges, or other consideration for the right to participate in a discount health care program.

(6) "Program operator" means a discount health plan program operator.

(7) "Provider" means a person who is licensed or otherwise authorized to provide health care services in this state.

Sec. 7001.002. EXEMPTION. This chapter does not apply to a program operator who is an insurer and who holds a certificate of authority under Title 6.

Sec. 7001.003. RULES. The commissioner shall adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement this chapter.

Sec. 7001.004. REGISTRATION REQUIRED. A discount health care program operator may not offer a discount health care program in this state unless the program operator is registered with the department.

Sec. 7001.005. APPLICATION FOR REGISTRATION AND RENEWAL OF REGISTRATION. (a) An applicant for registration under this chapter or an applicant for renewal of registration under this chapter whose information has changed shall submit:

(1) a completed registration application on the form prescribed by the department indicating the program operator's name, physical address, and mailing address and its agent for service of process;

(2) a list of names, addresses, official positions, and biographical information of:

(A) the individuals responsible for conducting the program operator's affairs, including:

(i) each member of the board of directors, board of trustees, executive committee, or other governing board or committee;

(ii) the officers of the program operator; and

(iii) any contracted management company personnel; and

(B) any person owning or having the right to acquire 10 percent or more of the voting securities of the program operator;

(3) a statement generally describing the applicant, its facilities and personnel, and the health care services or products for which a discount will be made available under its discount health care programs;

(4) a list of the marketers authorized to sell or distribute the program operator's programs under the program operator's name, a list of the marketing entities authorized to private label the program operator's programs, and other information about the marketers and marketing entities considered necessary by the commissioner; and

(5) a copy of the form of all contracts made or to be made between the program operator and any providers or provider networks regarding the provision of health care services or products to members.

(b) After the initial registration, if the form of a contract described by Subsection (a)(5) changes, the program operator must file the modified contract form with the department before it may be used.

(c) As part of the registration required under Subsection (a), and annually thereafter, the program operator shall certify in writing to the department that its programs comply with the requirements of this chapter and Chapter 562.

Sec. 7001.006. FEES. A discount health care program operator shall pay the department an initial registration fee of \$1,000 and an annual renewal fee in the amount set by the commissioner not to exceed \$500.

Sec. 7001.007. CRIMINAL BACKGROUND CHECK. The department may conduct a criminal background check on:

(1) the individuals responsible for conducting the program operator's affairs;

(2) each member of the board of directors, board of trustees, executive committee, or other governing board or committee;

(3) the officers of the program operator;

(4) any contracted management company personnel; and

(5) any person owning or having the right to acquire 10 percent or more of the voting securities of the program operator.

Sec. 7001.008. ENFORCEMENT. (a) The department may deny a registration application or take any action authorized under Chapters 82, 83, and 84 if the department determines that the applicant or registered discount health care program operator, individually or through an officer, director, or shareholder:

(1) has wilfully violated a provision of this code or an order or rule of the commissioner;

(2) has intentionally made a material misstatement in the registration application;

(3) has obtained or attempted to obtain a registration by fraud or misrepresentation;

(4) has misappropriated, converted to the applicant's or registration holder's own use, or illegally withheld money belonging to a member of a discount health care program;

(5) has engaged in fraudulent or dishonest acts or practices; or

(6) has been convicted of a felony.

(b) Chapter 2001, Government Code, applies to an action taken under this section.

SECTION 3. Chapter 76, Health and Safety Code, is repealed.

SECTION 4. Not later than January 1, 2010, the commissioner of insurance shall adopt the rules and procedures necessary to implement Chapter 7001, Insurance Code, as added by this Act.

SECTION 5. (a) Notwithstanding Section 7001.004, Insurance Code, as added by this Act, a person is not required to register under that section before April 1, 2010, except as provided by Subsection (b) of this section.

(b) A program operator that is registered with the Texas Department of Licensing and Regulation on January 1, 2010, as required by Chapter 76, Health and Safety Code, shall file an application for renewal of registration with the Texas Department of Insurance under Chapter 7001, Insurance Code, not later than April 1, 2010.

SECTION 6. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2009.

(b) Section 3 of this Act takes effect April 1, 2010.

(c) Subchapter E, Chapter 562, Insurance Code, as added by this Act, takes effect April 1, 2010.

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

Amend **CSHB 4341** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, immediately following proposed Section 7001.006, Insurance Code (page 9, between lines 57 and 58), insert the following:

Sec. 7001.007. DEPOSIT IN OPERATING ACCOUNT. All fees collected by the department under this chapter shall be deposited to the credit of the Texas Department of Insurance operating account.

(2) In SECTION 2 of the bill (page 9, line 58 through page 10, line 18), renumber the sections of proposed Chapter 7001, Insurance Code, accordingly.

#### **HB 1711 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative S. Turner called up with senate amendments for consideration at this time,

**HB 1711**, A bill to be entitled An Act relating to requiring the Texas Department of Criminal Justice to establish a comprehensive reentry and reintegration plan for offenders released or discharged from a correctional facility.

Representative S. 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 1711**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1711**: S. Turner, chair; McReynolds, Hodge, Madden, and Sheffield.

**HB 2972 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2972**, A bill to be entitled An Act relating to the definition of a controlling person with respect to the operation of certain assisted living facilities.

Representative Gallego moved to concur in the senate amendments to **HB 2972**.

The motion to concur in the senate amendments to **HB 2972** prevailed by (Record 1072): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Dukes; Jones; Riddle.

**STATEMENT OF VOTE**

When Record No. 1072 was taken, I was in the house but away from my desk. I would have voted yes.

Jones

**Senate Committee Substitute**

**CSHB 2972**, A bill to be entitled An Act relating to licensing of certain health facilities.

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

SECTION 1. Section 242.0021, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an institution or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.

SECTION 2. Section 242.039, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement an expedited inspection process that allows an applicant for a license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made. The department may charge a fee to recover the cost of the expedited inspection.

SECTION 3. Section 247.005, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an assisted living facility or of a management company or other business entity described by Subsection (b)(1) that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.

SECTION 4. Section 247.021, Health and Safety Code, is amended by amending Subsections (d), (g), and (h) and adding Subsections (d-1), (d-2), (d-3), and (d-4) to read as follows:

(d) The department by rule shall establish procedures to issue a six-month provisional license to existing facilities with residents. The department may issue a provisional license ~~[only]~~ if:

- (1) the facility is in compliance with resident care standards;
- (2) the facility voluntarily discloses that the facility needs additional time to comply with life safety code and physical plant standards;
- (3) the disclosure is made in writing by certified mail to the department;
- (4) an investigation of the violation was not initiated and the violation was not independently detected by the department; and
- (5) the disclosure is made promptly after knowledge of the information disclosed is obtained by the facility.

(d-1) A provisional license is effective on the date requested by the applicant.

(d-2) A provisional license expires the earlier of:

(1) the 180th day after the effective date of the provisional license or the end of any extension period granted by the department, in the department's sole discretion; or

(2) the date a license is issued to the provisional license holder under Subsection (d-4).

(d-3) The department shall conduct a life safety code inspection of the facility as soon as reasonably possible after the department issues a provisional license.

(d-4) After conducting a life safety code inspection, the department shall issue a license under Section 247.023 to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license. A license issued under this subsection has the same effective date as the provisional license.

(g) The ~~[Notwithstanding Subsection (f), the]~~ department shall, upon submission of a written request by the applicant, ~~[may]~~ automatically issue a provisional license to a newly constructed facility if:

(1) the facility is in compliance with resident care standards;

(2) all local approvals have been obtained;

(3) a complete license application is submitted within 30 days of receipt of all local approvals; ~~[and]~~

(4) the license fee has been paid;

(5) before beginning construction, the license applicant submits working drawings and specifications to the department for review; and

(6) the department determines that the license applicant constructed another facility in this state that complies with the department's life safety code standards.

(h) The ~~[Notwithstanding Subsection (f), the]~~ department may automatically issue a provisional license in the case of a corporate change of ownership of a facility.

SECTION 5. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.0211 to read as follows:

Sec. 247.0211. EXPEDITED LIFE SAFETY CODE INSPECTION. (a) The executive commissioner of the Health and Human Services Commission shall adopt rules to implement an expedited inspection process that allows an applicant for an assisted living facility license or for a renewal of a license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made.

(b) The department may charge a fee to recover the cost of the expedited inspection.

SECTION 6. Section 247.022, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) If the department conducts at least three life safety code inspections at the applicant's facility, the department may collect a fee in addition to the fee under Subsection (b) for the application for the license.

SECTION 7. Section 247.032(a), Health and Safety Code, is amended to read as follows:

(a) In this section, "accreditation commission" means the Commission on Accreditation of Rehabilitation Facilities, ~~[or]~~ the Joint Commission on Accreditation of Healthcare Organizations, or another organization approved by the executive commissioner of the Health and Human Services Commission.

SECTION 8. Sections 247.021(e) and (f), Health and Safety Code, are repealed.

SECTION 9. Not later than January 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement the expedited inspection processes as required by Sections 242.039(g) and 247.0211, Health and Safety Code, as added by this Act.

SECTION 10. This Act takes effect September 1, 2009.

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

Amend **CSHB 2972** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 242.039(g), Health and Safety Code (page 1, line 29), after the period, insert the following:

The rules must permit the department to set different fee amounts based on the size and type of institution.

(2) In the recital to SECTION 4 of the bill (page 1, line 41), strike "(d-3), and (d-4)" and substitute "and (d-3)".

(3) In SECTION 4 of the bill, strike added Section 247.021(d-1), Health and Safety Code (page 1, lines 58 and 59) and redesignate added Subsections (d-2), (d-3), and (d-4) as Subsections (d-1), (d-2), and (d-3) and correct cross-references as necessary (page 1, line 60, and page 2, lines 2, 3, and 6).

(4) In SECTION 6 of the bill, in added Section 247.022(b-1), Health and Safety Code (page 2, line 44), strike "at least three" and substitute "more than two".

(5) In SECTION 9 of the bill (page 2, line 57), strike "January" and substitute "June".

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

SECTION \_\_\_\_\_. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.0262 to read as follows:

Sec. 247.0262. **REPORT ON LIFE SAFETY CODE SURVEYS.** (a) The department shall annually report the number of life safety code surveys for an initial assisted living facility license with respect to which the department first visits the facility to conduct the survey more than 60 days after the date the applicant notifies the department that the applicant is ready for the initial survey.

(b) The department may report other data related to the timeliness of life safety code surveys or the processing time of license applications.

(c) The department may include the information described by Subsections (a) and (b) in any required annual regulatory report.

### **HB 2401 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2401**, A bill to be entitled An Act relating to the political activities of a person employed by a county elections administrator.

Representative Keffer moved to concur in the senate amendments to **HB 2401**.

The motion to concur in the senate amendments to **HB 2401** prevailed by (Record 1073): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Dukes; Riddle.

### Senate Committee Substitute

**CSHB 2401**, A bill to be entitled An Act relating to the political activities of a person employed by a county elections administrator.

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

SECTION 1. Section 31.039, Election Code, is amended by amending Subsection (f) and adding Subsection (g) to read as follows:

(f) Except as provided by Subsection (g), a [A] person employed on a full-time basis by the administrator's office is subject to Section 31.035 in the same manner as the administrator. [This subsection applies only to counties with a population of one million or more that have an election administrator.]

(g) Section 31.035(b) does not apply to a person employed on a full-time basis by the administrator's office in a county with a population of one million or less that has an election administrator.

SECTION 2. This Act takes effect September 1, 2009.



**HB 2480 - HOUSE CONCURS IN SENATE AMENDMENTS**  
**TEXT OF SENATE AMENDMENTS**

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

**HB 2480**, A bill to be entitled An Act relating to agreements with public junior colleges for courses for joint high school and junior college credit.

Representative Hochberg moved to concur in the senate amendments to **HB 2480**.

The motion to concur in the senate amendments to **HB 2480** prevailed by (Record 1074): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Dukes; Riddle.

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

Amend **HB 2480** (Senate committee report) in SECTION 1 of the bill as follows:

(1) In the introductory language (page 1, line 12), strike "Subsection (d)" and substitute "Subsections (d) and (d-1)".

(2) In added Section 130.008(d), Education Code (page 1, line 13), strike "A public junior college" and substitute "Except as provided by Subsection (d-1), a public junior college".

(3) Immediately following added Section 130.008(d), Education Code (page 1, between lines 17 and 18), insert the following:

(d-1) A public junior college may enter into an agreement described by Subsection (d) with respect to a high school located within the service area of another junior college district only if the other junior college district is unable to provide the requested course to the satisfaction of the school district.

**HB 2893 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2893**, A bill to be entitled An Act relating to the technology demonstration sites project.

Representative Hochberg moved to concur in the senate amendments to **HB 2893**.

The motion to concur in the senate amendments to **HB 2893** prevailed by (Record 1075): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycoc; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel.

Absent — Berman; Brown, B.; Dukes; Eissler; Riddle.

**STATEMENT OF VOTE**

When Record No. 1075 was taken, I was in the house but away from my desk. I would have voted yes.

Berman

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

Amend **HB 2893** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 32, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. COMPUTER LENDING PILOT PROGRAM

Sec. 32.351. ESTABLISHMENT OF PILOT PROGRAM. The commissioner by rule shall establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents.

Sec. 32.352. PILOT PROGRAM ADMINISTRATION. The commissioner shall establish procedures for the administration of the pilot program, including procedures for distributing to participating public schools:

(1) any surplus or salvage data processing equipment available for distribution under the pilot program; or

(2) computers donated or purchased for that purpose with funds from any available source, including a foundation, private entity, governmental entity, and institution of higher education.

Sec. 32.353. ELIGIBLE SCHOOLS. A public school is eligible to participate in the pilot program if:

(1) 50 percent or more of the students enrolled in the school are educationally disadvantaged; and

(2) the school operates or agrees to operate a computer lending program that:

(A) allows students and parents to borrow a computer;

(B) includes an option for students and parents to work toward owning a computer initially borrowed under the school's lending program, subject to any applicable legal restrictions regarding disposition of the computer involved;

(C) provides computer training for students and parents; and

(D) operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week.

Sec. 32.354. ANNUAL REPORT. Not later than January 1 of each year, the commissioner shall submit a report to the legislature regarding the computer lending pilot program established under this subchapter.

Sec. 32.355. EXPIRATION. This subchapter expires September 1, 2014.

SECTION \_\_\_\_\_. Section 2175.128, Government Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) Notwithstanding Subsection (a), if a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.125 or 2175.184, the state agency shall make the equipment available to the commissioner of education for use in the computer lending pilot program established under Subchapter H, Chapter 32, Education Code. If the commissioner of education declines to take the equipment, the state agency shall transfer the equipment in accordance with Subsection (a). The state agency may

not collect a fee or other reimbursement from the commissioner of education for the equipment made available under this subsection. This subsection expires September 1, 2014.

(b-1) Notwithstanding Subsection (b), if a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall make the equipment available to the commissioner of education for use in the computer lending pilot program established under Subchapter H, Chapter 32, Education Code. If the commissioner of education declines to take the equipment, the institution or agency shall transfer the equipment in accordance with Subsection (b). The state eleemosynary institution or institution or agency of higher education may not collect a fee or other reimbursement from the commissioner of education for the equipment made available under this subsection. This subsection expires September 1, 2014.

### LEAVE OF ABSENCE GRANTED

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

Riddle on motion of F. Brown.

### HB 802 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative J. Davis called up with senate amendments for consideration at this time,

**HB 802**, A bill to be entitled An Act relating to the creation of the lifespan respite services program.

Representative J. Davis moved to concur in the senate amendments to **HB 802**.

The motion to concur in the senate amendments to **HB 802** prevailed by (Record 1076): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycoc; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton;

Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel; Riddle.

Absent — Berman; Brown, B.; Flynn; Hancock; Ritter.

### STATEMENT OF VOTE

When Record No. 1076 was taken, I was in the house but away from my desk. I would have voted yes.

Berman

### Senate Committee Substitute

**CSHB 802**, A bill to be entitled An Act relating to the creation of the lifespan respite services program.

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

SECTION 1. Chapter 161, Human Resources Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. LIFESPAN RESPITE SERVICES PROGRAM

Sec. 161.151. DEFINITIONS. In this subchapter:

(1) "Chronic serious health condition" means a health condition that:

(A) requires periodic treatment by a health care provider, including a nurse as authorized by Chapter 301, Occupations Code, or a physician assistant as authorized by Chapter 204, Occupations Code; and

(B) continues over an extended period, including recurring episodes of a single underlying health condition such as asthma, diabetes, epilepsy, or multiple sclerosis.

(2) "Respite services" means support services, including in-home services or adult day-care services, that are provided for the purpose of temporarily giving relief to a primary caregiver who provides care to an individual with a chronic serious health condition or disability.

(3) "Respite services coordinator" means a community-based organization or local governmental entity with which the department enters into a contract to facilitate access to respite services under Section 161.154.

Sec. 161.152. LIFESPAN RESPITE SERVICES PROGRAM. The department shall implement the lifespan respite services program to promote the provision of respite services through contracts with eligible community-based organizations or local governmental entities.

Sec. 161.153. ELIGIBILITY. (a) A person is eligible to participate in the program if the person:

(1) is the primary caregiver for a person who:

(A) is related to the caregiver within the second degree of consanguinity or affinity;

(B) has a chronic serious health condition or disability;

(C) requires assistance with one or more activities of daily living;  
and

(D) is not eligible for or not able to participate in any other existing program that provides respite services; and

(2) meets criteria specified in rules adopted by the executive commissioner.

(b) The executive commissioner may not specify criteria that limit a person's eligibility based on the type of chronic serious health condition or disability of the person receiving care.

Sec. 161.154. RESPITE SERVICES CONTRACTS. (a) The department shall contract with at least three eligible community-based organizations or local governmental entities selected by the department to:

(1) provide respite services; and

(2) facilitate access to respite services.

(b) The department may award a contract under this section only after issuing a request for proposals for the contract.

(c) A community-based organization or local governmental entity is eligible to contract under this section only if the organization or entity has experience in and an existing procedure for:

(1) coordinating support services for multiple groups of persons who need support services, including persons with a physical or intellectual disability and elderly persons;

(2) connecting caregivers with respite services providers;

(3) maintaining and providing information regarding available respite services; and

(4) conducting public awareness activities regarding available respite services.

(d) The department shall include in each contract with a respite services coordinator provisions requiring the coordinator to:

(1) subject to the availability of money, provide vouchers for respite services to caregivers participating in the program who are not eligible for respite services provided through other programs; and

(2) connect caregivers participating in the program with available respite services.

(e) The department shall provide each community-based organization or local governmental entity with which the department contracts under this subchapter with:

(1) technical assistance; and

(2) policy and program development support.

(f) The department shall monitor a contractor's performance under a contract entered into under this subchapter using clearly defined and measurable performance objectives.

Sec. 161.155. RESPITE SERVICES COORDINATOR FUNCTIONS. A respite services coordinator under contract with the department shall:

(1) maintain information regarding respite services providers;

(2) build partnerships with respite services providers; and

(3) implement public awareness activities regarding respite services.

Sec. 161.156. RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

SECTION 2. Not later than November 1, 2010, the executive commissioner of the Health and Human Services Commission, in consultation with the Department of Aging and Disability Services, shall submit a report to the governor and the Legislative Budget Board regarding the lifespan respite services program established under Subchapter F, Chapter 161, Human Resources Code, as added by this Act. The report must include an evaluation of the effect of the program on:

(1) access to respite services by primary caregivers of persons with chronic serious health conditions or disabilities; and

(2) Medicaid expenditures for long-term care services provided in institutional care settings.

SECTION 3. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 4. This Act takes effect September 1, 2009.

**HB 2275 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2275**, A bill to be entitled An Act relating to creating a task force to develop uniform standards for subdivisions in the unincorporated areas of counties near the international border and in economically distressed counties.

Representative Coleman 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 2275**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2275**: Raymond, chair; Flynn, Guillen, Gonzales, and Merritt.

**HB 2963 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2963**, A bill to be entitled An Act relating to the liability of a county, hospital district, or public hospital for the costs of health care services provided to an indigent patient.

Representative Coleman moved to concur in the senate amendments to **HB 2963**.

The motion to concur in the senate amendments to **HB 2963** prevailed by (Record 1077): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddock; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Kuempel; Riddle.

Absent — Crownover; Dukes; King, T.

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

Amend **HB 2963** by adding the following new SECTIONS and renumbering subsequent sections appropriately.

SECTION \_\_\_\_\_. Section 61.029, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A county may provide or arrange to provide health care services for eligible county residents through the purchase of health coverage or other health benefits, including benefits described by Chapter 75.

SECTION \_\_\_\_\_. Section 61.056, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A public hospital or hospital district may provide or arrange to provide health care services for eligible residents through the purchase of health coverage or other health benefits, including benefits described by Chapter 75. For purposes of this subsection, the board of directors or managers of the hospital or district has the powers and duties provided to the commissioners court of a county under Chapter 75.

(Speaker pro tempore in the chair)



**SB 2423 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gonzalez Toureilles, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2423**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2423**: Gonzalez Toureilles, chair; Hopson, Gonzales, Zerwas, and S. King.

**SB 1206 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Edwards, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1206**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1206**: Edwards, chair; McReynolds, Madden, Hodge, and S. Turner.

**HB 3097 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Harper-Brown called up with senate amendments for consideration at this time,

**HB 3097**, A bill to be entitled An Act relating to the creation, organization, duties, and functions of the Texas Department of Motor Vehicles and to the use of certain specialty license plate fees to fund the Choose Life and Choose Adoption account; providing penalties.

Representative Harper-Brown moved to concur in the senate amendments to **HB 3097**.

The motion to concur in the senate amendments to **HB 3097** prevailed by (Record 1078): 135 Yeas, 7 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter;

Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Christian; Gattis; Hilderbran; Lewis; Miller, S.; Phillips; Sheffield.

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

Absent, Excused — Corte; Kuempel; Riddle.

Absent — McCall; Rodriguez.

### Senate Committee Substitute

**CSHB 3097**, A bill to be entitled An Act relating to the creation, organization, governance, duties, and functions of the Texas Department of Motor Vehicles, including the transfer of certain duties to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation; providing a penalty.

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

ARTICLE 1. TEXAS DEPARTMENT OF MOTOR VEHICLES

SECTION 1.01. Title 7, Transportation Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this subtitle:

(1) "Board" means the board of the department.

(2) "Department" means the Texas Department of Motor Vehicles.

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The department is created as an agency of this state.

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

(1) Subtitle A;

(2) Chapters 623, 642, 643, 645, 646, and 648; and

(3) Chapters 2301 and 2302, Occupations Code.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department is composed of an executive director appointed by the board and other employees required to efficiently implement:

(1) this subtitle;

(2) other applicable vehicle laws of this state; and

(3) other laws that grant jurisdiction to or are applicable to the department.

Sec. 1001.004. DIVISIONS. The board shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) administration;

(2) motor carriers;

(3) motor vehicle board; and

(4) vehicle titles and registration.

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2021.

Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend an action brought against the board or the department or an action brought against an employee of the department as a result of the employee's official act or omission, regardless of whether at the time of the institution of the action that person has terminated service with the department.

[Sections 1001.007-1001.020 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) The board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members must be persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom two must be franchised dealers of different classes and one must be an independent dealer; one member must be a representative of a manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code; one member must be a tax assessor-collector; one member must be a representative of a law enforcement agency of a county or municipality; and one member must be a representative of the motor carrier industry. The remaining members must be public members.

(c) Except as necessary to comply with Subsection (b), a person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

(d) A person 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 department may not serve as a member of the board.

(e) Appointments to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the state as a whole.

Sec. 1001.022. TERMS. Members of the board serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) The governor shall appoint one of the board's members chair of the board. The board shall elect one of its members vice chair of the board. A chair or vice chair serves at the pleasure of the board.

(b) The chair shall:

(1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) report to the board the governor's suggestions for department operations;

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the board, and the Legislative Budget Board;

(7) designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(8) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole;

(9) appoint a member of the board to act in the chair's absence; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Sec. 1001.024. BOARD MEETINGS. The board shall hold regular meetings at least once a month and special meetings at the call of the chair. Board members shall attend the meetings of the board. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Sec. 1001.025. RECOMMENDATIONS TO LEGISLATURE. (a) The board shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) On behalf of the board, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the board and relating to the operation of the department.

Sec. 1001.026. COMPENSATION. A member of the board is entitled to compensation as provided by the General Appropriations Act. If compensation for board members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board.

Sec. 1001.027. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a board member:

(1) does not have at the time of appointment or maintain during service on the board the qualifications required by Section 1001.021;

(2) violates a prohibition provided by Section 1001.021;

(3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board meetings that the board member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the board.

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

(c) If the executive director of the department knows that a potential ground for removal exists, the director shall notify the chair of the board of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another board member, who shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 1001.028. CONFLICT OF INTEREST. (a) A member of the board shall disclose in writing to the executive director if the member has an interest in a matter before the board or has a substantial financial interest in an entity that has a direct interest in the matter.

(b) The member shall recuse himself or herself from the board's deliberations and actions on the matter in Subsection (a) and may not participate in the board's decision on the matter.

(c) A person has a substantial financial interest in an entity if the person:

(1) is an employee, member, director, or officer of the entity; or

(2) owns or controls, directly or indirectly, more than a five percent interest in the entity.

Sec. 1001.029. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the board, as often as necessary, information concerning the members' qualifications for office and their responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 1001.030. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section.

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

(1) this subchapter;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government

Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Sec. 1001.031. ADVISORY COMMITTEES. (a) The board shall establish separate advisory committees for the motor carrier, motor vehicles, and vehicle titles and registration divisions to make recommendations to the board or the executive director on the operation of the applicable division. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(b) The board shall appoint persons to each advisory committee who:

(1) are selected from a list provided by the executive director; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division.

(c) The advisory committee for the motor vehicles division must include a member to represent motor vehicle manufacturers and a member to represent the recreational vehicle industry.

(d) The advisory committee for the motor carrier division must include a member to represent the motor transportation industry.

(e) A member of an advisory committee may not be compensated by the board or the department for committee service.

[Sections 1001.032-1001.040 reserved for expansion]

#### SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DEPARTMENT PERSONNEL. (a) Subject to the General Appropriations Act or other law, the executive director shall appoint deputies, assistants, and other personnel as necessary to carry out the powers and duties of the department under this code, other applicable vehicle laws of this state, and other laws granting jurisdiction or applicable to the department.

(b) A person appointed under this section must have the professional and administrative experience necessary to qualify the person for the position to which the person is appointed.

Sec. 1001.042. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly define the respective responsibilities of the director and the staff of the department.

Sec. 1001.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT. (a) The executive director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of

equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under this section must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the civil rights division of the Texas Workforce Commission for compliance with Subsection (a); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 1001.044. QUALIFICATIONS AND STANDARDS OF CONDUCT. The executive director shall provide to department employees, as often as necessary, information regarding their:

(1) qualification for office or employment under this subtitle; and

(2) responsibilities under applicable laws relating to standards of conduct for state employees.

Sec. 1001.045. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

#### CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

Sec. 1002.002. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the department except to prohibit false, misleading, or deceptive practices by the person.

CHAPTER 1003. DEPARTMENT PROCEDURES

Sec. 1003.001. APPLICABILITY OF CERTAIN LAWS. Except as specifically provided by law, the department is subject to Chapters 2001 and 2002, Government Code.

Sec. 1003.002. SUMMARY PROCEDURES FOR ROUTINE MATTERS.

(a) The board or the department by rule may:

(1) create a summary procedure for routine matters; and

(2) designate department activities that otherwise would be subject to Chapter 2001, Government Code, as routine matters to be handled under the summary procedure.

(b) An activity may be designated as a routine matter only if the activity is:

(1) voluminous;

(2) repetitive;

(3) believed to be noncontroversial; and

(4) of limited interest to anyone other than persons immediately involved in or affected by the proposed department action.

(c) The rules may establish procedures different from those contained in Chapter 2001, Government Code. The procedures must require, for each party directly involved, notice of a proposed negative action not later than the fifth day before the date the action is proposed to be taken.

(d) A rule adopted by the board under this section may provide for the delegation of authority to take action on a routine matter to a salaried employee of the department designated by the board.

Sec. 1003.003. REVIEW OF ACTION ON ROUTINE MATTER. (a) A person directly or indirectly affected by an action of the board or the department on a routine matter taken under the summary procedure adopted under Section 1003.002 is entitled to a review of the action under Chapter 2001, Government Code.

(b) The person must apply to the board not later than the 60th day after the date of the action to be entitled to the review.

(c) The timely filing of the application for review immediately stays the action pending a hearing on the merits.

(d) The board may adopt rules relating to an application for review under this section and consideration of the application.

Sec. 1003.004. INFORMAL DISPOSITION OF CERTAIN CONTESTED CASES. The board or the department, as applicable, may, on written agreement or stipulation of each party and any intervenor, informally dispose of a contested case in accordance with Section 2001.056, Government Code, notwithstanding any provision of this code or other law that requires a hearing before the board or the department, as applicable.

CHAPTER 1004. PUBLIC ACCESS

Sec. 1004.001. ACCESS TO PROGRAMS AND FACILITIES. (a) The department shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the department's programs.



(b) The department shall comply with federal and state laws for program and facility accessibility.

Sec. 1004.002. PUBLIC COMMENT. The board and the department shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board or the department and to speak on any issue under the jurisdiction of the board or the department.

Sec. 1004.003. PUBLIC REPRESENTATION ON ADVISORY BODY. (a) At least one-half of the membership of each advisory body appointed by the board, other than an advisory body whose membership is determined by this code or by other law, must represent the general public.

(b) A public representative may not be:

(1) an officer, director, or employee of a business entity regulated by the department;

(2) a person required to register with the Texas Ethics Commission under Chapter 305, Government Code; or

(3) a person related within the second degree by affinity or consanguinity to a person described by Subdivision (1) or (2).

#### CHAPTER 1005. STANDARDS OF CONDUCT

Sec. 1005.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. The board, the executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572, Government Code, and any other law regulating the ethical conduct of state officers and employees.

### ARTICLE 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

#### PART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 2A.01. Subsection (a), Section 201.202, Transportation Code, is amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;

(2) highways and roads; and

(3) public transportation~~;~~ and

~~(4) motor vehicle titles and registration].~~

SECTION 2A.02. Subdivision (2), Section 201.931, Transportation Code, is amended to read as follows:

(2) "License" includes:

(A) a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations;

(B) a motor carrier registration issued under Chapter 643;

(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code; and

(D) a license or permit for outdoor advertising issued under Chapter 391 or 394~~;~~

~~[(E) a salvage vehicle dealer or agent license issued under Chapter 2302, Occupations Code;~~

~~[(F) specially designated or specialized license plates issued under Subchapters E and F, Chapter 502; and~~

~~[(G) an apportioned registration issued according to the International Registration Plan under Section 502.054].~~

SECTION 2A.03. Subsection (c), Section 201.202, Transportation Code, is repealed.

#### PART B. STATE HIGHWAY TOLL PROJECTS

SECTION 2B.01. Subsections (b) and (h), Section 228.055, Transportation Code, are amended to read as follows:

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed \$100. The department shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles ~~[department]~~ by first class mail and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles ~~[department]~~ or the analogous department or agency of another state or country.

SECTION 2B.02. Subsection (b), Section 228.056, Transportation Code, is amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d), or (e):

(1) it is presumed that the notice of nonpayment was received on the fifth day after the date of mailing;

(2) a computer record of the Texas Department of Motor Vehicles ~~[department]~~ of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

#### PART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 2C.01. Subsections (b), (e), and (h), Section 284.0701, Transportation Code, are amended to read as follows:

(b) The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not to exceed \$100. The county shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles ~~[department]~~ by first-class mail not later than the

30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles [department] in accordance with Section 520.023, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [department] or the analogous department or agency of another state or country.

#### PART D. CERTIFICATE OF TITLE ACT

SECTION 2D.01. Subdivision (3), Section 501.002, Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

#### PART E. REGISTRATION OF VEHICLES

SECTION 2E.01. Subdivision (3), Section 502.001, Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2E.02. Subsections (a) and (b), Section 502.053, Transportation Code, are amended to read as follows:

(a) The department [~~Texas Department of Transportation~~] shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to the department [~~Texas Department of Transportation~~].

(b) When manufacturing is started, the Texas Department of Criminal Justice, the department [~~Texas Department of Transportation~~], and the comptroller, after negotiation, shall set the price to be paid for each license plate or insignia. The price must be determined from:

- (1) the cost of metal, paint, and other materials purchased;
- (2) the inmate maintenance cost per day;
- (3) overhead expenses;
- (4) miscellaneous charges; and
- (5) a previously approved amount of profit for the work.

PART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE  
PLATES

SECTION 2F.01. Subdivisions (2) and (5), Section 503.001, Transportation Code, are amended to read as follows:

(2) "Commission" means the board of the Texas Department of Motor Vehicles [~~Texas Transportation Commission~~].

(5) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART G. MISCELLANEOUS PROVISIONS

SECTION 2G.01. Section 520.001, Transportation Code, is amended to read as follows:

Sec. 520.001. DEFINITION. In this chapter, "department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART H. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 2H.01. Section 551.302, Transportation Code, is amended to read as follows:

Sec. 551.302. REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles.

PART I. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 2I.01. Section 601.023, Transportation Code, is amended to read as follows:

Sec. 601.023. PAYMENT OF STATUTORY FEES. The department may pay:

(1) a statutory fee required by the Texas Department of Motor Vehicles [~~Transportation~~] for a certified abstract or in connection with suspension of a vehicle registration; or

(2) a statutory fee payable to the comptroller for issuance of a certificate of deposit required by Section 601.122.

SECTION 2I.02. Section 601.451, Transportation Code, as added by Chapter 892 (**SB 1670**), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

- (1) the department;
- (2) the Texas Department of Motor Vehicles [~~Transportation~~];
- (3) the Texas Department of Insurance; and

(4) the Department of Information Resources.

SECTION 2I.03. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (**HB 3588**), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

#### PART J. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 2J.01. Subsection (d), Section 642.002, Transportation Code, is amended to read as follows:

(d) The Texas Department of Motor Vehicles [~~Transportation~~] by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

#### PART K. MOTOR CARRIER REGISTRATION

SECTION 2K.01. Subdivision (1), Section 643.001, Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

#### PART L. SINGLE STATE REGISTRATION

SECTION 2L.01. Section 645.001, Transportation Code, is amended to read as follows:

Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may, to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a [~~the~~] single state registration system established under federal law [~~49 U.S.C. Section 14504~~].

#### PART M. MOTOR TRANSPORTATION BROKERS

SECTION 2M.01. Subsection (a), Section 646.003, Transportation Code, is amended to read as follows:

(a) A person may not act as a motor transportation broker unless the person provides a bond to the Texas Department of Motor Vehicles [~~Transportation~~].

#### PART N. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 2N.01. Section 648.002, Transportation Code, is amended to read as follows:

Sec. 648.002. RULES. In addition to rules required by this chapter, the Texas Department of Motor Vehicles [~~Transportation~~], the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this chapter.

#### PART O. ABANDONED MOTOR VEHICLES

SECTION 2O.01. Subdivision (1), Section 683.001, Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

#### PART P. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 2P.01. Subdivision (1), Section 702.001, Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART Q. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 2Q.01. Subdivision (2), Section 707.001, Transportation Code, is amended to read as follows:

(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Motor Vehicles [~~Transportation~~] or the analogous department or agency of another state or country.

SECTION 2Q.02. Subsection (b), Section 707.011, Transportation Code, is amended to read as follows:

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles [~~Transportation~~]; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2Q.03. Section 707.017, Transportation Code, is amended to read as follows:

Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Motor Vehicles [~~Transportation~~] may refuse to register a motor vehicle alleged to have been involved in the violation.

PART R. SALE OR LEASE OF MOTOR VEHICLES

SECTION 2R.01. Subdivision (9), Section 2301.002, Occupations Code, is amended to read as follows:

(9) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2R.02. Subdivision (33), Section 2301.002, Occupations Code, is repealed.

PART S. AUTOMOBILE BURGLARY AND THEFT PREVENTION  
AUTHORITY

SECTION 2S.01. Subdivision (3), Section 1, Article 4413(37), Revised Statutes, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2S.02. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. The Automobile Burglary and Theft Prevention Authority is established in the Texas Department of Motor Vehicles [~~Transportation~~]. The authority is not an advisory body to the Texas Department of Motor Vehicles [~~Transportation~~].

ARTICLE 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS  
DEPARTMENT OF TRANSPORTATION IN OTHER CODES  
PART A. BUSINESS & COMMERCE CODE

SECTION 3A.01. Subsection (b), Section 51.003, Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(b) In this chapter, "business opportunity" does not include:

(1) the sale or lease of an established and ongoing business or enterprise that has actively conducted business before the sale or lease, whether composed of one or more than one component business or enterprise, if the sale or lease represents an isolated transaction or series of transactions involving a bona fide change of ownership or control of the business or enterprise or liquidation of the business or enterprise;

(2) a sale by a retailer of goods or services under a contract or other agreement to sell the inventory of one or more ongoing leased departments to a purchaser who is granted the right to sell the goods or services within or adjoining a retail business establishment as a department or division of the retail business establishment;

(3) a transaction that is:

(A) regulated by the Texas Department of Licensing and Regulation, the Texas Department of Insurance, the Texas Real Estate Commission, or the director of the Motor Vehicle Division of the Texas Department of Motor Vehicles [~~Transportation~~]; and

(B) engaged in by a person licensed by one of those agencies;

(4) a real estate syndication;

(5) a sale or lease to a business enterprise that also sells or leases products, equipment, or supplies or performs services:

(A) that are not supplied by the seller; and

(B) that the purchaser does not use with the seller's products, equipment, supplies, or services;

(6) the offer or sale of a franchise as described by the Petroleum Marketing Practices Act (15 U.S.C. Section 2801 et seq.) and its subsequent amendments;

(7) the offer or sale of a business opportunity if the seller:

(A) has a net worth of \$25 million or more according to the seller's audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(B) is at least 80 percent owned by another person who:

(i) in writing unconditionally guarantees performance by the person offering the business opportunity plan; and

(ii) has a net worth of more than \$25 million according to the person's most recent audited balance sheet as of a date not earlier than the 13th month before the date of the transaction; or

(8) an arrangement defined as a franchise by 16 C.F.R. Section 436.2(a) and its subsequent amendments if:

(A) the franchisor complies in all material respects in this state with 16 C.F.R. Part 436 and each order or other action of the Federal Trade Commission; and

(B) before offering for sale or selling a franchise in this state, a person files with the secretary of state a notice containing:

(i) the name of the franchisor;

(ii) the name under which the franchisor intends to transact business; and

(iii) the franchisor's principal business address.

SECTION 3A.02. Subsection (b), Section 105.004, Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(b) The Texas Department of Motor Vehicles [~~Transportation~~] shall provide a notice that states the provisions of this chapter to each person with a disability who is issued:

(1) license plates under Section 504.201, Transportation Code; or

(2) a disabled parking placard under Section 681.004, Transportation Code.

#### PART B. CODE OF CRIMINAL PROCEDURE

SECTION 3B.01. Subdivision (1), Section 1, Article 42.22, Code of Criminal Procedure, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 3B.02. Subsection (c), Article 59.04, Code of Criminal Procedure, is amended to read as follows:

(c) If the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, the attorney representing the state shall ask the Texas Department of Motor Vehicles [~~Transportation~~] to identify from its records the record owner of the vehicle and any interest holder. If the addresses of the owner and interest holder are not otherwise known, the attorney representing the state shall request citation be served on such persons at the address listed with the Texas Department of Motor Vehicles [~~Transportation~~]. If the citation issued to such address is returned unserved, the attorney representing the state shall cause a copy of the notice of the seizure and intended forfeiture to be posted at the courthouse door, to remain there for a period of not less than 30 days. If the owner or interest holder does not answer or appear after the notice has been so posted, the court shall enter a judgment by default as to the owner or interest holder, provided that the attorney representing the state files a written motion supported by affidavit setting forth the attempted service. An owner or interest holder whose interest is forfeited in this manner shall not be liable for court costs. If the person in possession of the vehicle at the time of the seizure is not the owner or the interest holder of the vehicle, notification shall be provided to the possessor in the same manner specified for notification to an owner or interest holder.



## PART C. FAMILY CODE

SECTION 3C.01. Subsection (b), Section 157.316, Family Code, is amended to read as follows:

(b) If a lien established under this subchapter attaches to a motor vehicle, the lien must be perfected in the manner provided by Chapter 501, Transportation Code, and the court or Title IV-D agency that rendered the order of child support shall include in the order a requirement that the obligor surrender to the court or Title IV-D agency evidence of the legal ownership of the motor vehicle against which the lien may attach. A lien against a motor vehicle under this subchapter is not perfected until the obligor's title to the vehicle has been surrendered to the court or Title IV-D agency and the Texas Department of Motor Vehicles [~~Transportation~~] has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a child support lien under this subchapter.

SECTION 3C.02. Subsection (a), Section 232.0022, Family Code, is amended to read as follows:

(a) The Texas Department of Motor Vehicles [~~Transportation~~] is the appropriate licensing authority for suspension or nonrenewal of a motor vehicle registration under this chapter.

SECTION 3C.03. Subsection (b), Section 232.014, Family Code, is amended to read as follows:

(b) A fee collected by the Texas Department of Motor Vehicles [~~Transportation~~] or the Department of Public Safety shall be deposited to the credit of the state highway fund.

SECTION 3C.04. Subsection (b), Section 264.502, Family Code, is amended to read as follows:

(b) The members of the committee who serve under Subsections (a)(1) through (3) shall select the following additional committee members:

(1) a criminal prosecutor involved in prosecuting crimes against children;

(2) a sheriff;

(3) a justice of the peace;

(4) a medical examiner;

(5) a police chief;

(6) a pediatrician experienced in diagnosing and treating child abuse and neglect;

(7) a child educator;

(8) a child mental health provider;

(9) a public health professional;

(10) a child protective services specialist;

(11) a sudden infant death syndrome family service provider;

(12) a neonatologist;

(13) a child advocate;

(14) a chief juvenile probation officer;

(15) a child abuse prevention specialist;

(16) a representative of the Department of Public Safety; and

(17) a representative of the Texas Department of Motor Vehicles [~~Transportation~~].

PART D. FINANCE CODE

SECTION 3D.01. Subdivision (9), Section 306.001, Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of:

(a) \$3 million or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

(ii) a renewal or extension of a commercial loan described by Paragraph (A), regardless of the principal amount of the loan at the time of the renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the Motor Vehicle Board of the Texas Department of Motor Vehicles [~~Transportation~~] under Section 2301.251(a), Occupations Code.

SECTION 3D.02. Subdivision (10-a), Section 348.001, Finance Code, is amended to read as follows:

(10-a) "Towable recreation vehicle" means a nonmotorized vehicle that:

(A) was originally designed and manufactured primarily to provide temporary human habitation in conjunction with recreational, camping, or seasonal use;

(B) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] as a travel trailer through a county tax assessor-collector;

(C) is permanently built on a single chassis;

(D) contains at least one life support system; and

(E) is designed to be towable by a motor vehicle.

SECTION 3D.03. Section 348.518, Finance Code, is amended to read as follows:

Sec. 348.518. SHARING OF INFORMATION. To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner and the Texas Department of Motor Vehicles [~~Transportation~~] may share information, including criminal history information, relating to a person licensed under this chapter. Information otherwise confidential remains confidential after it is shared under this section.

PART E. GOVERNMENT CODE

SECTION 3E.01. Subsection (d), Section 411.122, Government Code, is amended to read as follows:

- (d) The following state agencies are subject to this section:
- (1) Texas Appraiser Licensing and Certification Board;
  - (2) Texas Board of Architectural Examiners;
  - (3) Texas Board of Chiropractic Examiners;
  - (4) State Board of Dental Examiners;
  - (5) Texas Board of Professional Engineers;
  - (6) Texas Funeral Service Commission;
  - (7) Texas Board of Professional Geoscientists;
  - (8) Department of State Health Services, except as provided by Section 411.110, and agencies attached to the department, including:
    - (A) Texas State Board of Examiners of Dietitians;
    - (B) Texas State Board of Examiners of Marriage and Family Therapists;
    - (C) Midwifery Board;
    - (D) Texas State Perfusionist Advisory Committee [~~Board of Examiners of Perfusionists~~];
    - (E) Texas State Board of Examiners of Professional Counselors;
    - (F) Texas State Board of Social Worker Examiners;
    - (G) State Board of Examiners for Speech-Language Pathology and Audiology;
    - (H) Advisory Board of Athletic Trainers;
    - (I) State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
    - (J) Texas Board of Licensure for Professional Medical Physicists; and
    - (K) Texas Board of Orthotics and Prosthetics;
  - (9) Texas Board of Professional Land Surveying;
  - (10) Texas Department of Licensing and Regulation, except as provided by Section 411.093;
  - (11) Texas Commission on Environmental Quality;
  - (12) Texas Board of Occupational Therapy Examiners;
  - (13) Texas Optometry Board;
  - (14) Texas State Board of Pharmacy;
  - (15) Texas Board of Physical Therapy Examiners;
  - (16) Texas State Board of Plumbing Examiners;
  - (17) Texas State Board of Podiatric Medical Examiners;
  - (18) Polygraph Examiners Board;

- (19) Texas State Board of Examiners of Psychologists;
- (20) Texas Real Estate Commission;
- (21) Board of Tax Professional Examiners;
- (22) Texas Department of Transportation;
- (23) State Board of Veterinary Medical Examiners;
- (24) Texas Department of Housing and Community Affairs;
- (25) secretary of state;
- (26) state fire marshal;
- (27) Texas Education Agency; ~~and~~
- (28) Department of Agriculture; and
- (29) Texas Department of Motor Vehicles.

PART F. HEALTH AND SAFETY CODE

SECTION 3F.01. Subsection (e), Section 382.209, Health and Safety Code, is amended to read as follows:

(e) A vehicle is not eligible to participate in a low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program established under this section unless:

- (1) the vehicle is capable of being operated;
- (2) the registration of the vehicle:
  - (A) is current; and
  - (B) reflects that the vehicle has been registered in the county implementing the program for the 12 months preceding the application for participation in the program;
- (3) the commissioners court of the county administering the program determines that the vehicle meets the eligibility criteria adopted by the commission, the Texas Department of Motor Vehicles ~~[Transportation]~~, and the Public Safety Commission;
- (4) if the vehicle is to be repaired, the repair is done by a repair facility recognized by the Department of Public Safety, which may be an independent or private entity licensed by the state; and
- (5) if the vehicle is to be retired under this subsection and Section 382.213, the replacement vehicle is a qualifying motor vehicle.

SECTION 3F.02. Subsection (f), Section 382.210, Health and Safety Code, is amended to read as follows:

(f) In this section, "total cost" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles ~~[Transportation]~~. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

SECTION 3F.03. Subsection (a), Section 461.017, Health and Safety Code, is amended to read as follows:

(a) The Drug Demand Reduction Advisory Committee is composed of the following members:

(1) five representatives of the public from different geographic regions of the state who have knowledge and expertise in issues relating to reducing drug demand and who are appointed by the commissioner [~~executive director~~] of the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~]; and

(2) one representative of each of the following agencies or offices who is appointed by the executive director or commissioner of the agency or office and who is directly involved in the agency's or office's policies, programs, or funding activities relating to reducing drug demand:

(A) the criminal justice division of the governor's office;

(B) the Criminal Justice Policy Council;

(C) the Department of Family and Protective [~~and Regulatory~~] Services;

(D) the Department of Public Safety of the State of Texas;

(E) the Health and Human Services Commission;

(F) the Texas Alcoholic Beverage Commission;

(G) the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~];

(H) the Texas Council on Offenders with Mental Impairments;

(I) the Texas Department of Criminal Justice;

(J) the [~~Texas Department of~~] Health and[;]

[~~(K) the Texas Department of~~] Human Services Commission;

(K) [~~(L)~~] the [~~Texas~~] Department of Aging and Disability Services [~~Mental Health and Mental Retardation~~];

(L) [~~(M)~~] the Texas Education Agency;

(M) [~~(N)~~] the Texas Juvenile Probation Commission;

(N) [~~(O)~~] the Texas Youth Commission;

(O) [~~(P)~~] the Department of Assistive and Rehabilitative Services [~~Texas Rehabilitation Commission~~];

(P) [~~(Q)~~] the Texas Workforce Commission;

(Q) [~~(R)~~] the Texas Department of Motor Vehicles [~~Transportation~~];

(R) [~~(S)~~] the comptroller of public accounts; and

(S) [~~(T)~~] the adjutant general's department.

#### PART G. HUMAN RESOURCES CODE

SECTION 3G.01. Section 22.041, Human Resources Code, is amended to read as follows:

Sec. 22.041. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

SECTION 3G.02. Subsection (g), Section 32.026, Human Resources Code, is amended to read as follows:

(g) Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Motor Vehicles [~~Transportation's~~] vehicle registration record database.

#### PART H. LOCAL GOVERNMENT CODE

SECTION 3H.01. Section 130.006, Local Government Code, is amended to read as follows:

Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED CHECKS AND INVOICES. A county tax assessor-collector may establish procedures for the collection of dishonored checks and credit card invoices. The procedures may include:

(1) official notification to the maker that the check or invoice has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check or invoice is not valid until payment of the fee or tax is made;

(2) notification of the sheriff or other law enforcement officers that a check or credit card invoice has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(3) notification to the Texas Department of Motor Vehicles [~~Transportation~~], the comptroller of public accounts, or the Department of Public Safety that the receipt, registration, certificate, or other instrument held by the maker is not valid.

SECTION 3H.02. Section 130.007, Local Government Code, is amended to read as follows:

Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be remitted to the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] and if payment was made to the county tax assessor-collector by a check that was not honored by the drawee bank or by a credit card invoice that was not honored by the credit card issuer, the amount of the fee or tax is not required to be remitted, but the assessor-collector shall notify the appropriate department of:

(1) the amount of the fee or tax;

(2) the type of fee or tax involved; and

(3) the name and address of the maker.

(b) The Texas Department of Motor Vehicles [~~Transportation~~] and the comptroller shall assist the county tax assessor-collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or other instrument issued in the name of the state conditioned on the payment of the fee or tax.

SECTION 3H.03. Section 130.008, Local Government Code, is amended to read as follows:

Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF SUBCHAPTER. If the comptroller or the Texas Department of Motor Vehicles [~~Transportation~~] determines that the county tax assessor-collector has accepted payment for fees and taxes to be remitted to that department in violation of Section 130.004 or that more than two percent of the fees and taxes to be received from the assessor-collector are not remitted because of the acceptance of checks that are not honored by the drawee bank or of credit card invoices that are not honored by the credit card issuer, the department may notify the assessor-collector that the assessor-collector may not accept a check or credit card invoice for the payment of any fee or tax to be remitted to that department. A county tax assessor-collector who accepts a check or credit card invoice for the payment of a fee or tax, after notice that the assessor-collector may not receive a check or credit card invoice for the payment of fees or taxes to be remitted to a department, is liable to the state for the amount of the check or credit card invoice accepted.

SECTION 3H.04. Section 130.009, Local Government Code, is amended to read as follows:

Sec. 130.009. STATE RULES. The comptroller and the Texas Department of Motor Vehicles [~~Transportation~~] may make rules concerning the acceptance of checks or credit card invoices by a county tax assessor-collector and for the collection of dishonored checks or credit card invoices.

#### PART I. OCCUPATIONS CODE

SECTION 31.01. Subsection (c), Section 554.009, Occupations Code, is amended to read as follows:

(c) The board may register a vehicle with the Texas Department of Motor Vehicles [~~Transportation~~] in an alias name only for investigative personnel.

SECTION 31.02. Subdivision (9), Section 2301.002, Occupations Code, is amended to read as follows:

(9) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 31.03. Subsections (a) and (b), Section 2301.005, Occupations Code, are amended to read as follows:

(a) A reference in law, including a rule, to the Texas Motor Vehicle Commission or to the board means [~~the director, except that a reference to~~] the board of the Texas Department of Motor Vehicles [~~means the commission if it is related to the adoption of rules~~].

(b) A reference in law, including a rule, to the executive director of the Texas Motor Vehicle Commission means the executive director of the Texas Department of Motor Vehicles.

SECTION 31.04. Subdivisions (2) and (3), Section 2302.001, Occupations Code, are amended to read as follows:

(2) "Board" [~~"Commission"~~] means the board of the Texas Department of Motor Vehicles [~~Transportation Commission~~].

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 31.05. Subsection (b), Section 2302.0015, Occupations Code, is amended to read as follows:

(b) For the purpose of enforcing or administering this chapter or Chapter 501 or 502, Transportation Code, a member of the board [~~commission~~], an employee or agent of the board [~~commission~~] or department, a member of the Public Safety Commission, an officer of the Department of Public Safety, or a peace officer may at a reasonable time:

(1) enter the premises of a business regulated under one of those chapters; and

(2) inspect or copy any document, record, vehicle, part, or other item regulated under one of those chapters.

SECTION 31.06. The heading to Subchapter B, Chapter 2302, Occupations Code, is amended to read as follows:

SUBCHAPTER B. BOARD [~~COMMISSION~~] POWERS AND DUTIES

SECTION 31.07. Sections 2302.051, 2302.052, and 2302.053, Occupations Code, are amended to read as follows:

Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The board [~~commission~~] shall adopt rules as necessary to administer this chapter and may take other action as necessary to enforce this chapter.

Sec. 2302.052. DUTY TO SET FEES. The board [~~commission~~] shall set application fees, license fees, renewal fees, and other fees as required to implement this chapter. The board [~~commission~~] shall set the fees in amounts reasonable and necessary to implement and enforce this chapter.

Sec. 2302.053. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt a rule under Section 2302.051 restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The board [~~commission~~] may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

SECTION 31.08. Subsection (b), Section 2302.108, Occupations Code, is amended to read as follows:



(b) The board [~~commission~~] by rule shall establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under this chapter and the procedures for disciplinary action. A rule adopted under this subsection may not conflict with a rule adopted by the State Office of Administrative Hearings.

SECTION 31.09. Section 2302.204, Occupations Code, is amended to read as follows:

Sec. 2302.204. CASUAL SALES. This chapter does not apply to a person who purchases fewer than three nonrepairable motor vehicles or salvage motor vehicles from a salvage vehicle dealer, an insurance company or salvage pool operator in a casual sale at auction, except that:

(1) the board [~~commission~~] shall adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section; and

(2) a salvage vehicle dealer, insurance company, or salvage pool operator who sells a motor vehicle in a casual sale shall comply with those rules and Subchapter E, Chapter 501, Transportation Code.

SECTION 31.10. Subdivision (33), Section 2301.002, Occupations Code, is repealed.

#### PART J. PENAL CODE

SECTION 3J.01. Subsection (c), Section 31.03, Penal Code, is amended to read as follows:

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property \$25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A) fails to record the name, address, and physical description or identification number of the seller or pledgor;

(B) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements;

(4) for the purposes of Subdivision (3)(A), "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) stolen property does not lose its character as stolen when recovered by any law enforcement agency;

(6) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number of the seller or person making the delivery, the license plate number of the motor vehicle in which the part was delivered, a complete description of the part, and the vehicle identification number of the motor vehicle from which the part was removed, or in lieu of maintaining an inventory, fails to record the name and certificate of inventory number of the person who dismantled the motor vehicle from which the part was obtained;

(B) fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by Chapter 683, Transportation Code, or a certificate of title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or

(C) fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the Texas Department of Motor Vehicles [~~Transportation~~], of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed;

(7) an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to report to the Texas Department of Motor Vehicles [~~Transportation~~] the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or

(B) fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Subchapter D, Chapter 520, Transportation Code, at the time the motor vehicle was delivered;

(8) an actor who purchases or receives from any source other than a licensed retailer or distributor of pesticides a restricted-use pesticide or a state-limited-use pesticide or a compound, mixture, or preparation containing a restricted-use or state-limited-use pesticide is presumed to know on receipt by the actor of the pesticide or compound, mixture, or preparation that the pesticide or compound, mixture, or preparation has been previously stolen from another if the actor:

(A) fails to record the name, address, and physical description of the seller or pledgor;

(B) fails to record a complete description of the amount and type of pesticide or compound, mixture, or preparation purchased or received; and

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property; and

(9) an actor who is subject to Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from a commission merchant by representing that the actor will make prompt payment is presumed to have induced the commission merchant's consent by deception if the actor fails to make full payment in accordance with Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b).

SECTION 3J.02. Subsection (b), Section 31.11, Penal Code, is amended to read as follows:

(b) It is an affirmative defense to prosecution under this section that the person was:

(1) the owner or acting with the effective consent of the owner of the property involved;

(2) a peace officer acting in the actual discharge of official duties; or

(3) acting with respect to a number assigned to a vehicle by the Texas Department of Transportation or the Texas Department of Motor Vehicles, as applicable, and the person was:

(A) in the actual discharge of official duties as an employee or agent of the department; or

(B) in full compliance with the rules of the department as an applicant for an assigned number approved by the department.

#### PART K. TAX CODE

SECTION 3K.01. Subsection (d), Section 21.02, Tax Code, is amended to read as follows:

(d) A motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) if, on January 1, the vehicle:

(1) has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business; and

(2) is offered for resale.

SECTION 3K.02. Subsection (d), Section 22.04, Tax Code, is amended to read as follows:

(d) This section does not apply to a motor vehicle that on January 1 is located at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, for that place of business, and that:

(1) has not acquired taxable situs under Section 21.02(a)(1) in a taxing unit that participates in the appraisal district because the vehicle is described by Section 21.02(d);

(2) is offered for sale by a dealer who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under Chapter 503, Transportation Code, and whose inventory of motor vehicles is subject to taxation in the manner provided by Sections 23.121 and 23.122; or

(3) is collateral possessed by a lienholder and offered for sale in foreclosure of a security interest.

SECTION 3K.03. Subdivisions (3), (11), and (14), Subsection (a), Section 23.121, Tax Code, are amended to read as follows:

(3) "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Section 152.063(f). The term does not include:

(A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~];

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code [~~by the Motor Vehicle Board of the Texas Department of Transportation~~]; or

(C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~] under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~]. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

(14) "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:

(A) is titled and registered with the Texas Department of Motor Vehicles [~~Transportation~~] through the office of the collector;

(B) is permanently built on a single chassis;

(C) contains one or more life support systems; and

(D) is designed to be towable by a motor vehicle.

SECTION 3K.04. Subsections (f), (g), and (h), Section 23.121, Tax Code, are amended to read as follows:

(f) The comptroller shall promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Except as provided by Section 23.122(1) [~~of this code~~], not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. For purposes of this subsection, a dealer is presumed to have commenced business on the date of issuance to the dealer of a dealer's general distinguishing number as provided by Chapter 503, Transportation Code. Notwithstanding the presumption created by this subsection, a chief appraiser may, at his or her sole discretion, designate as the date on which a dealer commenced business a date other than the date of issuance to the dealer of a dealer's general distinguishing number. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the dealer owner conducts business;

(2) each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles [~~Transportation~~];

(3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and

(4) the market value of the dealer's motor vehicle inventory for the current tax year as computed under Section 23.121(b) [~~of this code~~].

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a general distinguishing number issued by the Texas Department of Motor Vehicles [~~Transportation~~]. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, at the location for which the general distinguishing number has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Texas Department of Motor Vehicles [~~Transportation~~] showing the person's general distinguishing number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.122 [~~of this code~~] to the person;

(3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration as required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles [~~Transportation~~] and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five

motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles [~~Transportation~~] as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9), Transportation Code, or for refusal by the Texas Department of Motor Vehicles [~~Transportation~~] to renew the dealer's general distinguishing number.

SECTION 3K.05. Subsection (c), Section 23.123, Tax Code, is amended to read as follows:

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122 [~~of this code~~];

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles [~~Transportation~~] for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

SECTION 3K.06. Subdivision (11), Subsection (a), Section 23.124, Tax Code, is amended to read as follows:

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of:

(A) a vessel, other than a trailer that is treated as a vessel, as set forth as "sales price" in the form entitled "Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department;

(B) an outboard motor as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department; or

(C) a trailer that is treated as a vessel as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles [~~Transportation~~].

In a transaction involving a vessel, an outboard motor, or a trailer that is treated as a vessel that does not involve the use of one of these forms, the term means an amount of money that is equivalent, or substantially equivalent, to the

amount that would appear as "sales price" on the Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit, the Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit, or the Application for Texas Certificate of Title if one of these forms were involved.

SECTION 3K.07. Section 113.011, Tax Code, is amended to read as follows:

Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR VEHICLES [~~TRANSPORTATION~~]. The comptroller shall furnish to the Texas Department of Motor Vehicles [~~Transportation~~] each release of a tax lien filed by the comptroller with that department.

SECTION 3K.08. Subsections (a) and (f), Section 152.0412, Tax Code, are amended to read as follows:

(a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Motor Vehicles [~~Transportation~~] based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(f) The Texas Department of Motor Vehicles [~~Transportation~~] shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

SECTION 3K.09. Section 152.042, Tax Code, is amended to read as follows:

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A person required to pay the tax imposed by Section 152.027 shall pay the tax to the Texas Department of Motor Vehicles [~~Transportation~~], and the department may not issue the metal dealer's plates until the tax is paid.

SECTION 3K.10. Subsection (b), Section 152.121, Tax Code, is amended to read as follows:

(b) Taxes on metal dealer plates collected by the Texas Department of Motor Vehicles [~~Transportation~~] shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

SECTION 3K.11. Subdivision (52), Section 162.001, Tax Code, is amended to read as follows:

(52) "Registered gross weight" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas Department of Motor Vehicles [~~Transportation~~].

#### ARTICLE 4. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 4.01. Subdivision (6), Section 2302.001, Occupations Code, is amended to read as follows:

(6) "Salvage vehicle agent" means a person who acquires, sells, or otherwise deals in nonrepairable or salvage motor vehicles [~~or used parts~~] in this state as directed by the salvage vehicle dealer under whose license the person operates. The term does not include a person who:

(A) is a licensed salvage vehicle dealer or a licensed used automotive parts recycler;

(B) is a partner, owner, or officer of a business entity that holds a salvage vehicle dealer license or a used automotive parts recycler license;

(C) is an employee of a licensed salvage vehicle dealer or a licensed used automotive parts recycler; or

(D) only transports salvage motor vehicles for a licensed salvage vehicle dealer or a licensed used automotive parts recycler.

SECTION 4.02. Subsection (b), Section 2302.006, Occupations Code, is amended to read as follows:

(b) This chapter applies to a transaction in which a motor vehicle:

(1) is sold, transferred, released, or delivered to a metal recycler for the purpose of reuse or resale as a motor vehicle [~~or as a source of used parts~~]; and

(2) is used for that purpose.

SECTION 4.03. Subchapter A, Chapter 2302, Occupations Code, is amended by adding Section 2302.008 to read as follows:

Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE PARTS RECYCLERS. This chapter does not apply to a used automotive parts recycler licensed under Chapter 2309.

SECTION 4.04. Subsection (b), Section 2302.103, Occupations Code, is amended to read as follows:

(b) An applicant may apply for a salvage vehicle dealer license with an endorsement in one or more of the following classifications:

(1) new automobile dealer;

(2) used automobile dealer;

(3) [~~used vehicle parts dealer~~;

~~(4)~~ salvage pool operator;

(4) [~~(5)~~] salvage vehicle broker; or

(5) [~~(6)~~] salvage vehicle rebuilder.

SECTION 4.05. Subsection (d), Section 2302.107, Occupations Code, is amended to read as follows:

(d) A salvage vehicle agent may acquire, sell, or otherwise deal in, nonrepairable or salvage motor vehicles [~~or used parts~~] as directed by the authorizing dealer.

SECTION 4.06. Section 2302.202, Occupations Code, is amended to read as follows:

Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle dealer shall maintain a record of each salvage motor vehicle [~~and each used part~~] purchased or sold by the dealer.

SECTION 4.07. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2309 to read as follows:



CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2309.001. SHORT TITLE. This chapter may be cited as the Texas Used Automotive Parts Recycling Act.

Sec. 2309.002. DEFINITIONS. In this chapter:

(1) "Insurance company," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "salvage motor vehicle," "salvage vehicle title," and "salvage vehicle dealer" have the meanings assigned by Section 501.091, Transportation Code.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Executive director" means the executive director of the department.

(5) "Used automotive part" has the meaning assigned to "used part" by Section 501.091, Transportation Code.

(6) "Used automotive parts recycler" means a person licensed under this chapter to operate a used automotive parts recycling business.

(7) "Used automotive parts recycling" means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or nonrepairable motor vehicles, including the resale of those vehicles.

Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL RECYCLERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction to which a metal recycler is a party.

(b) This chapter applies to a transaction in which a motor vehicle:

(1) is sold, transferred, released, or delivered to a metal recycler as a source of used automotive parts; and

(2) is used as a source of used automotive parts.

Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE DEALERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction in which a salvage vehicle dealer is a party.

(b) This chapter applies to a salvage vehicle dealer who deals in used automotive parts as more than an incidental part of the salvage vehicle dealer's primary business.

Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE COMPANIES. This chapter does not apply to an insurance company.

[Sections 2309.006-2309.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY BOARD. (a) The advisory board consists of five members representing the used automotive parts industry in this state appointed by the presiding officer of the commission with the approval of the commission.

(b) The advisory board shall include members who represent used automotive parts businesses owned by domestic entities, as defined by Section 1.002, Business Organizations Code.

(c) The advisory board shall include one member who represents a used automotive parts business owned by a foreign entity, as defined by Section 1.002, Business Organizations Code.

(d) The advisory board may not include more than one member from any one used automotive parts business entity.

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

Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of one or two members expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2309.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including licensing standards.

Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2309.056. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

[Sections 2309.057-2309.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2309.102. RULES. (a) The commission shall adopt rules for licensing used automotive parts recyclers and used automotive parts employees.

(b) The commission by rule shall adopt standards of conduct for license holders under this chapter.

Sec. 2309.103. RULES REGARDING LICENSING AND STANDARDS OF CONDUCT. (a) The commission shall adopt rules for licensing applicants, including rules for denial of an application if the applicant, a partner, principal, officer, or general manager of the applicant, or another license or permit holder with a connection to the applicant, has:

(1) before the application date, been convicted of, pleaded guilty or nolo contendere to, or been placed on deferred adjudication for:

(A) a felony; or

(B) a misdemeanor punishable by confinement in jail or by a fine exceeding \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties; or

(3) knowingly submitted false information on the application.

(b) The commission by rule shall adopt standards of conduct for license holders under this chapter.

Sec. 2309.104. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2309.105. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission may not adopt a rule restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department shall inspect each used automotive parts recycling facility at least once every two years.

(b) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the inspection history;

(2) any history of complaints involving a used automotive parts recycler; and

(3) any other factor determined by the commission by rule.

(d) A used automotive parts recycler shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.

(e) In conducting an inspection under this section, the department may inspect a facility, a used automotive part, a business record, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2309.107. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2309.108-2309.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE REQUIRED. (a) Unless the person holds a used automotive parts recycler license issued under this chapter, a person may not own or operate a used automotive parts recycling business or sell used automotive parts.

(b) A used automotive parts recycler license:

(1) is valid only with respect to the person who applied for the license;

and

(2) authorizes the license holder to operate a used automotive parts recycling business only at the one facility listed on the license.

Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must provide in a manner prescribed by the executive director:

(1) a federal tax identification number;

(2) proof of general liability insurance in an amount not less than \$250,000; and

(3) proof of a storm water permit if the applicant is required by the Texas Commission on Environmental Quality to obtain a permit.

Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE REQUIRED. (a) A person employed by a used automotive parts recycler may not in the scope of the person's employment acquire a vehicle or used automotive parts and may not sell used automotive parts unless the person holds a used automotive parts employee license issued under this chapter.

(b) The commission by rule shall adopt requirements for the application for and issuance of a used automotive parts employee license under this chapter.

Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2309.156. LICENSE RENEWAL. (a) A license issued under this chapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) The commission by rule shall adopt requirements to renew a license issued under this chapter.

[Sections 2309.157-2309.200 reserved for expansion]

SUBCHAPTER E. LOCAL REGULATION

Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of this chapter apply in addition to the requirements of any applicable municipal ordinance relating to the regulation of a person who deals in used automotive parts.

(b) This chapter does not prohibit the enforcement of an applicable municipal license or permit requirement that is related to an activity regulated under this chapter.

[Sections 2309.202-2309.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a license under this chapter, if the person violates:

- (1) this chapter or a rule adopted under this chapter; or
- (2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2309.253. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

- (1) violates the licensing requirements of this chapter;
- (2) deals in used parts without a license required by this chapter; or
- (3) employs an individual who does not hold the appropriate license

required by this chapter.

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

[Sections 2309.255-2309.300 reserved for expansion]

SUBCHAPTER G. CONDUCTING BUSINESS

Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR VEHICLE. (a) A used automotive parts recycler who acquires ownership of a salvage motor vehicle shall obtain a properly assigned title from the previous owner of the vehicle.

(b) A used automotive parts recycler who acquires ownership of a motor vehicle, nonrepairable motor vehicle, or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, shall, before the 31st day after the date of acquiring the motor vehicle, submit to the Texas Department of

Transportation a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document for the motor vehicle.

(c) After receiving the title or document, the Texas Department of Transportation shall issue the used automotive parts recycler a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document.

(d) The recycler shall comply with Subchapter E, Chapter 501, Transportation Code.

Sec. 2309.302. RECORDS OF PURCHASES. A used automotive parts recycler shall maintain a record of or sales receipt for each motor vehicle, salvage motor vehicle, nonrepairable motor vehicle, and used automotive part purchased.

Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION. Before moving a place of business, a used automotive parts recycler must notify the department of the new location. The used automotive parts recycler shall provide a storm water permit for the location if a permit is required by the Texas Commission on Environmental Quality.

[Sections 2309.304-2309.350 reserved for expansion]

SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

Sec. 2309.351. DEFINITIONS. In this subchapter:

(1) "Component part" means a major component part as defined by Section 501.091, Transportation Code, or a minor component part.

(2) "Interior component part" means a motor vehicle's seat or radio.

(3) "Minor component part" means an interior component part, a special accessory part, or a motor vehicle part that displays or should display at least one of the following:

(A) a federal safety certificate;

(B) a motor number;

(C) a serial number or a derivative; or

(D) a manufacturer's permanent vehicle identification number or a derivative.

(4) "Special accessory part" means a motor vehicle's tire, wheel, tailgate, or removable glass top.

Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on receipt of a motor vehicle, a used automotive parts recycler shall:

(1) remove any unexpired license plates from the vehicle; and

(2) place the license plates in a secure place until destroyed by the used automotive parts recycler.

Sec. 2309.353. DISMANTLEMENT OR DISPOSITION OF MOTOR VEHICLE. A used automotive parts recycler may not dismantle or dispose of a motor vehicle unless the recycler first obtains:

(1) a certificate of authority to dispose of the vehicle, a sales receipt, or a transfer document for the vehicle issued under Chapter 683, Transportation Code; or

(2) a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released.

Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS.

(a) A used automotive parts recycler shall keep an accurate and legible record of each used component part purchased by or delivered to the recycler. The record must include:

(1) the date of purchase or delivery;

(2) the driver's license number of the seller and a legible photocopy of the seller's driver's license; and

(3) a description of the part and, if applicable, the make and model of the part.

(b) As an alternative to the information required by Subsection (a), a used automotive parts recycler may record:

(1) the name of the person who sold the part or the motor vehicle from which the part was obtained; and

(2) the Texas certificate of inventory number or the federal taxpayer identification number of the person.

(c) The department shall prescribe the form of the record required by Subsection (a) and shall make the form available to used automotive parts recyclers.

(d) This section does not apply to:

(1) an interior component part or special accessory part from a motor vehicle more than 10 years old; or

(2) a part delivered to a used automotive parts recycler by a commercial freight line, commercial carrier, or licensed used automotive parts recycler.

Sec. 2309.355. RETENTION OF COMPONENT PARTS. (a) A used automotive parts recycler shall retain each component part in its original condition on the business premises of the recycler for at least three calendar days, excluding Sundays, after the date the recycler obtains the part.

(b) This section does not apply to the purchase by a used automotive parts recycler of a nonoperational engine, transmission, or rear axle assembly from another used automotive parts recycler or an automotive-related business.

Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive parts recycler shall maintain copies of each record required under this subchapter until the first anniversary of the purchase date of the item for which the record is maintained.

Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE PLATES. (a) A used automotive parts recycler shall surrender to the Texas Department of Transportation for cancellation a certificate of title or authority, sales receipt, or transfer document, as required by the department.

(b) The Texas Department of Transportation shall provide a signed receipt for a surrendered certificate of title.

Sec. 2309.358. INSPECTION OF RECORDS. (a) A peace officer at any reasonable time may inspect a record required to be maintained under this subchapter, including an inventory record.

(b) On demand by a peace officer, a used automotive parts recycler shall provide to the officer a copy of a record required to be maintained under this subchapter.

(c) A peace officer may inspect the inventory on the premises of a used automotive parts recycler at any reasonable time to verify, check, or audit the records required to be maintained under this subchapter.

(d) A used automotive parts recycler or an employee of the recycler shall allow and may not interfere with a peace officer's inspection of the recycler's inventory, premises, or required inventory records.

[Sections 2309.359-2309.400 reserved for expansion]

#### SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a used automotive parts facility located in a county with a population of 2.8 million or more.

Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY. (a) A used automotive parts recycler may not operate heavy machinery in a used automotive parts recycling facility between the hours of 7 p.m. of one day and 7 a.m. of the following day.

(b) This section does not apply to conduct necessary to a sale or purchase by the recycler.

SECTION 4.08. Section 501.091, Transportation Code, is amended by amending Subdivision (17) and adding Subdivision (20) to read as follows:

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, ~~[dismantling,]~~ repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or, if incidental to a salvage motor vehicle dealer's primary business, used automotive parts. The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than five ~~[three]~~ salvage motor vehicles in the same calendar year or, except as provided by Paragraph (C), a used automotive parts recycler. The term includes a person engaged in the business of:

(A) a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business;

(B) dealing in nonrepairable motor vehicles or salvage motor vehicles~~], regardless of whether the person deals in used parts~~; or

(C) a used automotive parts recycler if the sale of repaired, rebuilt, or reconstructed nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the used automotive parts recycler's business ~~[dealing in used parts regardless of whether the person deals in nonrepairable motor vehicles or salvage motor vehicles]~~.

(20) "Used parts dealer" and "used automotive parts recycler" have the meaning assigned to "used automotive parts recycler" by Section 2309.002, Occupations Code.



SECTION 4.09. Subsection (d), Section 501.092, Transportation Code, is amended to read as follows:

(d) An insurance company may sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, ~~or~~ a metal recycler, or a used automotive parts recycler. If the motor vehicle is not a salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the vehicle or to be issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle.

SECTION 4.10. Subsections (a) and (b), Section 501.095, Transportation Code, are amended to read as follows:

(a) If the department has not issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle and an out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person who is:

(1) a licensed salvage vehicle dealer, a used automotive parts recycler under Chapter 2309, Occupations Code, or a metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle;

(3) a governmental entity; or

(4) an out-of-state buyer.

(b) A person, other than a salvage vehicle dealer, a used automotive parts recycler, or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, salvage vehicle title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned certificate of title for the motor vehicle to the department and apply to the department for:

(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or

(2) a salvage vehicle title if the vehicle is a salvage motor vehicle.

SECTION 4.11. Section 501.105, Transportation Code, is amended to read as follows:

Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN CASUAL SALES. Each licensed salvage vehicle dealer, used automotive parts recycler, or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the preceding 36-month period that contains:

(1) the date of the sale;

(2) the name of the purchaser;

(3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and

(4) the vehicle identification number.

SECTION 4.12. Section 2302.253, Occupations Code, is repealed.

SECTION 4.13. Not later than January 1, 2010, the Texas Commission of Licensing and Regulation shall adopt rules under Section 2309.102, Occupations Code, as added by this Act.

SECTION 4.14. If there is a conflict between a provision of this Act and a provision of another Act of the 81st Legislature, Regular Session, 2009, that becomes law concerning the licensing or regulation of used automotive parts recyclers, this Act prevails regardless of the relative dates of enactment.

SECTION 4.15. Sections 2309.151 and 2309.154, Occupations Code, as added by this article, and Subchapter F, Chapter 2309, Occupations Code, as added by this article, take effect September 1, 2010.

#### ARTICLE 5. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 5.01. (a) All powers, duties, obligations, and rights of action of the Motor Vehicle Division and the Vehicle Titles and Registration Division of the Texas Department of Transportation are transferred to the Texas Department of Motor Vehicles and all powers, duties, obligations, and rights of action of the Texas Transportation Commission in connection or associated with those divisions of the Texas Department of Transportation are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(b) The powers, duties, obligations, and rights of action of the portion of the Motor Carrier Division of the Texas Department of Transportation that is responsible for motor carrier registration and the enforcement of Subtitle F, Title 7, Transportation Code, are transferred to the Texas Department of Motor Vehicles and the associated powers, duties, obligations, and rights of action of the Texas Transportation Commission are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(c) In connection with the transfers required by Subsections (a) and (b) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section are transferred to the Texas Department of Motor Vehicles.

(d) The Texas Department of Motor Vehicles shall continue any proceeding involving the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(e) A certificate, license, document, permit, registration, or other authorization issued by the Motor Vehicle Division or the Vehicle Titles and Registration Division of the Texas Department of Transportation or a registration

issued by the Motor Carrier Division of the Texas Department of Transportation that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(f) A rule adopted by the Texas Transportation Commission or the executive director of the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section continues in effect until it is amended or repealed by the board of the Texas Department of Motor Vehicles or the Texas Department of Motor Vehicles, as applicable.

(g) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department under Subsections (a) and (b) of this section.

(h) The Texas Department of Transportation shall continue, as necessary, to perform the duties and functions being transferred to the Texas Department of Motor Vehicles until the transfer of agency duties and functions is complete.

SECTION 5.02. (a) In connection with the establishment by this Act of the Automobile Burglary and Theft Prevention Authority in the Texas Department of Motor Vehicles and with the transfer by this Act of the duty to provide personnel and services to the Automobile Burglary and Theft Prevention Authority from the Texas Department of Transportation to the Texas Department of Motor Vehicles, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority are transferred to the Texas Department of Motor Vehicles.

(b) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Automobile Burglary and Theft Prevention Authority for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that department.

SECTION 5.03. (a) In addition to the positions of the Texas Department of Transportation assigned to the Vehicle Titles and Registration Division, Motor Vehicle Division, Motor Carrier Division, and Automobile Burglary and Theft Prevention Authority Division that are transferred to the Texas Department of Motor Vehicles, it is estimated that 75 other full-time equivalent employee positions of the Texas Department of Transportation primarily support the transferred divisions and, subject to this section, those positions are also

transferred to the Texas Department of Motor Vehicles. The number of positions transferred under this subsection may be modified by agreement of the two agencies in a memorandum of understanding.

(b) If in another Act of the 81st Legislature, Regular Session, 2009, the legislature establishes a maximum number of full-time equivalent employee positions for the Texas Department of Motor Vehicles, the number of positions transferred under Subsection (a) of this section may not result in a number of full-time equivalent employee positions of that department that exceeds the maximum.

(c) When filling a position described by Subsection (a) of this section, the Texas Department of Motor Vehicles shall give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of the Texas Department of Transportation and primarily supported one or more of the transferred divisions.

#### ARTICLE 6. APPOINTMENT OF BOARD

SECTION 6.01. Not later than October 1, 2009, the governor shall appoint the members of the board of the Texas Department of Motor Vehicles in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this Act.

#### ARTICLE 7. MEMORANDUM OF UNDERSTANDING

SECTION 7.01. (a) The board of the Texas Department of Motor Vehicles and the Texas Transportation Commission shall enter into or revise a joint memorandum of understanding to coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so that each department may effectively and efficiently perform the functions and duties assigned to it.

(b) The Texas Department of Motor Vehicles and the Texas Department of Transportation shall implement the joint memorandum of understanding using existing personnel and resources.

(c) Otherwise confidential information shared under the memorandum of understanding remains subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the department that originally obtained or collected the information.

(d) Information may be shared under the memorandum of understanding without the consent of the person who is the subject of the information.

(e) The memorandum of understanding required by Subsection (a) of this section must be entered into or revised at the first official meeting of the board members of the Texas Department of Motor Vehicles.

SECTION 7.02. (a) In addition to the memorandum of understanding required by Section 7.01 of this article, the board of the Texas Department of Motor Vehicles and the Texas Transportation Commission may enter into or revise one or more other joint memoranda of understanding as considered necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles under this Act. A memorandum of understanding may include an agreement for the provision of office space, utilities, and other facility services; the need for

full-time equivalent positions of the Texas Department of Transportation to provide support services in addition to the positions transferred to the Texas Department of Motor Vehicles under Section 5.01 of this Act; support services; and the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles.

(b) Subsections (b), (c), and (d) of Section 7.01 of this article apply to a memorandum of understanding entered into or revised under Subsection (a) of this section.

#### ARTICLE 8. DEPARTMENT OF MOTOR VEHICLES TRANSITION TEAM

SECTION 8.01. (a) The Texas Department of Transportation shall establish a Department of Motor Vehicles Transition Team to plan for and make recommendations regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles. The transition team must include the division directors from the Motor Vehicle Division, the Vehicle Titles and Registration Division, and the Motor Carrier Division and the Assistant Executive Director for Support Operations.

(b) Not later than October 1, 2009, the transition team shall report on and make recommendations to the board of the Texas Department of Motor Vehicles and the Transportation Legislative Oversight Committee regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles.

#### ARTICLE 9. FINANCIAL AUDIT

SECTION 9.01. (a) As soon as practicable after the effective date of this Act, the office of the state auditor shall conduct an initial financial audit to establish financial benchmarks for the Texas Department of Motor Vehicles on its overall status and condition in relation to funds on hand, equipment and other assets, pending matters, and other issues considered appropriate by the office of the state auditor.

(b) As soon as practicable after the completion of the audit required by Subsection (a) of this section, the results of the audit shall be reported by the office of the state auditor to the board of the Texas Department of Motor Vehicles and to the Texas Transportation Commission. The office of the state auditor shall also provide a copy of the audit to the board and the commission.

#### ARTICLE 10. EFFECTIVE DATE

SECTION 10.01. This Act takes effect September 1, 2009.

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

Amend **CSHB 3097** (Senate committee printing) as follows:

(1) In SECTION 1.01 of the bill, added Section 1001.002(b)(2), Transportation Code (page 1, line 32), strike "623,".

(2) In SECTION 1.01 of the bill, added Section 1001.005, Transportation Code (page 1, line 51), strike "2021" and substitute "2015".

(3) In SECTION 1.01 of the bill, added Section 1001.024, Transportation Code (page 2, line 69), strike "once a month" and substitute "quarterly".

(4) In SECTION 2A.02 of the bill, amended Section 201.931(2), Transportation Code (page 7), strike lines 6 through 11 and substitute the following:

of vehicles and load exceeding size or weight limitations; and

(B) ~~a motor carrier registration issued under Chapter 643;~~

~~[(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code;~~

~~[(D)] a license or permit for outdoor advertising~~

(5) Strike SECTION 2E.01 of the bill (page 8, lines 33 through 36), and substitute the following:

SECTION 2E.01. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Board" means the board of the Texas Department of Motor Vehicles.

(3) "Department" means the Texas Department of Motor Vehicles ~~[Transportation]~~.

SECTION 2E.02. Section 502.051, Transportation Code, is amended to read as follows:

Sec. 502.051. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the board ~~[Texas Transportation Commission]~~ and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

SECTION 2E.03. Section 502.052(a), Transportation Code, is amended to read as follows:

(a) The department shall prepare the designs and specifications of license plates and devices selected by the board ~~[Texas Transportation Commission]~~ to be used as the registration insignia.

(6) Renumber SECTION 2E.02 of the bill (page 8, line 37) as SECTION 2E.04.

(7) Immediately after SECTION 2E.02 of the bill (page 8, between lines 56 and 57), insert the following:

SECTION 2E.05. Section 502.1515, Transportation Code, is amended to read as follows:

Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES; PAID ADVERTISING. The board ~~[commission]~~ may authorize the department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.

SECTION 2E.06. Section 502.352(c), Transportation Code, is amended to read as follows:

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector, the department, or the department's wire service agent, if the department has a wire service agent;

(2) paying a fee of \$25 for a 72-hour permit or \$50 for a 144-hour permit;

- (A) in cash;  
 (B) by postal money order;  
 (C) by certified check;  
 (D) by wire transfer through the department's wire service agent, if any;  
 (E) by an escrow account; or  
 (F) where the service is provided, by a credit card issued by:  
 (i) a financial institution chartered by a state or the United States; or

(ii) a nationally recognized credit organization approved by the board [~~Texas Transportation Commission~~];

(3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee; and

(4) furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 502.153(c) and 601.168(a) and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

SECTION 2E.07. Section 502.355(h), Transportation Code, is amended to read as follows:

(h) A person operating a vehicle under a permit issued under this section commits an offense if the person:

(1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or

(2) follows a route other than that prescribed by the board [~~Texas Transportation Commission~~].

(8) Between PARTS F and G, ARTICLE 2 (page 8, between lines 63 and 64), insert the following PART, appropriately lettered, and reletter and renumber subsequent PARTS and SECTIONS of that article accordingly:

PART \_\_\_\_ . SPECIALTY LICENSE PLATES

SECTION 2\_\_\_\_.01. Section 504.001(a), Transportation Code, is amended to read as follows:

(a) In this chapter:

(1) "Board" means the board of the Texas Department of Motor Vehicles [~~"commission" and "director" have the meanings assigned by Section 201.001~~].

(2) "Department" means the Texas Department of Motor Vehicles.

SECTION 2\_\_\_\_.02. Section 504.004, Transportation Code, is amended to read as follows:

Sec. 504.004. RULES AND FORMS. The board [~~commission~~] may adopt rules and the department may issue forms to implement and administer this chapter.

SECTION 2\_\_\_.03. Sections 504.851(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) Instead of the fees established by Section 504.101(c), the board [~~commission~~] by rule shall establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) The board [~~commission~~] by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(d) At any time as necessary to comply with Subsection (b) or (c), the board [~~commission~~] may increase or decrease the amount of a fee established under the applicable subsection.

(9) Between PARTS N and O, ARTICLE 2 (page 9, between lines 64 and 65), insert the following PARTS, appropriately lettered, and reletter and renumber subsequent PARTS and SECTIONS accordingly:

PART \_\_\_\_ . PRIVILEGED PARKING

SECTION 2 \_\_\_\_ .01. Section 681.001(1), Transportation Code, is amended to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART \_\_\_\_ . ADMINISTRATIVE ADJUDICATION OF VEHICLE PARKING AND STOPPING OFFENSES

SECTION 2 \_\_\_\_ .01. Section 682.008, Transportation Code, is amended to read as follows:

Sec. 682.008. PRESUMPTIONS. In an administrative adjudication hearing under this chapter:

(1) it is presumed that the registered owner of the motor vehicle is the person who parked or stopped the vehicle at the time and place of the offense charged; and



(2) the Texas Department of Motor Vehicles' [~~Transportation's~~] computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

(10) At the end of SECTION 7.01(b) of the bill (page 33, line 5), add "Neither the Texas Department of Motor Vehicles nor the Texas Department of Transportation may impose or collect a fee or charge in connection with the sharing of information under a joint memorandum of understanding entered into or revised under this section."

(11) In SECTION 7.02(a) of the bill (page 33, lines 25 and 26), strike "as considered necessary or appropriate" and substitute "necessary".

(12) In SECTION 8.01(b) of the bill (page 33, lines 54 and 55), strike "and the Transportation Legislative Oversight Committee" and substitute ", the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house committees with jurisdiction over transportation".

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

Amend **CSHB 3097** (senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . MANUFACTURER OR DISTRIBUTOR OWNERSHIP,  
OPERATION, OR CONTROL OF DEALERSHIP

SECTION \_\_\_\_ .01. Section 2301.476, Occupations Code, is amended by adding Subsection (h-1) to read as follows:

(h-1) A person who on January 18, 2002, held both a converter's license to convert buses with a gross vehicle weight rating of 40,000 pounds or more and a franchised dealer's license to sell buses issued under this chapter may:

(1) regain and hold both licenses; and

(2) operate as both a converter and franchised dealer of bus conversions with a gross vehicle weight rating of 40,000 pounds or more but of no other type of vehicle.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Phillips requested permission for the Committee on Transportation to meet while the house is in session, at 1 p.m. today, in 3W.9, to consider **SB 1508** and **SB 1615**.

Permission to meet was granted.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Transportation, 1 p.m. today, 3W.9, for a formal meeting, to consider **SB 1508** and **SB 1615**.

### SB 469 - POINT OF ORDER

Representative Madden raised a point of order against the one hour notice to take up **SB 469** out of its regular order under Rule 14, Section 4 of the House Rules on the grounds that the chair misstated the bill number when he advised the house of the notice.

The chair sustained the point of order.

### SB 14 - MOTION TO SUSPEND RULES

Pursuant to notice of intent given earlier today, Representative Martinez Fischer moved to suspend the regular order of business and all necessary rules to consider **SB 14** at this time.

The motion to suspend the regular order of business and all necessary rules was lost by (Record 1079): 74 Yeas, 70 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland(C); England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Kent; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; McCall; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pitts; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Corte; Kuempel; Riddle.

Absent — Callegari; Ritter.

### LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

**SB 752** was deferred until the end of today's local, consent, and resolutions calendar.

**SB 755** (Villarreal - House Sponsor), A bill to be entitled An Act relating to the requirements for a funeral establishment license.

**CSSB 759** (Eissler - House Sponsor), A bill to be entitled An Act relating to certain standards for group-administered achievement tests used by school districts.

**SB 768** (Homer - House Sponsor), A bill to be entitled An Act relating to exemptions from the Texas Structural Pest Control Act; providing penalties.

**Amendment No. 1**

Representatives Homer and Bonnen offered the following amendment to **SB 768**:

Amend **SB 768** (house committee report) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 6), strike "Sections 1951.058, 1951.059, and 1951.060" and substitute "Sections 1951.058 and 1951.059".

(2) In SECTION 1 of the bill, strike added Section 1951.059, Occupations Code (page 1, line 23, through page 2, line 9).

(3) In SECTION 1 of the bill, in added Section 1951.060, Occupations Code (page 2, line 10), strike "Sec. 1951.060" and substitute "Sec. 1951.059".

(4) In SECTION 1 of the bill, in added Section 1951.060(a), Occupations Code (page 2, line 12), between "chapter" and "if", insert ", other than a requirement under Section 1951.212,".

Amendment No. 1 was adopted.

**SB 794** (Hilderbran - House Sponsor), A bill to be entitled An Act relating to the composition of the board of directors of the Central Colorado River Authority.

**MESSAGE FROM THE SENATE**

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

**SB 808** (Gallego - House Sponsor), A bill to be entitled An Act relating to allowing certain claimants to file an application under the Crime Victims' Compensation Act.

**SB 812** (Zerwas - House Sponsor), A bill to be entitled An Act relating to reimbursement of expenses incurred by court reporters for the 506th Judicial District.

**SB 835** (Ortiz and Herrero - House Sponsors), A bill to be entitled An Act relating to powers of the Port of Corpus Christi Authority of Nueces County, Texas, pertaining to land in and adjacent to Naval Station Ingleside.

**SB 835 - REMARKS**

REPRESENTATIVE HERRERO: Representative Ortiz, I want to thank you again for bringing this bill before the body. You mentioned that what you're trying to do—what we're trying to do—for Nueces County and San Patricio County specifically, as requested by the Port of Corpus Christi, is to do something that has already been done by other port authorities. Is that correct?

REPRESENTATIVE ORTIZ: That's correct.

HERRERO: Or specifically, what has been done in response to the Base Realignment and Closure action by the federal government.

ORTIZ: Correct.

HERRERO: So, part of what we're trying to do is to ensure that the loss of jobs that is taking place because of, in this case, Naval Station Ingleside closure, is try to redevelop those lands and properties in a way that allows for continued economic prosperity. Is that correct?

ORTIZ: That's absolutely correct. We want to do everything we can to minimize the economic impact and, obviously, the job loss. If you look at the timing of when this BRAC process started, and the date that was selected for the base to finally shut down, and you add that to the downed economy we have now, it obviously is a blow in itself to lose those amounts of jobs, Representative Herrero. Now—compiled with the state of the economy, as it is now—it's an even greater blow to our region. That's exactly why we're needing this legislation to be passed.

HERRERO: Right, so in combination with the economic circumstances of the federal government, as well as the local impact felt by the base realignment and closure, it's real important for that part of our community to sustain itself through creation of jobs, economic development, industry, commerce, manufacturing, housing, recreation, and even in the installation of additional infrastructure. Is that your understanding in the purpose of this bill?

ORTIZ: That's absolutely correct.

HERRERO: In order to do so, the entity, in this case the Port of Corpus Christi Authority of Nueces County, would be that entity to have the authority to carry out those tasks. Is that your understanding, as well?

ORTIZ: Yes, that's absolutely correct. The Port of Corpus Christi has the reversionary rights to this property, which is close to a thousand acres, about 500-plus that's already developed with literally, I believe, the last building was constructed and finalized in 2005. So, you're going to see about 575 acres, many of that with buildings—which pretty much looks like any college campus or any development area—which now will be reverting back to the Port of Corpus Christi with an additional 433, I believe, acres that are currently undeveloped land that are ready for development.

HERRERO: Right, and that's considered to be the surplus property, correct?

ORTIZ: Correct—that's the surplus property.

HERRERO: So, in addition to the property where Naval Station Ingleside was located, you also have this surplus property then that reverts, based on a reversionary provision, that the Port of Corpus Christi had with the Navy. Is that correct?

ORTIZ: That's correct.

HERRERO: In order to ensure that we—as the community prospers—the Port of Corpus Christi will now, to this provision, be able to exercise additional authority to carry out economic development.

ORTIZ: That's correct.

HERRERO: Specifically, you mentioned Texas A&M University—a great university from which both you and I are graduates.

ORTIZ: Can I get a whoop, Abel?

HERRERO: Can I get a whoop whoop? Sorry about that—I think I woke up some people. Seriously, there's been word already that both you and I, and others in the community, are aware that the Port of Corpus Christi has partnered up with Texas A&M University in an effort to further develop these lands that we're talking about. Is that correct?

ORTIZ: That's correct. It's a win-win situation, not only for the port, but for the A&M System. The A&M System will be tasked with redevelopment. I've talked to several individuals within the system—they already have the potential attendants for that property, many of them dealing with various big defense-type contractors or general energy-related contractors. So, there's a lot of exciting stuff that's already planned for the development of this base. Not only that, the port itself will be paying the A&M System about \$350,000 a year to help with the development of this. So, this is a win-win situation, not just for the A&M System, but for the Port of Corpus Christi. I think this might even be new territory that we're going into, and I think it's not only a benefit for our region, obviously, but a benefit for the A&M System—which is already world renowned—as well as a benefit for the state.

HERRERO: That's a great partnership for all of us, not just for our constituents locally in our respective districts, but as well as for the State of Texas—as far as ensuring that there's economic progress.

ORTIZ: It is a wonderful partnership, and I'd like to thank your leadership as well as the leadership of the entire local delegation, and the port commissioners, local city council, city of Ingleside, San Patricio County, Nueces County—the collective group of individuals that have made it possible for this process to move forward.

HERRERO: Right, and I'm glad that Senator Hinojosa was also involved with this. Thank you for being the sponsor on this legislation. I commend you also for your leadership, because it is important that we work collectively as a delegation to ensure the economic development of our respective communities, and it's important that, collectively, we continue to move forward. I think that

this is, as you do, a great step in the right direction to ensure that the partnerships are nurtured in a way that benefits not only our constituents, but the State of Texas as a whole, and I want to thank you.

ORTIZ: It's been a pleasure to work with you, Representative Herrero, and Representative Hunter. Hopefully this is going to be a project that moves not only the Corpus Christi area, but the Coastal Bend area, forward light years.

HERRERO: Right, and I see Representative Hunter there, obviously in support. So, all of us as a delegation understand—I know that this is important. I want to thank you and Senator Hinojosa for bringing this legislation before us. I want to let you know that we all are in full support.

**SB 870** was withdrawn.

### **REMARKS ORDERED PRINTED**

Representative Herrero moved to print remarks between Representative Ortiz and Representative Herrero.

The motion prevailed.

**SB 873** (Otto and Bohac - House Sponsors), A bill to be entitled An Act relating to a requirement that certain appraisal districts provide for electronic filing of and electronic communications regarding a protest of appraised value by the owner of a residence homestead.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hunter requested permission for the Committee on Judiciary and Civil Jurisprudence to meet while the house is in session, at 2:45 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary and Civil Jurisprudence, 2:45 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**SB 876** (Dunnam - House Sponsor), A bill to be entitled An Act relating to the performance of annual soil tests for certain concentrated animal feeding operations by the Texas Commission on Environmental Quality.

### **SB 876 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE S. MILLER: I'd like to ask you a few questions regarding the intent of the bill, Jim. Is it intended that the TCEQ will conduct an appropriate process, determine the method and procedures that we use to carry out the soil sampling, and the use of the results?

REPRESENTATIVE DUNNAM: Yes, and we're trying to get some uniformity so that we don't have different people testing different areas with different criteria. We want to make sure that we're looking at apples, to apples, to apples.

S. MILLER: The regulated entities, the dairy operators and their consultants, they will be included as part of the TCEQ process to determine this policy?

DUNNAM: That's my understanding, that they'll be allowed to give input to TCEQ in coming up with the process.

S. MILLER: Is it the intent of this legislation that the TCEQ provide a procedural mechanism for resolving disputed sample results, including the right to re-sample?

DUNNAM: That is my understanding. This is Senator Averitt's bill, and I've been told that is their intent.

S. MILLER: Is it also the intent of the legislation for TCEQ to develop a policy on how the results of sampling will be utilized by the agency?

DUNNAM: Yes.

S. MILLER: Finally, one more question, is it the intent of this legislation that the TCEQ be required to adjust or revise their policy over time, as the soil sampling program is carried out?

DUNNAM: Yes. Obviously, when they're making the testing, it's foreseeable that they have new science, or we determine that some way they've been doing the testing is not appropriate, or needs to be updated, or modified. So, we would want to get them the authority to do so, so that we're getting accurate information on the levels, primarily, of phosphorus in the watershed.

### REMARKS ORDERED PRINTED

Representative S. Miller moved to print remarks between Representative Dunnam and Representative S. Miller.

The motion prevailed.

**SB 992** (Shelton - House Sponsor), A bill to be entitled An Act relating to inclusion in a public school campus improvement plan of goals and objectives for the campus coordinated health program.

(Frost in the chair)

**SB 904** (McReynolds - House Sponsor), A bill to be entitled An Act relating to prescriptions issued for certain controlled substances.

### Amendment No. 1

Representative Hopson offered the following amendment to **SB 904**:

Amend **SB 904** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 5. Subchapter B, Chapter 481, Health and Safety Code, is amended by adding Section 481.037 to read as follows:

Sec. 481.037. CARISOPRODOL. Schedule IV includes carisoprodol.

Amendment No. 1 was adopted.

**SB 909** (Crownover - House Sponsor), A bill to be entitled An Act relating to designating the first week of October as Monarch Butterfly Week.

**SB 911** (Hamilton - House Sponsor), A bill to be entitled An Act relating to the certification and regulation of pain management clinics.

**Amendment No. 1**

Representative Hamilton offered the following amendment to **SB 911**:

Amend **SB 911** (house committee printing) in SECTION 1 of the bill as follows:

(1) At the end of proposed Section 167.002(6), Occupations Code (page 2, line 1), strike "or".

(2) At the end of proposed Section 167.002(7), Occupations Code (page 2, line 5), strike "patients." and substitute "patients; or".

(3) Immediately following proposed Section 167.002(7), Occupations Code (page 2, between lines 5 and 6), insert the following:

(8) a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the nurse's area of specialty and uses other forms of treatment with the issuance of a prescription for a majority of the patients.

Amendment No. 1 was adopted.

**SB 926** was deferred until the end of today's local, consent, and resolutions calendar.

**SB 971** was withdrawn.

**SB 1033** (Sheffield - House Sponsor), A bill to be entitled An Act relating to the purposes and powers of the Temple Health and Bioscience Economic Development District.

**SB 926 - RULES SUSPENDED**

Representative Fletcher moved to suspend all necessary rules to take up **SB 926** at this time.

The motion prevailed.

**SB 926** (Fletcher - House Sponsor), A bill to be entitled An Act relating to the imposition of a civil penalty against the owner of an authorized emergency vehicle for a violation recorded by a photographic traffic signal enforcement system.

**CSSB 1034** (S. King - House Sponsor), A bill to be entitled An Act relating to allowing the governing bodies of certain municipalities to order a local option election relating to the sale of alcoholic beverages. (Christian and Phillips recorded voting no.)

**SB 1053** (Naishtat - House Sponsor), A bill to be entitled An Act relating to the appointment or removal of guardians of incapacitated persons.

(Riddle now present)



**SB 1056** (Naishtat - House Sponsor), A bill to be entitled An Act relating to authorizing a criminal justice agency to disclose certain criminal history record information to the Guardianship Certification Board and offices of the county clerk.

### LEAVE OF ABSENCE GRANTED

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

Smithee on motion of Farabee.

**SB 1057** (Naishtat - House Sponsor), A bill to be entitled An Act relating to criminal history record information relating to persons who are certified to provide guardianship services.

### 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. 37).

**SB 1058** (Coleman - House Sponsor), A bill to be entitled An Act relating to reporting requirements for health occupation regulatory agencies.

**SB 1080** (Hancock and Burnam - House Sponsors), A bill to be entitled An Act relating to compliance with federal occupational safety and health standards in environmental enforcement.

(Speaker pro tempore in the chair)

**SB 1081** (Branch - House Sponsor), A bill to be entitled An Act relating to access to criminal history record information by the office of the attorney general.

**SB 1082** (Laubenberg - House Sponsor), A bill to be entitled An Act relating to the storage, maintenance, and distribution of mammography medical records.

### LEAVE OF ABSENCE GRANTED

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

Jones on motion of Hardcastle.

**SB 1093** (Pickett - House Sponsor), A bill to be entitled An Act relating to the operation of a commercial motor vehicle.

### Amendment No. 1

Representative Farabee offered the following amendment to **SB 1093**:

Amend **SB 1093** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 545.301(b), Transportation Code, is amended to read as follows:

(b) This section does not apply to an operator of:

(1) a vehicle that is disabled while on the paved or main traveled part of a highway if it is impossible to avoid stopping and temporarily leaving the vehicle on the highway; or

(2) a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway.

Amendment No. 1 was adopted.

**CSSB 1095** (Thompson - House Sponsor), A bill to be entitled An Act relating to the licensing and regulation of used automotive parts recyclers; providing penalties. (Christian, Flynn, Phillips, and Weber recorded voting no.)

**SB 1142** (Anchia - House Sponsor), A bill to be entitled An Act relating to the authority with whom campaign finance reports must be filed in connection with a judicial district office filled by the voters of only one county.

**SB 1207** (Swinford - House Sponsor), A bill to be entitled An Act relating to the use of municipal hotel occupancy tax revenue to finance a convention center hotel in certain municipalities.

**SB 1208** (Smithee - House Sponsor), A bill to be entitled An Act relating to the creation of an appellate judicial system for the Seventh Court of Appeals District.

**SB 1218** (Pitts - House Sponsor), A bill to be entitled An Act relating to the collection of data by the Texas Department of Transportation regarding bridge collapses.

**SB 1223** (Frost - House Sponsor), A bill to be entitled An Act relating to the creation, administration, powers, duties, and operation of the Riverbend Water Resources District; providing authority to issue bonds and exercise the power of eminent domain.

**SB 1235** (Veasey - House Sponsor), A bill to be entitled An Act relating to the sale and use of unregistered vehicles, including the issuance and use of temporary tags on vehicles and the collection of sales taxes. (Flynn and Weber recorded voting no.)

#### **Amendment No. 1**

Representative Veasey offered the following amendment to **SB 1235**:

Amend **SB 1235** (House Committee printing) by striking SECTIONS 16 and 17 of the bill and renumber subsequent SECTIONS accordingly.

Amendment No. 1 was adopted.

**SB 1264** was withdrawn.

#### **HOUSE AT EASE**

At 5:13 p.m., the chair announced that the house would stand at ease.

The chair called the house to order at 6:24 p.m.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative McCall requested permission for the Committee on Calendars to meet while the house is in session, at 7 p.m. today, in 3W.9, for a formal meeting, to consider the calendar.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Calendars, 7 p.m. today, 3W.9, for a formal meeting, to consider the calendar.

**CSSB 1290** (Farias - House Sponsor), A bill to be entitled An Act relating to authorization for school districts to provide mentors for teachers assigned to a new subject or grade level.

**SB 1299** was deferred until the end of today's local, consent, and resolutions calendar.

**SB 1325** (Corte - House Sponsor), A bill to be entitled An Act relating to the creation of a mental health intervention program for military veterans. (Flynn and Weber recorded voting no.)

**SB 1328** (Naishtat - House Sponsor), A bill to be entitled An Act relating to a study on the feasibility of providing vaccines to first responders deployed to a disaster area.

**SB 1332** (Rose and Naishtat - House Sponsors), A bill to be entitled An Act relating to the placement of certain children who are in the managing conservatorship of the state.

**SB 1332 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE CASTRO: Thank you, Mr. Rose. I was listening to your description of the bill, and I wanted to get a sense for how this comports with our family-first policy over at the department.

REPRESENTATIVE ROSE: Well—you can see in the bill—it only is active or a requirement. First of all, it's not a requirement, it's a "shall consider" not "shall place"—but only if the department determines placement of the child with a relative or designated caregiver is not in the child's best interest. So, this fits hand-in-glove with our family-first directive—that'd be immediate family, extended family, and then non-blood friends, of course, the first priority. So, only if that designated caregiver—who's a relative—is not in the child's best interest, would this replacement be considered. Only then—and that's subsection one—only then, subsection two, if that placement with this foster family is in the child's best interest.

CASTRO: So your bill—let me get it straight—your bill only applies if a child has been under the conservatorship of the state once, went back to their families—

ROSE: That's right.

CASTRO: —and is coming back into the state's conservatorship a second time or more, right?

ROSE: Correct—second or subsequent return to foster care.

CASTRO: Okay, at that point—let's say it's on the second occasion where they're under the state's conservatorship, and the state is looking to place them temporarily somewhere—at that point, what preference does your bill make between a foster parent and a blood relative? Because, the way I heard it described, it seemed to prefer the stranger foster parent.

ROSE: No—certainly not. The way I was describing it was only if blood relative—placement there—is not in the best interest, shall the department then consider the prior foster parent. That's important, because we've got to have a family-first policy. The importance and, I think, the wisdom of Representative Dukes' bill—and also Representative Turner and others worked on this issue here this session—and I hope we get to the bill to put foster care payments behind the kinship care placements. That's important, because a lot of kin, who would like to care for their family extended—whether that be a niece or granddaughter, whoever it is, however that relation occurs—it's important for them to get the reimbursement. In fact, I think it would save us a lot of money, because you could end up keeping families together and making more productive relationships that are longer term and placements that are permanent.

#### REMARKS ORDERED PRINTED

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

The motion prevailed.

**SB 1344** (Eissler - House Sponsor), A bill to be entitled An Act relating to an alcohol awareness component of the health curriculum used in public schools.

**SB 1354** (Hamilton - House Sponsor), A bill to be entitled An Act relating to the licensing and regulation of plumbers.

**SB 1359** (Rose - House Sponsor), A bill to be entitled An Act relating to forfeiture of remedy for nonpayment of ad valorem taxes.

**SB 1367** (Pickett - House Sponsor), A bill to be entitled An Act relating to parking placard or specialty license plate applications by persons with a mobility problem caused by an impairment of vision.

**CSSB 1368** (Marquez - House Sponsor), A bill to be entitled An Act relating to the creation of a county ethics commission in certain counties; providing civil and criminal penalties. (Flynn recorded voting no.)

#### Amendment No. 1

Representative Marquez offered the following amendment to **CSSB 1368**:

Amend **CSSB 1368** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 161.104(c), Local Government Code (page 12, lines 8 and 9), strike "Other than the initial appointees and public representatives, a" and substitute "A".

(2) In SECTION 1 of the bill, strike added Section 161.106, Local Government Code (page 13, lines 4-12), and substitute the following:

Sec. 161.106. CERTAIN DISCUSSIONS OF PENDING COMPLAINTS PROHIBITED. Until a sworn complaint alleging a violation of the ethics code is resolved, a member of the commission may not discuss the complaint with a member of the commissioners court.

Amendment No. 1 was adopted.

(Deshotel in the chair)

**SB 1377** (Edwards - House Sponsor), A bill to be entitled An Act relating to the administration of the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund.

(Speaker pro tempore in the chair)

**CSSB 1402** (Peña - House Sponsor), A bill to be entitled An Act relating to requiring certain political subdivisions to enter a contract with the county elections administrator to perform election services.

(Speaker in the chair)

### **SB 482 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Chisum submitted the conference committee report on **SB 482**.

Representative Chisum moved to adopt the conference committee report on **SB 482**.

The motion to adopt the conference committee report on **SB 482** prevailed by (Record 1080): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Davis, J.; Eiland; Hancock; Weber.

**HB 2591 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2591**, A bill to be entitled An Act relating to the regulation of property tax consultants.

Representative Thompson 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 2591**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2591**: Thompson, chair; Hamilton, Jones, Menendez, and Gutierrez.

**HB 19 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 19**, A bill to be entitled An Act relating to requirements for drugs dispensed by pharmacists.

Representative Leibowitz moved to concur in the senate amendments to **HB 19**.

The motion to concur in the senate amendments to **HB 19** prevailed by (Record 1081): 143 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado;

Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Aycock.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Laubenberg.

### Senate Committee Substitute

**CSHB 19**, A bill to be entitled An Act relating to requirements for drugs dispensed by pharmacists.

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

SECTION 1. Section 562.006, Occupations Code, is amended by adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a-1) In addition to the information required by Subsection (a), the label on the dispensing container of a drug dispensed by a Class A or Class E pharmacy must indicate:

(1) the name, address, and telephone number of the pharmacy;

(2) the date the prescription is dispensed;

(3) the name of the prescribing practitioner;

(4) the name of the patient or, if the drug was prescribed for an animal, the species of the animal and the name of the owner;

(5) instructions for use;

(6) the quantity dispensed;

(7) if the drug is dispensed in a container other than the manufacturer's original container, the date after which the prescription should not be used, determined according to criteria established by board rule based on standards in the United States Pharmacopeia-National Formulary; and

(8) any other information required by board rule.

(a-2) The information required by Subsection (a-1)(7) may be recorded on any label affixed to the dispensing container.

(a-3) Subsection (a-1) does not apply to a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication.

SECTION 2. Subchapter A, Chapter 562, Occupations Code, is amended by adding Section 562.0062 to read as follows:

Sec. 562.0062. REQUIRED STATEMENT REGARDING MEDICATION DISPOSAL. The board by rule shall require pharmacists, when dispensing certain drugs, to include on the dispensing container label or in the information required by Section 562.0061 the statement "Do not flush unused medications or pour down a sink or drain."

SECTION 3. Not later than January 1, 2010, the Texas State Board of Pharmacy shall adopt any rules necessary to implement Section 562.006(a-1), Occupations Code, as added by this Act.

SECTION 4. Not later than June 1, 2010, the Texas State Board of Pharmacy shall adopt rules under Section 562.0062, Occupations Code, as added by this Act.

SECTION 5. Sections 562.006(a-1) and 562.0062, Occupations Code, as added by this Act, apply only to a drug dispensed on or after July 1, 2010.

SECTION 6. This Act takes effect September 1, 2009.

### **SB 956 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Branch, the house granted the request of the senate for the appointment of a Conference Committee on **SB 956**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 956**: Branch, chair; Anchia, Giddings, McCall, and Crownover.

### **HB 348 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 348**, A bill to be entitled An Act relating to the punishment for theft of certain aluminum, bronze, or copper materials.

Representative Peña moved to concur in the senate amendments to **HB 348**.

The motion to concur in the senate amendments to **HB 348** prevailed by (Record 1082): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vought; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.



Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Gallego; Otto.

### STATEMENT OF VOTE

When Record No. 1082 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

### Senate Committee Substitute

**CSHB 348**, A bill to be entitled An Act relating to the punishment for theft of certain aluminum, bronze, or copper materials.

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

SECTION 1. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is insulated or noninsulated tubing, rods, water gate stems, wire, or cable that consists of at least 50 percent:

- (i) aluminum;
- (ii) bronze; or
- (iii) copper;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 100 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 2. 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 the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 3. This Act takes effect September 1, 2009.

### **HB 449 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 449**, A bill to be entitled An Act relating to the regulation of laser hair removal facilities; providing penalties.

Representative Jackson moved to concur in the senate amendments to **HB 449**.

The motion to concur in the senate amendments to **HB 449** prevailed by (Record 1083): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;

Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

### Senate Committee Substitute

**CSHB 449**, A bill to be entitled An Act relating to the regulation of laser hair removal facilities; providing penalties.

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

SECTION 1. Chapter 401, Health and Safety Code, is amended by adding Subchapter M to read as follows:

#### SUBCHAPTER M. LASER HAIR REMOVAL

Sec. 401.501. DEFINITIONS. In this subchapter:

- (1) "Department" means the Department of State Health Services.
- (2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
- (3) "Laser hair removal" means the use of a laser or pulsed light device for nonablative hair removal procedures.
- (4) "Laser hair removal facility" means a business location that provides laser hair removal.
- (5) "Laser or pulsed light device" means a device approved by the department and the United States Food and Drug Administration for laser hair removal.
- (6) "Nonablative hair removal procedure" means a hair removal procedure using a laser or pulsed light device that does not remove the epidermis.
- (7) "Operator" means the owner of a laser hair removal facility, an agent of an owner, or an independent contractor of a laser hair removal facility.

Sec. 401.502. EXAMINATION. The executive commissioner may adopt rules to govern the development and administration of an examination for an applicant under this subchapter.

Sec. 401.503. APPLICATION PROCESS. (a) An application for a certificate or license under this subchapter must be made on a form prescribed and provided by the department.

(b) The application must require an applicant to provide sworn statements relating to the applicant's education and to provide other information required by the department.

Sec. 401.504. CERTIFICATE FOR INDIVIDUALS REQUIRED. (a) A person may not perform or attempt to perform laser hair removal unless the person holds the appropriate certificate under this subchapter.

(b) A certificate issued under this subchapter only authorizes a person to perform nonablative cosmetic laser hair removal. The certificate does not authorize the person to diagnose, treat, or offer to treat any client for any illness, disease, injury, defect, or deformity of the human body. The certificate holder shall specifically disclose this limitation in writing to all clients and prospective clients.

(c) This subchapter does not require a health professional licensed under another law to hold a certificate under this subchapter to perform laser hair removal if the performance of laser hair removal is within the scope of that professional's practice as determined by the professional's licensing board.

(d) This subchapter does not apply to a physician or to a physician's employee or delegate acting under Chapter 157, Occupations Code.

Sec. 401.505. CERTIFIED LASER HAIR REMOVAL PROFESSIONAL.

(a) An applicant for a laser hair removal professional certificate must:

(1) be certified by a recognized certifying agency, including the Society for Clinical and Medical Hair Removal or another certification entity approved by the department;

(2) meet the requirements for a senior laser hair removal technician certificate under Section 401.506; and

(3) pass an examination administered by the department.

(b) A certified laser hair removal professional acting under the protocol established with a consulting physician may perform laser hair removal without supervision.

Sec. 401.506. SENIOR LASER HAIR REMOVAL TECHNICIAN. (a) Except as provided by Subsection (b), an applicant for a senior laser hair removal technician certificate must:

(1) meet the requirements for a laser hair removal technician certificate under Section 401.507; and

(2) have supervised at least 100 laser hair removal procedures, as audited by a certified laser hair removal professional.

(b) The qualifications for eligibility for an applicant for a senior laser hair removal technician certificate who is a licensed health professional shall be established by the entity that issues licenses for that health profession.

Sec. 401.507. LASER HAIR REMOVAL TECHNICIAN. An applicant for a laser hair removal technician certificate must:

(1) meet the requirements for a laser hair removal apprentice-in-training certificate under Section 401.508; and

(2) have performed at least 100 laser hair removal procedures under the direct supervision of a senior laser hair removal technician or a certified laser hair removal professional.

Sec. 401.508. LASER HAIR REMOVAL APPRENTICE-IN-TRAINING.

(a) An applicant for a laser hair removal apprentice-in-training certificate must have at least 24 hours of training in safety, laser physics, skin typing, skin reactions, treatment protocols, burns, eye protection, emergencies, and posttreatment protocols.

(b) A laser hair removal apprentice-in-training must work directly under the supervision of a senior laser hair removal technician or a certified laser hair removal professional.

(c) A person must be at least 18 years of age to qualify to be a laser hair removal apprentice-in-training.

Sec. 401.509. CONTINUING EDUCATION. The department shall recognize, prepare, or administer continuing education programs for certificate holders. A certificate holder must participate in the programs to the extent required by department rule to renew the person's certificate.

Sec. 401.510. FACILITY LICENSE REQUIRED. (a) A person may not operate a laser hair removal facility unless the person holds a license issued under this subchapter to operate the facility.

(b) A separate license is required for each laser hair removal facility.

(c) This section does not apply to:

(1) a facility owned or operated by a physician for the practice of medicine;

(2) a licensed hospital; or

(3) a clinic owned or operated by a licensed hospital.

Sec. 401.511. EXPIRATION OF CERTIFICATE OR LICENSE. The executive commissioner by rule may adopt a system under which certificates and licenses expire on various dates during the year.

Sec. 401.512. RENEWAL OF CERTIFICATE OR LICENSE. (a) A certificate or license expires on the second anniversary of the date of issuance.

(b) A person must renew the person's certificate or license on or before the expiration date.

(c) The department shall issue a renewal certificate or license on receipt of a renewal application in the form prescribed by the department, accompanied by a renewal fee in an amount equal to the original certificate or license fee.

Sec. 401.513. DISPLAY OF LICENSE OR CERTIFICATE. A person holding a license or certificate under this subchapter shall display the person's license or certificate in an open public area of the laser hair removal facility.

Sec. 401.514. LASER OR PULSED LIGHT DEVICE. (a) A laser or pulsed light device used for laser hair removal in a laser hair removal facility must comply with all applicable federal and state laws and regulations.

(b) A person who adulterates or misbrands a laser or pulsed light device violates Chapter 431. The department may investigate a person accused of adulterating or misbranding a laser or pulsed light device.

(c) A person may only use a laser or pulsed light device approved for laser hair removal by the federal Food and Drug Administration for that purpose and may only use the device at the settings expected to safely remove hair.

Sec. 401.515. CUSTOMER NOTICE; LIABILITY. (a) A laser hair removal facility shall give each customer a written statement outlining the relevant risks associated with laser hair removal, including a warning that failure to use the eye protection provided to the customer by the laser hair removal facility may result in damage to the eyes.

(b) The executive commissioner shall adopt rules relating to the customer notice.

(c) Compliance with the notice requirement does not affect the liability of the laser hair removal facility operator or a manufacturer of a laser or pulsed light device.

Sec. 401.516. WARNING SIGNS. (a) A laser hair removal facility shall post a warning sign as prescribed by the department in a conspicuous location readily visible to a person entering the facility. The sign must provide a toll-free telephone number for the department and inform the customer that the customer may call the department.

(b) The executive commissioner shall adopt rules specifying the size, content, and design of the sign, with wording listing the potential dangers involved.

(c) The department shall include with a license application and an application for renewal of a license a description of the design standards required for a sign under this section.

Sec. 401.517. OPERATIONAL REQUIREMENTS. (a) Except as provided by Subsection (b), a laser hair removal facility shall have a certified laser hair removal professional or a licensed health professional described by Section 401.504(c) present to supervise the laser hair removal procedures performed at the facility during the facility's operating hours.

(b) A laser hair removal facility may continue to perform laser hair removal procedures after the facility's certified laser hair removal professional leaves the facility if a senior laser hair removal technician is present to perform or supervise each procedure. Not later than the 45th day after the date the facility's certified laser hair removal professional leaves the facility:

(1) the facility's senior laser hair removal technician must become certified as a laser hair removal professional under Section 401.505; or

(2) the facility must hire a new certified laser hair removal professional.

Sec. 401.518. SAFETY. (a) A laser hair removal facility operator is responsible for maintaining the laser hair removal facility's compliance with the requirements of this subchapter and department rules relating to laser and pulsed light devices.

(b) A laser hair removal facility operator may not claim, advertise, or distribute promotional materials that claim that laser hair removal is free from risk or provides any medical benefit.

(c) A laser hair removal facility operator may not produce false or misleading advertising regarding the services offered at the facility.

Sec. 401.519. CONSULTING PHYSICIAN. (a) A laser hair removal facility must have a written contract with a consulting physician to:

(1) establish proper protocols for the services provided at the facility;  
and

(2) audit the laser hair removal facility's protocols and operations.

(b) Under the rules of the department, a laser hair removal facility must document with the department the facility's contractual relationship with the consulting physician.

(c) The consulting physician must be available for emergency consultation with the facility as appropriate to the circumstances, including, if the physician considers it necessary, an emergency appointment with the client. If the consulting physician is unavailable for an emergency consultation, another designated physician must be available for the consultation with the facility relating to care for the client.

(d) This subchapter does not relieve a consulting physician or another health care professional from complying with applicable regulations prescribed by a state or federal agency.

Sec. 401.520. DISCLOSURE OF RECORD PROHIBITED; EXCEPTION.

(a) Except as provided by Subsection (b), an operator or other person may not disclose a customer record required to be kept by the department.

(b) An operator or other person may disclose a customer record if:

(1) the customer or a person authorized to act on behalf of the customer requests the record;

(2) the department, the Texas Medical Board, a health authority, or an authorized agent requests the record;

(3) the customer consents in writing to disclosure of the record to another person;

(4) the customer is a victim, witness, or defendant in a criminal proceeding and the record is relevant to that proceeding;

(5) the record is requested in a criminal or civil proceeding by court order or subpoena; or

(6) disclosure is otherwise required by law.

Sec. 401.521. PROHIBITED PRACTICE. (a) A person may not operate a laser or pulsed light device with the intent to treat an illness, disease, injury, or physical defect or deformity unless the person is:

(1) a physician;

(2) acting under a physician's order; or

(3) authorized under other law to treat the illness, disease, injury, or physical defect or deformity in that manner.

(b) A person who violates Subsection (a) is practicing medicine in violation of Subtitle B, Title 3, Occupations Code, and is subject to the penalties under that subtitle and under Section 401.522.

Sec. 401.522. ENFORCEMENT; PENALTIES. (a) The department may impose an administrative penalty on a person who violates this subchapter or a rule adopted under this subchapter. The amount of the penalty may not exceed \$5,000 for each violation.

(b) The department may suspend or revoke a license or certificate issued under this subchapter in addition to or instead of imposing a penalty under Subsection (a).

(c) The executive commissioner shall adopt rules as necessary to implement this section.

SECTION 2. Section 483.041(c), Health and Safety Code, is amended to read as follows:

(c) Subsection (a) does not apply to the possession of a dangerous drug in the usual course of business or practice or in the performance of official duties by the following persons or an agent or employee of the person:

- (1) a pharmacy licensed by the board;
- (2) a practitioner;
- (3) a person who obtains a dangerous drug for lawful research, teaching, or testing, but not for resale;
- (4) a hospital that obtains a dangerous drug for lawful administration by a practitioner;
- (5) an officer or employee of the federal, state, or local government;
- (6) a manufacturer or wholesaler licensed by the Department of State Health Services under Chapter 431 (Texas Food, Drug, and Cosmetic Act);
- (7) a carrier or warehouseman;
- (8) a home and community support services agency licensed under and acting in accordance with Chapter 142;
- (9) a licensed midwife who obtains oxygen for administration to a mother or newborn or who obtains a dangerous drug for the administration of prophylaxis to a newborn for the prevention of ophthalmia neonatorum in accordance with Section 203.353, Occupations Code; ~~or~~
- (10) a salvage broker or salvage operator licensed under Chapter 432;

or

(11) a certified laser hair removal professional under Subchapter M, Chapter 401, who possesses and uses a laser or pulsed light device approved by and registered with the department and in compliance with department rules for the sole purpose of cosmetic nonablative hair removal.

SECTION 3. (a) Not later than September 1, 2010, a laser hair removal facility in operation on the effective date of this Act must obtain licenses and certificates required by Subchapter M, Chapter 401, Health and Safety Code, as added by this Act.

(b) Not later than March 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Subchapter M, Chapter 401, Health and Safety Code, as added by this Act.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Sections 401.504, 401.510, 401.517, 401.521, and 401.522, Health and Safety Code, as added by this Act, and Section 483.041(c), Health and Safety Code, as amended by this Act, take effect September 1, 2010.



**HB 1761 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1761**, A bill to be entitled An Act relating to the reserve requirements for credit life and credit accident and health insurance.

Representative Thompson moved to concur in the senate amendments to **HB 1761**.

The motion to concur in the senate amendments to **HB 1761** prevailed by (Record 1084): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Madden; Orr; Otto.

**Senate Committee Substitute**

**CSHB 1761**, A bill to be entitled An Act relating to the reserve requirements for credit life and credit accident and health insurance.

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

SECTION 1. Section 425.058(l), Insurance Code, is amended to read as follows:

(l)(1) Notwithstanding any other law, the minimum reserve requirements applicable to a credit life policy issued under Chapter 1153 before January 1, 2009, are met if, in the aggregate, the reserves are maintained at 100 percent of the 1980 Commissioner's Standard Ordinary Mortality Table, with interest that does not exceed 5.5 percent. [~~This subsection expires September 1, 2013.~~]

(2) For credit life policy reserves on contracts issued to be effective on or after January 1, 2009, the reserve requirements shall be based on minimum reserve standards established by the commissioner by rule. The commissioner shall adopt the rules based on either:

(A) the 2001 CSO Male Composite Ultimate Mortality Table for male and female insureds; or

(B) another CSO Mortality Table approved by the National Association of Insurance Commissioners on or after January 1, 2009, for use on credit life policy reserves.

(3) For a single premium credit accident and health contract issued on or after January 1, 2009, the reserve requirements shall be based on minimum reserve standards established by the commissioner by rule. The commissioner shall adopt the rules based on either:

(A) the 1985 Commissioners Individual Disability Table A (85CIDA); or

(B) another Commissioner's Disability Table approved by the National Association of Insurance Commissioners on or after January 1, 2009, for use on credit accident and health policy reserves.

(4) For all credit insurance contracts, if the net premium refund liability exceeds the aggregate recorded contract reserve, the insurer shall establish an additional reserve liability that is equal to the excess of the net refund liability over the contract reserve recorded. The net refund liability may include consideration of commission, premium tax, and other expenses recoverable.

(5) In addition to the rules required to be adopted under this subsection, the commissioner may adopt other rules to implement this subsection.

SECTION 2. (a) The change in law made by this Act applies to all credit life and credit accident and health insurance policies issued on or after January 1, 2009.

(b) The commissioner of insurance shall adopt rules as required to implement Section 425.058(l), Insurance Code, as amended by this Act, not later than the 120th day after the effective date of this Act. Until rules are adopted as required by this subsection, insurers shall continue to use the minimum reserve standards under Section 425.058(l), Insurance Code, as that section existed immediately before amendment by this Act.

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, 2009.

### **HB 1919 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1919**, A bill to be entitled An Act relating to the maturity dates of certain annuities.

Representative Kent moved to concur in the senate amendments to **HB 1919**.

The motion to concur in the senate amendments to **HB 1919** prevailed by (Record 1085): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Giddings; Orr.

### Senate Committee Substitute

**CSHB 1919**, A bill to be entitled An Act relating to the maturity dates of certain annuities.

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

SECTION 1. Section 1107.006, Insurance Code, is amended to read as follows:

Sec. 1107.006. MATURITY DATE. ~~[(a)]~~ In determining the value of benefits under Sections 1107.102, 1107.103, and 1107.104, ~~[and subject to Subsection (b), if an annuity contract permits an election to have annuity payments begin on optional maturity dates,]~~ the maturity date is ~~[considered to be]~~ the latest date on which an election is permitted by the contract, but [-

~~[(b) A maturity date determined under this section may]~~ not ~~[be]~~ later than the later of:

(1) the next anniversary of the annuity contract that follows the annuitant's 70th birthday; or

(2) the 10th anniversary of the contract.

SECTION 2. This Act applies only to an annuity that is delivered, issued for delivery, or renewed on or after June 1, 2010. An annuity that is delivered, issued for delivery, or renewed before June 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

**HB 1985 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1985**, A bill to be entitled An Act relating to the requirement that certain defendants in a criminal case undergo testing for AIDS, HIV infection, or related conditions.

Representative Martinez Fischer moved to concur in the senate amendments to **HB 1985**.

The motion to concur in the senate amendments to **HB 1985** prevailed by (Record 1086): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Geren.

**Senate Committee Substitute**

**CSHB 1985**, A bill to be entitled An Act relating to the requirement that certain defendants in a criminal case undergo testing for HIV infection and other diseases.

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

SECTION 1. Article 21.31, Code of Criminal Procedure, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (b-1) to read as follows:

(a) A person who is indicted for or who waives indictment for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code, shall, at the direction of the court on the court's own motion or on the request of the victim of the alleged offense, undergo a standard diagnostic test approved by the United States Food and Drug Administration for human immunodeficiency virus (HIV) infection and other sexually transmitted diseases ~~[medical procedure or test designed to show or help show whether the person has a sexually transmitted disease or has acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the person to undergo the procedure or test on its own motion or on the request of the victim of the alleged offense]~~. If the person refuses to submit voluntarily to the ~~[procedure or]~~ test, the court shall require the person to submit to the ~~[procedure or]~~ test. On request of the victim of the alleged offense, the court shall order the defendant to undergo the test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment. Except as provided by Subsection (b-1), the ~~[The]~~ court may require a defendant previously required under this article to undergo a diagnostic ~~[medical procedure or]~~ test on indictment for an offense to undergo a subsequent ~~[medical procedure or]~~ test only after ~~[following]~~ conviction of the offense. A ~~[The]~~ person performing a ~~[the procedure or]~~ test under this subsection shall make the test results available to the local health authority, and the local health authority shall be required to make the notification of the test results ~~[result]~~ to the victim of the alleged offense and to the defendant.

(a-1) If the victim requests the testing of the defendant and a law enforcement agency is unable to locate the defendant during the 48-hour period allowed for that testing under Subsection (a), the running of the 48-hour period is tolled until the law enforcement agency locates the defendant and the defendant is present in the jurisdiction.

(b) The court shall order a person who is charged with an offense under Section 22.11, Penal Code, to undergo in the manner provided by Subsection (a) a diagnostic ~~[medical procedure or]~~ test designed to show or help show whether the person has HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code. The person charged with the offense shall pay the costs of testing under this subsection.

(b-1) If the results of a diagnostic test conducted under Subsection (a) or (b) are positive for HIV, the court shall order the defendant to undergo any necessary additional testing within a reasonable time after the test results are released.

(c) The state may not use the fact that a [~~medical procedure or~~] test was performed on a person under Subsection (a) or use the results of a [~~procedure or~~] test conducted under Subsection (a) in any criminal proceeding arising out of the alleged offense.

SECTION 2. 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 covered 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 occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

### **HB 2187 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2187**, A bill to be entitled An Act relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.

Representative Moody moved to concur in the senate amendments to **HB 2187**.

The motion to concur in the senate amendments to **HB 2187** prevailed by (Record 1087): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Fletcher.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Crabb; Legler; Madden; Shelton.

### STATEMENT OF VOTE

I was shown voting no on Record No. 1087. I intended to vote yes.

Fletcher

### Senate Committee Substitute

**CSHB 2187**, A bill to be entitled An Act relating to the prosecution and punishment of offenses involving coercing, inducing, or soliciting membership in a criminal street gang.

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

SECTION 1. The heading to Section 71.022, Penal Code, is amended to read as follows:

Sec. 71.022. COERCING, INDUCING, OR SOLICITING MEMBERSHIP IN A CRIMINAL STREET GANG.

SECTION 2. Section 71.022, Penal Code, is amended by adding Subsections (a-1) and (d) to read as follows:

(a-1) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person:

(1) threatens the child or a member of the child's family with imminent bodily injury; or

(2) causes bodily injury to the child or a member of the child's family.

(d) In this section:

(1) "Child" means an individual younger than 17 years of age.

(2) "Family" has the meaning assigned by Section 71.003, Family

Code.

SECTION 3. Section 22.015, Penal Code, is repealed.

SECTION 4. (a) The change in law made by this Act in amending Section 71.022, Penal Code, 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 covered 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 occurred before that date.

(b) The repeal by this Act of Section 22.015, Penal Code, does not apply to an offense committed under that section before the effective date of the repeal. An offense committed before the effective date of the repeal is covered by that section as it existed on the date on which the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of the repeal if any element of the offense occurs before that date.

SECTION 5. This Act takes effect September 1, 2009.

**HB 4114 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4114**, A bill to be entitled An Act relating to the Committee on House Administration and Senate Committee on Administration directing the placement of a Tejano memorial monument on the Capitol grounds.

Representative Martinez Fischer moved to concur in the senate amendments to **HB 4114**.

The motion to concur in the senate amendments to **HB 4114** prevailed by (Record 1088): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Farrar; Harper-Brown; King, P.; Orr; Thompson.

**Senate Committee Substitute**

**CSHB 4114**, A bill to be entitled An Act relating to memorial monuments on the Capitol grounds, including the Tejano monument.

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

SECTION 1. Chapter 443, Government Code, is amended by adding Section 443.01525 to read as follows:



Sec. 443.01525. TEJANO MEMORIAL MONUMENT. The State Preservation Board shall establish a Tejano memorial monument on the historic south grounds of the Capitol that pays tribute to the contributions of Tejanos to the State of Texas.

SECTION 2. Section 443.0152, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Except as provided by Sections 443.01525 and 448.034, after September 1, 2009, no additional monuments may be placed on the historic grounds of the Capitol.

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, 2009.

### **HB 4328 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4328**, A bill to be entitled An Act relating to the establishment of the Interagency Literacy Council for the study, promotion, and enhancement of literacy in this state.

Representative Strama moved to concur in the senate amendments to **HB 4328**.

The motion to concur in the senate amendments to **HB 4328** prevailed by (Record 1089): 141 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardecastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Fletcher; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Castro; King, P.

### Senate Committee Substitute

**CSHB 4328**, A bill to be entitled An Act relating to the establishment of the Interagency Literacy Council for the study, promotion, and enhancement of literacy in this state.

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

SECTION 1. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 312 to read as follows:

#### CHAPTER 312. INTERAGENCY LITERACY COUNCIL

Sec. 312.001. DEFINITION. In this chapter, "council" means the Interagency Literacy Council established under this chapter.

Sec. 312.002. APPLICATION OF SUNSET ACT. The Interagency Literacy Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2019.

Sec. 312.003. ESTABLISHMENT AND COMPOSITION. (a) The commission shall establish the Interagency Literacy Council. The council is composed of nine members as follows:

(1) a representative of the commission, appointed by the executive director;

(2) a representative of the Texas Education Agency, appointed by the commissioner of education;

(3) a representative of the Texas Higher Education Coordinating Board, appointed by the commissioner of higher education; and

(4) six public members who are leaders of the business or nonprofit community engaged in literacy promotion efforts, appointed by the executive director of the commission.

(b) The representative appointed under Subsection (a)(1) shall serve as the presiding officer of the council.

Sec. 312.004. COMMISSION DUTIES. The commission shall provide staff and resources as necessary for the operation of the council.

Sec. 312.005. TERMS; VACANCY. (a) Members of the council serve two-year terms, with the terms expiring February 1 of each odd-numbered year.

(b) A member may be reappointed.

(c) A vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as provided by Section 312.003(a).

Sec. 312.006. MEETINGS. (a) The council shall meet in person at least three times each year and may hold meetings by conference call if necessary. The council shall invite stakeholders to participate in at least one council meeting each year and provide an opportunity for submission of oral or written testimony.

(b) Section 551.125, Government Code, applies to a meeting held by conference call under this section, except that Section 551.125(b), Government Code, does not apply.

Sec. 312.007. COMPENSATION; REIMBURSEMENT. (a) A member of the council may not receive compensation for service on the council.

(b) A public member may be reimbursed for the member's actual and necessary expenses for meals, lodging, and transportation incurred while performing council business, subject to any applicable limitation on reimbursement prescribed by the General Appropriations Act.

Sec. 312.008. COUNCIL POWERS AND DUTIES. The council shall:

(1) study current research to assess the adult literacy needs in this state, including literacy needs relating to business and finance, workforce and technology, civics, and health and wellness;

(2) consult with key stakeholders to identify:

(A) barriers to improving literacy; and

(B) evidence-based best practices for improving literacy;

(3) review the status of the programs and services administered by each agency or entity represented on the council that promote literacy in an effort to coordinate efforts, align services, reduce redundancies, implement best practices, integrate support services, and improve accountability;

(4) build existing funding streams and identify additional state and federal funding sources available for the promotion of literacy in this state; and

(5) raise literacy awareness and engage community leaders in creative solution building for improving literacy in this state.

Sec. 312.009. STATEWIDE LITERACY PLAN; REPORT. (a) The council shall develop a comprehensive statewide action plan for the improvement of literacy in this state, including a recommended timeline for implementation.

(b) The council shall submit to both houses of the legislature, the governor, and the Texas Workforce Investment Council on or before November 1 of each even-numbered year a written report on:

(1) the development of the council's statewide action plan;

(2) the actions taken in furtherance of the plan;

(3) the areas that need improvement in implementing the plan;

(4) any change to the plan; and

(5) the programs and services that address literacy needs in this state.

Sec. 312.010. GIFTS, GRANTS, AND DONATIONS. The commission may accept for the council a gift, grant, or donation from any source to carry out the purposes of this chapter.

Sec. 312.011. RULES. The commission may adopt rules necessary to implement this chapter.

SECTION 2. (a) The Interagency Literacy Council shall submit the initial report required under Section 312.009(b), Labor Code, as added by this Act, not later than November 1, 2012.

(b) As soon as practicable after the effective date of this Act, the designated appointing officials shall appoint the members to the Interagency Literacy Council established under Chapter 312, Labor Code, as added by this Act.

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, 2009.

**HB 1362 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1362**, A bill to be entitled An Act relating to the pilot program for reporting of methicillin-resistant *Staphylococcus aureus* infections.

Representative Gutierrez moved to concur in the senate amendments to **HB 1362**.

The motion to concur in the senate amendments to **HB 1362** prevailed by (Record 1090): 139 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Brown, F.; Fletcher; Isett; Miller, S.; Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Jones; Kuempel; Smithee.

Absent — Quintanilla.

**Senate Committee Substitute**

**CSHB 1362**, A bill to be entitled An Act relating to the pilot program for reporting of methicillin-resistant *Staphylococcus aureus* infections.

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

SECTION 1. Section 81.0445, Health and Safety Code, is amended to read as follows:

## Sec. 81.0445. MRSA REPORTING PROCEDURES PILOT PROGRAM.

(a) The executive commissioner of the Health and Human Services Commission by rule shall develop and the department shall establish a pilot program to research and implement procedures for reporting cases of methicillin-resistant *Staphylococcus aureus* (MRSA) infection. A health authority shall not be required to participate in the pilot program.

(b) A health authority that participates in the pilot program shall administer the program locally and report to the department as required by this section. ~~[The department shall select to administer the program a health authority that:~~

~~[(1) demonstrates an interest in hosting the program; and~~

~~[(2) possesses adequate resources to administer the program successfully.]~~

(c) The pilot program must:

(1) require all clinical laboratories, including hospital laboratories and clinical reference laboratories, within the area served by each [the] health authority participating in the pilot program to report all positive cases of methicillin-resistant *Staphylococcus aureus* infection, including infections contracted in a community setting, a health care facility, and any other setting, to the applicable health authority using automated and secure electronic data transmission [pilot program administrator];

(2) track the prevalence of methicillin-resistant *Staphylococcus aureus* infections;

(3) evaluate [study] the cost and feasibility of expanding the list of reportable diseases established under this chapter to include methicillin-resistant *Staphylococcus aureus* infections;

(4) develop a methodology for the electronic transfer [exchange] of information regarding [the occurrence of] methicillin-resistant *Staphylococcus aureus* infections within the area served by each [the] health authority participating in the pilot program;

(5) collect data and analyze findings regarding the prevalence [sources and possible prevention] of methicillin-resistant *Staphylococcus aureus* infections;

(6) provide for the reporting to the public by the department of information regarding methicillin-resistant *Staphylococcus aureus* infections;

(7) compile and make available to the public a summary report[~~, by location, of the infections reported~~]; and

(8) make recommendations to the department regarding Subdivisions (1) through (7).

(d) Not later than September 1, 2011 [2009], the department, in consultation with each [the] health authority participating in [administering] the pilot program, shall submit to the legislature a report concerning the effectiveness of the pilot program [in tracking and reducing the number of methicillin resistant *Staphylococcus aureus* infections within the area served by the health authority].

(d-1) A health care facility located in an area served by a health authority participating in the pilot program is not required to report an incident of methicillin-resistance *Staphylococcus aureus* infection to the Department of State

Health Services under Section 98.103, as added by Chapter 359 (SB 288), Acts of the 80th Legislature, Regular Session, 2007. The health authority shall report each incident subject to Section 98.103 to the Department of State Health Services.

(e) This section expires, and the pilot program is abolished, September 1, 2011 [~~2009~~].

SECTION 2. Section 98.103, Health and Safety Code, as added by Chapter 359 (SB 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subsection (e) to read as follows:

(e) Effective September 1, 2009, this section does not apply to the reporting of methicillin-resistant Staphylococcus aureus infections by a health care facility located in an area served by a health authority participating in the pilot program established under Section 81.0445. This subsection expires September 1, 2011.

SECTION 3. (a) Except as 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 on the 91st day after the last day of the legislative session.

(b) The change in law made by this Act to Section 81.0445(d), Health and Safety Code, takes effect September 1, 2009.

### **HB 2330 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

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

**HB 2330**, A bill to be entitled An Act relating to laboratory tests measuring kidney function.

Representative Guillen 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 2330**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2330**: Guillen, chair; Kolkhorst, S. King, Naishtat, and Zerwas.

### **HB 2374 - MOTION TO CONCUR IN SENATE AMENDMENTS**

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

**HB 2374**, A bill to be entitled An Act relating to financing of water and wastewater connections and plumbing improvements in economically distressed areas.

**HB 2374 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE MARTINEZ FISCHER: Is it your intent that the money be given to U.S. citizens and legal permanent residents?

REPRESENTATIVE GUILLEN: Oh, yes. It is my intent that it be given to citizens.

**REMARKS ORDERED PRINTED**

Representative Martinez Fischer moved to print remarks between Representative Guillen and Representative Martinez Fischer.

The motion prevailed.

Representative Guillen moved to concur in the senate amendments to **HB 2374**.

The vote of the house was taken on the motion to concur in the senate amendments to **HB 2374** and the vote was announced yeas 58, nays 56.

A verification of the vote was requested and was granted.

**LEAVES OF ABSENCE GRANTED**

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

Anchia on motion of Strama.

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

Crabb on motion of Truitt.

**HB 2374 - (consideration continued)**

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 1091): 64 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Bolton; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; England; Farabee; Farias; Farrar; Flores; Frost; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hernandez; Hochberg; Hodge; Hopson; Howard, D.; Hunter; Kent; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Naishtat; Oliveira; Olivo; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Jackson; King, P.; King, S.; Kleinschmidt;

Laubenberg; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Swinford; Taylor; Truitt; Vaught; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Jones; Kuempel; Smithee.

Absent — Burnam; Eiland; Gallego; Hancock; Heflin; Herrero; Homer; Keffer; Kolkhorst; Moody; Morrison; Ortiz; Pitts; Solomons; Veasey.

The speaker stated that the motion to concur in the senate amendments to **HB 2374** was lost by the above vote.

### STATEMENTS OF VOTE

When Record No. 1091 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

When Record No. 1091 was taken, I was in the house but away from my desk. I would have voted yes.

Herrero

When Record No. 1091 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

When Record No. 1091 was taken, I was temporarily out of the house chamber. I would have voted yes.

Veasey

### **HB 1365 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1365**, A bill to be entitled An Act relating to service records of professional staff employed by school districts and payment of compensation based on those records.

Representative Eissler moved to concur in the senate amendments to **HB 1365**.

The motion to concur in the senate amendments to **HB 1365** prevailed by (Record 1092): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen;



Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Jones; Kuempel; Smithee.

Absent — Bolton; Driver; Dunnam; Gutierrez; Moody; Veasey.

### STATEMENT OF VOTE

When Record No. 1092 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

### Senate Committee Substitute

**CSHB 1365**, A bill to be entitled An Act relating to service records of professional staff employed by school districts.

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

SECTION 1. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.4031 to read as follows:

Sec. 21.4031. PROFESSIONAL STAFF SERVICE RECORDS. (a) In this section:

(1) "Salary schedule" means the minimum salary schedule under Section 21.402 or a comparable salary schedule used by a school district that specifies salary amounts based on an employee's level of experience.

(2) "Service record" means a school district document that indicates the total years of service provided to the district by a classroom teacher, librarian, counselor, or nurse.

(b) On request by a classroom teacher, librarian, counselor, or nurse or by the school district employing one of those individuals, a school district that previously employed the individual shall provide a copy of the individual's service record to the school district employing the individual. The district must provide the copy not later than the 30th day after the later of:

(1) the date the request is made; or

(2) the date of the last day of the individual's service to the district.

(c) If a school district fails to provide an individual's service record as required by Subsection (b), the agency shall, to the extent that information is available to the agency, provide the employing school district with information sufficient to enable the district to determine proper placement of the individual on the district's salary schedule.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

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, 2009.

### LEAVES OF ABSENCE GRANTED

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

Homer on motion of Alvarado.

Solomons on motion of Alvarado.

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

Keffer on motion of Cook.

### HB 3961 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 3961**, A bill to be entitled An Act relating to the regulation of nursing.

Representative McReynolds moved to concur in the senate amendments to **HB 3961**.

The motion to concur in the senate amendments to **HB 3961** prevailed by (Record 1093): 130 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardecastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter;

Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Hochberg.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam; Dunnam; Gallego; Gutierrez; Hodge; Hughes; Laubenberg; Moody; Veasey.

### STATEMENTS OF VOTE

When Record No. 1093 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

When Record No. 1093 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

### Senate Committee Substitute

**CSHB 3961**, A bill to be entitled An Act relating to the regulation of nursing.

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

SECTION 1. Section 301.155(c), Occupations Code, is amended to read as follows:

(c) The board shall assess a [~~\$3~~] surcharge of not less than \$3 or more than \$5 for a registered nurse and a [~~\$2~~] surcharge of not less than \$2 or more than \$3 for a vocational nurse to the fee established by the board under Subsection (a) for a license holder to renew a license under this chapter. The board may use nine cents of the registered nurse surcharge and six cents of the vocational nurse surcharge to cover the administrative costs of collecting and depositing the surcharge. The board quarterly shall transmit the remainder of each surcharge to the Department of State Health Services to be used only to implement the nursing resource section under Section 105.002, Health and Safety Code. The board is not required to collect the surcharge if the board determines the funds collected are not appropriated for the purpose of funding the nursing resource section.

SECTION 2. Section 301.157, Occupations Code, is amended by amending Subsection (d-4) and adding Subsections (d-8), (d-9), (d-10), and (d-11) to read as follows:

(d-4) The board may recognize and accept as approved under this section a school of nursing or educational program operated in another state and approved by a state board of nursing or other regulatory body of that [another] state. The board shall develop policies to ensure that the other state's [state board's] standards are substantially equivalent to the board's standards.

(d-8) For purposes of Subsection (d-4), a nursing program is considered to meet standards substantially equivalent to the board's standards if the program:

(1) is part of an institution of higher education located outside this state that is approved by the appropriate regulatory authorities of that state;

(2) holds regional accreditation by an accrediting body recognized by the United States secretary of education and the Council for Higher Education Accreditation;

(3) holds specialty accreditation by an accrediting body recognized by the United States secretary of education and the Council for Higher Education Accreditation, including the National League for Nursing Accrediting Commission;

(4) requires program applicants to be a licensed practical or vocational nurse, a military service corpsman, or a paramedic, or to hold a college degree in a clinically oriented health care field with demonstrated experience providing direct patient care; and

(5) graduates students who:

(A) achieve faculty-determined program outcomes, including passing criterion-referenced examinations of nursing knowledge essential to beginning a registered nursing practice and transitioning to the role of registered nurse;

(B) pass a criterion-referenced summative performance examination developed by faculty subject matter experts that measures clinical competencies essential to beginning a registered nursing practice and that meets nationally recognized standards for educational testing, including the educational testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education; and

(C) pass the National Council Licensure Examination for Registered Nurses at a rate equivalent to the passage rate for students of approved in-state programs.

(d-9) A graduate of a clinical competency assessment program operated in another state and approved by a state board of nursing or other regulatory body of another state is eligible to apply for an initial license under this chapter if:

(1) the board allowed graduates of the program to apply for an initial license under this chapter continuously during the 10-year period preceding January 1, 2007;

(2) the program does not make any substantial changes in the length or content of its clinical competency assessment without the board's approval;

(3) the program remains in good standing with the state board of nursing or other regulatory body in the other state; and

(4) the program participates in the research study under Section 105.008, Health and Safety Code.

(d-10) In this section, the terms "clinical competency assessment program" and "supervised clinical learning experiences program" have the meanings assigned by Section 105.008, Health and Safety Code.

(d-11) Subsections (d-8), (d-9), (d-10), and (d-11) expire December 31, 2017. As part of the first review conducted under Section 301.003 after September 1, 2009, the Sunset Advisory Commission shall:

(1) recommend whether Subsections (d-8) and (d-9) should be extended; and

(2) recommend any changes to Subsections (d-8) and (d-9) relating to the eligibility for a license of graduates of a clinical competency assessment program operated in another state.

SECTION 3. Section 301.160(a)(2), Occupations Code, is amended to read as follows:

(2) "Targeted continuing nursing education" means continuing education focusing on a skill that would likely benefit a significant proportion of ~~[registered]~~ nurses in a particular practice area.

SECTION 4. Sections 301.160(b) and (j) are amended to read as follows:

(b) The board may develop pilot programs to evaluate the effectiveness of mechanisms, including proactive nursing peer review and targeted continuing nursing education, for maintenance of the clinical competency of a ~~[registered]~~ nurse in the nurse's area of practice and the understanding by ~~[registered]~~ nurses of the laws, including regulations, governing the practice of ~~[professional]~~ nursing.

(j) The board shall issue an annual report regarding any pilot programs developed or approved and a status report on those programs, including preliminary or final findings concerning their effectiveness. The board shall mail the report to statewide associations of ~~[registered]~~ nurses ~~and~~ ~~[-, registered nurse]~~ educators~~[-]~~ and employers of ~~[registered]~~ nurses that request a copy. ~~[The board shall issue a final report not later than September 1, 2000.]~~

SECTION 5. Sections 301.1605(a) and (c), Occupations Code, are amended to read as follows:

(a) The board may approve and adopt rules regarding pilot programs for innovative applications in the practice and regulation of ~~[professional]~~ nursing.

(c) In approving a pilot program, the board may grant the program an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of ~~[professional]~~ nursing, including education and reporting requirements for ~~[registered]~~ nurses. The board may not grant an exception to:

(1) the education requirements of this chapter unless the program includes alternate but substantially equivalent requirements; or

(2) the mandatory reporting requirements unless the program:

(A) is designed to evaluate the efficiency of alternative reporting methods; and

(B) provides consumers adequate protection from ~~[registered]~~ nurses whose continued practice is a threat to public safety.

SECTION 6. Sections 301.1606(a) and (b), Occupations Code, are amended to read as follows:

(a) The ~~[Before January 1, 2004, the]~~ board may ~~[shall]~~ solicit proposals for pilot programs designed to evaluate the efficacy and effect on protection of the public of reporting systems designed to encourage identification of system errors.

(b) The board may grant a pilot program approved under this section an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of ~~[professional]~~ nursing, including education and reporting requirements for ~~[registered]~~ nurses. If the board grants an exception, the board may require that the program:

(1) provide for the remediation of the deficiencies of a ~~[registered]~~ nurse who has knowledge or skill deficiencies that unless corrected may result in an unreasonable risk to public safety;

(2) provide for supervision of the nurse during remediation of deficiencies under Subdivision (1);

(3) require reporting to the board of a ~~[registered]~~ nurse:

(A) who fails to satisfactorily complete remediation, or who does not make satisfactory progress in remediation, under Subdivision (1);

(B) whose incompetence in the practice of ~~[professional]~~ nursing would pose a continued risk of harm to the public; or

(C) whose error contributed to a patient death or serious patient injury; or

(4) provide for a nursing peer review committee to review whether a ~~[registered]~~ nurse is appropriate for remediation under Subdivision (1).

SECTION 7. Subchapter E, Chapter 301, Occupations Code, is amended by adding Sections 301.206 and 301.207 to read as follows:

Sec. 301.206. CONFIDENTIALITY OF INFORMATION COLLECTED FOR EMERGENCY RELIEF PROGRAMS. (a) In this section, "emergency relief program" means a program operated or sponsored by the federal government, the state, or a nonprofit organization to provide nurses to assist in providing health care to victims or potential victims of a disaster or state or local emergency.

(b) A nurse's personal contact information, including e-mail addresses, telephone numbers, and fax numbers, collected by the board for use by an emergency relief program is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than for the purpose of contacting the nurse to assist in an emergency relief program.

Sec. 301.207. CONFIDENTIALITY OF HEALTH INFORMATION PROVIDED FOR LICENSURE. Information regarding a person's diagnosis or treatment for a physical condition, mental condition, or chemical dependency that the person submits to the board for a petition for a declaratory order of eligibility for a license or for an application for an initial license or a license renewal under this chapter is confidential to the same extent information collected on a nurse as part of an investigation of a complaint is confidential under Section 301.466.

SECTION 8. Section 301.257(a), Occupations Code, is amended to read as follows:

(a) A person may petition the board for a declaratory order as to the person's eligibility for a license under this chapter if the person has reason to believe that the person is ineligible for the license and:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license as a registered nurse or vocational nurse; or  
[and]

(2) is an applicant for a [has reason to believe that the person is ineligible for the] license.

SECTION 9. Section 301.401(2), Occupations Code, is amended to read as follows:

(2) "Minor incident" means conduct by a nurse that does not indicate that the nurse's continued practice poses a risk of harm to a patient or another person. This term is synonymous with "minor error" or "minor violation of this chapter or board rule."

SECTION 10. Subchapter J, Chapter 301, Occupations Code, is amended by adding Section 301.4521 to read as follows:

Sec. 301.4521. PHYSICAL AND PSYCHOLOGICAL EVALUATION. (a)  
In this section:

(1) "Applicant" means:

(A) a petitioner for a declaratory order of eligibility for a license; or

(B) an applicant for an initial license or renewal of a license.

(2) "Evaluation" means a physical or psychological evaluation conducted to determine a person's fitness to practice nursing.

(b) The board may require a nurse or applicant to submit to an evaluation only if the board has probable cause to believe that the nurse or applicant is unable to practice nursing with reasonable skill and safety to patients because of:

(1) physical impairment;

(2) mental impairment; or

(3) chemical dependency or abuse of drugs or alcohol.

(c) A demand for an evaluation under Subsection (b) must be in writing and state:

(1) the reasons probable cause exists to require the evaluation; and

(2) that refusal by the nurse or applicant to submit to the evaluation will result in an administrative hearing to be held to make a final determination of whether probable cause for the evaluation exists.

(d) If the nurse or applicant refuses to submit to the evaluation, the board shall schedule a hearing on the issue of probable cause to be conducted by the State Office of Administrative Hearings. The nurse or applicant must be notified of the hearing by personal service or certified mail. The hearing is limited to the issue of whether the board had probable cause to require an evaluation. The nurse or applicant may present testimony and other evidence at the hearing to show why the nurse or applicant should not be required to submit to the evaluation. The board has the burden of proving that probable cause exists. At the conclusion of the hearing, the hearing officer shall enter an order requiring the nurse or

applicant to submit to the evaluation or an order rescinding the board's demand for an evaluation. The order may not be vacated or modified under Section 2001.058, Government Code.

(e) If a nurse or applicant refuses to submit to an evaluation after an order requiring the evaluation is entered under Subsection (d), the board may:

- (1) refuse to issue or renew a license;
- (2) suspend a license; or
- (3) issue an order limiting the license.

(f) The board may request a nurse or applicant to consent to an evaluation by a practitioner approved by the board for a reason other than a reason listed in Subsection (b). A request for an evaluation under this subsection must be in writing and state:

- (1) the reasons for the request;
- (2) the type of evaluation requested;
- (3) how the board may use the evaluation;
- (4) that the nurse or applicant may refuse to submit to an evaluation;

and

(5) the procedures for submitting an evaluation as evidence in any hearing regarding the issuance or renewal of the nurse's or applicant's license.

(g) If a nurse or applicant refuses to consent to an evaluation under Subsection (f), the nurse or applicant may not introduce an evaluation into evidence at a hearing to determine the nurse's or applicant's right to be issued or retain a nursing license unless the nurse or applicant:

(1) not later than the 30th day before the date of the hearing, notifies the board that an evaluation will be introduced into evidence at the hearing;

(2) provides the board the results of that evaluation;

(3) informs the board of any other evaluations by any other practitioners; and

(4) consents to an evaluation by a practitioner that meets board standards established under Subsection (h).

(h) The board shall establish by rule the qualifications for a licensed practitioner to conduct an evaluation under this section. The board shall maintain a list of qualified practitioners. The board may solicit qualified practitioners located throughout the state to be on the list.

(i) A nurse or applicant shall pay the costs of an evaluation conducted under this section.

(j) The results of an evaluation under this section are:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure by discovery, subpoena, or other means of legal compulsion for release to anyone, except that the results may be:

(A) introduced as evidence in a proceeding before the board or a hearing conducted by the State Office of Administrative Hearings under this chapter; or

(B) included in the findings of fact and conclusions of law in a final board order.



(k) If the board determines there is insufficient evidence to bring action against a person based on the results of any evaluation under this section, the evaluation must be expunged from the board's records.

(l) The board shall adopt guidelines for requiring or requesting a nurse or applicant to submit to an evaluation under this section.

(m) The authority granted to the board under this section is in addition to the board's authority to make licensing decisions under this chapter.

SECTION 11. Sections 301.453(a) and (b), Occupations Code, are amended to read as follows:

(a) If the board determines that a person has committed an act listed in Section 301.452(b), the board shall enter an order imposing one or more of the following:

(1) denial of the person's application for a license, license renewal, or temporary permit;

(2) issuance of a written warning;

(3) administration of a public reprimand;

(4) limitation or restriction of the person's license, including:

(A) limiting to or excluding from the person's practice one or more specified activities of nursing; or

(B) stipulating periodic board review;

(5) suspension of the person's license [~~for a period not to exceed five years~~];

(6) revocation of the person's license; or

(7) assessment of a fine.

(b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:

(1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;

(2) participate in a program of education or counseling prescribed by the board, including a program of remedial education;

(3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the board; or

(4) perform public service the board considers appropriate.

SECTION 12. Section 301.4535, Occupations Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) An applicant or nurse who is refused an initial license or renewal of a license or whose license is suspended under Subsection (a) is not eligible for a probationary, stipulated, or otherwise encumbered license unless the board establishes by rule criteria that would permit the issuance or renewal of the license.

(b) On final conviction or a plea of guilty or nolo contendere for an offense listed in Subsection (a), the board, as appropriate, may not issue a license to an applicant, shall refuse to renew a license, or shall revoke a license [~~if the applicant or license holder did not previously disclose the conviction or plea and the fifth anniversary of the date the person successfully completed community supervision or parole has not occurred~~].

SECTION 13. Subchapter J, Chapter 301, Occupations Code, is amended by adding Section 301.4551 to read as follows:

Sec. 301.4551. TEMPORARY LICENSE SUSPENSION FOR DRUG OR ALCOHOL USE. The board shall temporarily suspend the license of a nurse as provided by Section 301.455 if the nurse is under a board order prohibiting the use of alcohol or a drug or requiring the nurse to participate in a peer assistance program, and the nurse:

- (1) tests positive for alcohol or a prohibited drug;
- (2) refuses to comply with a board order to submit to a drug or alcohol test; or
- (3) fails to participate in the peer assistance program and the program issues a letter of dismissal and referral to the board for noncompliance.

SECTION 14. Section 301.468, Occupations Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) The board may determine that an order denying a license application or suspending a license be probated. A person subject to a probation order shall conform to each condition the board sets as the terms of probation, including a condition:

- (1) limiting the practice of the person to, or excluding, one or more specified activities of professional nursing or vocational nursing; ~~or~~
- (2) requiring the person to submit to supervision, care, counseling, or treatment by a practitioner designated by the board; or
- (3) requiring the person to submit to random drug or alcohol tests in the manner prescribed by the board.

(e) A hearing under this section is limited to a determination of whether the person violated the terms of the probation order under Subsection (a) and whether the board should:

- (1) continue, rescind, or modify the terms of probation, including imposing an administrative penalty; or
- (2) enter an order denying, suspending, or revoking the person's license.

(f) If one of the conditions of probation is the prohibition of using alcohol or a drug or participation in a peer assistance program, violation of that condition is established by:

- (1) a positive drug or alcohol test result;
- (2) refusal to submit to a drug or alcohol test as required by the board;
- or
- (3) a letter of noncompliance from the peer assistance program.

SECTION 15. Section 63.202(f), Education Code, is amended to read as follows:

(f) Notwithstanding the limitation provided by Subsection (b), grants awarded under Subsection (c) for the state fiscal biennium ending on August 31, 2009, and the fiscal biennium ending on August 31, 2011, by the Texas Higher Education Coordinating Board shall be awarded to programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master's or doctoral degree for the program, including programs

at two-year institutions of higher education, four-year general academic teaching institutions, health science centers, and independent or private institutions of higher education, or to the nursing resource section established under Section 105.002(b), Health and Safety Code. In awarding grants under this subsection, the coordinating board may:

(1) give priority to institutions proposing to address the shortage of registered nurses by promoting innovation in education, recruitment, and retention of nursing students and qualified faculty;

(2) award grants on a competitive basis; ~~and~~

(3) consider the availability of matching funds; and

(4) fund a study by the nursing resource section to evaluate the competencies of clinical judgment and behaviors that professional nursing students should possess at the time of graduation.

SECTION 16. Chapter 105, Health and Safety Code, is amended by adding Section 105.008 to read as follows:

Sec. 105.008. STUDY OF ALTERNATE WAYS TO ASSURE CLINICAL COMPETENCY OF GRADUATES OF NURSING EDUCATIONAL PROGRAMS. (a) In this section:

(1) "Clinical competency assessment program" means a professional nursing precicensure program that employs a criterion-referenced summative performance examination, developed by subject matter experts, to verify its graduates' attainment of the clinical competency necessary for initial licensure as a registered nurse.

(2) "Professional nursing precicensure program" means a professional nursing educational program that prepares students to obtain an initial license as a registered nurse.

(3) "Research study" means the study described by Subsection (b).

(4) "Supervised clinical learning experiences program" means a professional nursing precicensure program that requires students to complete a required number of supervised clinical learning experiences provided by qualified clinical faculty involving multiple, ongoing assessments and feedback.

(b) To the extent funding is available, the nursing resource section established under Section 105.002(b) shall conduct a research study to identify:

(1) a set of expected student outcomes in terms of clinical judgment and behaviors that professional nursing students should possess at the time of graduation from a professional nursing precicensure program;

(2) standardized, reliable, and valid clinical exit evaluation tools that could be used to evaluate the competencies in clinical judgment and behaviors that professional nursing students possess at the time of graduation from a professional nursing precicensure program;

(3) any correlation between the success rate of graduates of professional nursing precicensure programs on standardized clinical exit evaluation tools and their educational and experiential background, including:

(A) length and type of health care work experience before entering the professional nursing precicensure programs;

(B) health care work experience during the professional nursing prelicensure programs; and

(C) alternative methods of teaching clinical judgment and behaviors, including supervised clinicals and simulation laboratories; and

(4) any correlation between the required number of hours in supervised clinical learning experiences and expected student outcomes in terms of clinical judgment and behaviors.

(c) In addition to any other objective, the research study must be designed to determine if the graduates of a clinical competency assessment program are substantially equivalent to the graduates of supervised clinical learning experiences programs in terms of clinical judgments and behaviors. For purposes of this subsection, the clinical competency assessment program must be one that:

(1) has been requiring a clinical competency assessment for at least 10 years;

(2) has students who reside in this state;

(3) has graduates who have been considered by the Texas Board of Nursing to be eligible to apply for a registered nurse license as a result of graduating from the program on or before January 1, 2007; and

(4) conducts the clinical competency assessment at a facility or facilities located in this state under the supervision of a qualified clinical faculty member who is a registered nurse and who holds a master's or doctoral degree in nursing.

(d) Considerations to be used in determining substantial equivalence under Subsection (c) must include the differences between the clinical competency assessment program and the supervised clinical learning experiences program in:

(1) the methods of evaluating students' clinical judgment and behaviors;

(2) performance on standardized clinical exit evaluation tools;

(3) the ability of graduates to transition to and assimilate in the registered nurse's role; and

(4) passage rates on the National Council Licensure Examination.

(e) The nursing resource section shall contract with an independent researcher to develop the research design and conduct the research. The independent researcher must be selected by a selection committee composed of:

(1) one representative elected by a majority of the nursing advisory committee under Section 104.0155, who is the chair of the selection committee;

(2) one representative designated by the Texas Health Care Policy Council;

(3) the presiding officer of the Texas Board of Nursing;

(4) one representative of the Texas Higher Education Coordinating Board, designated by the governor;

(5) one representative designated by the Texas Hospital Association;

(6) one representative designated by the Texas Association of Business;

(7) one representative designated by a clinical competency assessment program that meets the requirements of Section 301.157(d-8), Occupations Code; and

(8) the nurse researcher member of the nursing advisory committee under Section 104.0155.

(f) The nursing resource section shall complete the study not later than June 30, 2014, and shall submit a report to the office of the governor, the Senate Committee on Health and Human Services, and the House Committee on Public Health. The report must include a research abstract prepared by the independent researcher.

(g) The nursing resource section may cooperate with the Texas Board of Nursing and the Texas Higher Education Coordinating Board in conducting the study.

(h) The nursing advisory committee formed under Section 104.0155 shall serve as the oversight committee for the study.

(i) Any data collected as part of the study that contains information identifying specific students, patients, or health care facilities is confidential, is not subject to disclosure under Chapter 552, Government Code, and may not be released unless all identifying information is removed.

(j) In addition to funds appropriated by the legislature, the nursing resource section may solicit, receive, and spend grants, gifts, and donations from public or private sources for the purpose of conducting the study.

(k) If grants or other funds are available through the National Council of State Boards of Nursing that could be used to fund the study, the nursing resource section shall apply for the funds to the maximum amount available up to the estimated cost of the study. In making the application or accepting the funding, the nursing resource section may not relinquish any oversight responsibility for the study, including responsibility for designing and conducting the research or developing the findings.

SECTION 17. Section 301.202(b), Occupations Code, is repealed.

SECTION 18. (a) The change in law made by Section 301.4521, Occupations Code, as added by this Act, applies only to an application filed with the Texas Board of Nursing 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) The changes in law made by Section 301.4551, Occupations Code, as added by this Act, and Section 301.468, Occupations Code, as amended by this Act, apply only to a violation of an order issued by the Texas Board of Nursing on or after the effective date of this Act. A violation of an order issued by the Texas Board of Nursing before the effective date of this Act is covered by the law in effect when the order was issued, and the former law is continued in effect for that purpose.

SECTION 19. 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, 2009.

**HB 216 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 216**, A bill to be entitled An Act relating to the regulation of boarding home facilities for persons with disabilities or elderly persons and assisted living facilities.

Representative Menendez 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 216**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 216**: Menendez, chair; Rose, Naishtat, J. Davis, and Hughes.

**HB 621 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 621**, A bill to be entitled An Act relating to public improvement districts designated by a county or municipality.

Representative Elkins moved to concur in the senate amendments to **HB 621**.

The motion to concur in the senate amendments to **HB 621** prevailed by (Record 1094): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rose; Sheffield; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vought; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; Martinez; Moody; Rodriguez; Shelton.

### STATEMENT OF VOTE

When Record No. 1094 was taken, I was in the house but away from my desk. I would have voted yes.

Moody

### Senate Committee Substitute

**CSHB 621**, A bill to be entitled An Act relating to public improvement districts designated by a county or municipality.

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

SECTION 1. Section 372.017(b), Local Government Code, is amended to read as follows:

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may provide that assessments be paid in periodic installments, at an interest rate and for a period approved by the governing body. The provision that assessments be paid in periodic installments may, but is not required to, result in level annual installment payments. The installments must be in amounts necessary to meet annual costs for improvements and must continue for:

(1) the [a] period necessary to retire the indebtedness on the improvements; or

(2) the period approved by the governing body for the payment of the installments.

SECTION 2. Section 372.018, Local Government Code, is amended to read as follows:

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An assessment bears interest at the rate specified by the governing body of the municipality or county beginning at the time or times or on the occurrence of one or more events specified by the governing body. If general obligation bonds, revenue bonds, time warrants, or temporary notes are issued to finance the improvement for which the assessment is assessed, the interest rate for that assessment [,-but] may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the [public] debt [used to finance the improvement]. Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment. The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid.

(b) An assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is:

(1) a first and prior lien against the property assessed;

(2)[7] superior to all other liens and claims except liens or claims for state, county, school district, or municipality ad valorem taxes;[7] and

(3) [~~8~~] a personal liability of and charge against the owners of the property regardless of whether the owners are named.

(c) The lien is effective from the date of the ordinance or order levying the assessment until the assessment is paid.

(d) The lien runs with the land and that portion of an assessment payment that has not yet come due is not eliminated by foreclosure of an ad valorem tax lien.

(e) The assessment lien [~~and~~] may be enforced by the governing body in the same manner that an ad valorem tax lien against real property may be enforced by the governing body. Foreclosure of accrued installments does not eliminate the outstanding principal balance of the assessment. Any purchaser of the property in foreclosure takes the property subject to the assessment lien and any associated obligations.

(f) Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes. The owner of assessed property may pay at any time all or any part of the [~~entire~~] assessment, with interest that has accrued on the assessment, on any lot or parcel.

SECTION 3. Section 372.022, Local Government Code, is amended to read as follows:

Sec. 372.022. SEPARATE FUNDS. If bonds are issued, a [~~A~~] separate public improvement district fund shall be created in the municipal or county treasury for each district. Proceeds from the sale of bonds, temporary notes, and time warrants, and other sums appropriated to the fund by the governing body of the municipality or county shall be credited to the fund. The fund may be used solely to pay costs incurred in making an improvement. When an improvement is completed, the balance of the part of the assessment that is for improvements shall be transferred to the fund established for the retirement of bonds.

SECTION 4. Section 372.023, Local Government Code, is amended by amending Subsections (d), (e), (f), and (g) and adding Subsection (h) to read as follows:

(d) A cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds shall be paid:

(1) under an installment sale contract or a reimbursement agreement with the person who contracts to install or construct the improvement for which the costs apply;

(2) as provided by a temporary note or time warrant issued by the municipality or county to reimburse a person for money advanced or work performed in connection with an improvement; or

(3) by the issuance and sale of revenue or general obligation bonds.

(e) The net effective interest rate, as computed for a public security under Section 1204.005, Government Code, on money owed or paid under Subsection (d) may not exceed one-half of one percent above the highest average interest rate



reported by a newspaper in a weekly bond index in the month before the date of the contract or agreement or the issuance of the bond, temporary note, or time warrant. The newspaper must specialize in bonds and be acceptable as a reliable source for bond interest rates to the governing body of the municipality or county that enters into the contract or agreement or that issues the bond, temporary note, or time warrant.

(f) [(e)] While an improvement is in progress, the governing body of the municipality or county, to pay the costs of the improvement, may issue temporary notes for money advanced or time warrants to pay for work performed in connection with [the costs of] the improvement and, on completion of the improvement, issue revenue or general obligation bonds. The bond proceeds may be used to repay the obligations incurred under this subsection.

(g) [(f)] The cost of more than one improvement may be paid:

(1) from a single issue and sale of bonds without other consolidation proceedings before the bond issue; or

(2) under an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county.

(h) [(g)] The costs of any improvement include interest payable on a temporary note or time warrant and all costs incurred in connection with the issuance of bonds under Section 372.024 and may be included in the assessments against the property in the improvement district as provided by this subchapter.

SECTION 5. Section 372.026, Local Government Code, is amended to read as follows:

Sec. 372.026. PLEDGES. (a) In this section, "obligation" means bonds, temporary notes, time warrants, or an obligation under an installment sale contract or reimbursement agreement.

(b) For the payment of obligations [bonds] issued or agreed to under this subchapter and the payment of principal, interest, and any other amounts required or permitted in connection with the obligations [bonds], the governing body of the municipality or county may pledge all or part of the income from improvements financed under this subchapter, including income received in installment payments under Section 372.023.

(c) [(b)] Pledged income must be fixed and collected in amounts sufficient, with other pledged resources, to pay principal, interest, and other expenses related to the obligations [bonds], and to the extent required by the ordinance, [or] order, or agreement authorizing the obligations [bonds], to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter.

(d) [(c)] The obligations [bonds] may also be secured by mortgages or deeds of trust on any real property related to the facilities authorized under this subchapter that are owned or are to be acquired by the municipality or county and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance [encumbrances] as evidence of the indebtedness.

(e) ~~(d)~~ The governing body may pledge to the payment of obligations ~~[bonds]~~ all or part of a grant, donation, revenue, or income received or to be received from the government of the United States or any other public or private source, whether or not it is received pursuant to an agreement or otherwise.

(f) The governing body may enter into an agreement with a corporation created by the municipality or county under the Texas Constitution or other law that provides for payment of amounts pledged under this section to the corporation to secure indebtedness issued by the corporation to finance an improvement project, including indebtedness to pay capitalized interest and a reserve fund permitted by this subchapter for revenue or general obligation bonds issued under this subchapter and indebtedness issued to pay the corporation's costs of issuance. In addition, the agreement may provide that:

- (1) the corporation is responsible for managing the district; or
- (2) title to one or more improvements will be held by the corporation.

SECTION 6. (a) All acts and proceedings related to the authorization of any taxes or bonds, including acts and proceedings related to an election, by a district created under Subchapter A, Chapter 372, Local Government Code, before the effective date of this Act are validated, ratified, and confirmed in all respects as if the acts and proceedings occurred as authorized by law.

(b) This section does not apply to any matter that on the effective date of this Act:

- (1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or
- (2) has been held invalid by a final court judgment.

SECTION 7. (a) An installment sales contract made or attempted to be made by a county or municipality with the party constructing an improvement relating to an improvement district is validated as of the date the contract was made or attempted to be made if the contract:

- (1) was made or attempted to be made before the effective date of this Act; and
- (2) complies with Section 372.023, Local Government Code, as amended by this Act.

(b) This section does not apply to any matter that on the effective date of this Act:

- (1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or
- (2) has been held invalid by a final court judgment.

SECTION 8. 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, 2009.

### **HB 2983 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 2983**, A bill to be entitled An Act relating to the electronic transmission of motor vehicle rental information in connection with the payment of tolls.

Representative Phillips moved to concur in the senate amendments to **HB 2983**.

The motion to concur in the senate amendments to **HB 2983** prevailed by (Record 1095): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; Pitts.

### Senate Committee Substitute

**CSHB 2983**, A bill to be entitled An Act relating to the electronic transmission of motor vehicle rental information in connection with the payment of tolls.

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

SECTION 1. Section 228.055, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054, with the name and address of the lessee clearly legible; or

(2) electronic data, in a format agreed on by the department and the lessor, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

SECTION 2. Sections 228.056(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d-1) [~~(d)~~], or (e):

(1) it is presumed that the notice of nonpayment was received on the fifth day after the date of mailing;

(2) a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

(c) It is a defense to prosecution under Section 228.055(c), (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

SECTION 3. Section 284.0701, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 284.070.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) ~~shown on the contract document~~ by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

SECTION 4. Sections 284.0702(b) and (c), Transportation Code, are amended to read as follows:

(b) In the prosecution of an offense under Section 284.0701(c), (d-1) ~~(d)~~, or (e):

(1)[5] a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 284.070 occurred; and

(2) a copy of the rental, lease, or other contract document, or the electronic data provided to the authority under Section 284.0701(d), covering the vehicle on the date of the underlying event of nonpayment under Section 284.070 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 284.070 occurred.

(c) It is a defense to prosecution under Section 284.0701(c), (d-1) ~~(d)~~, or (e) that the vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

SECTION 5. Section 366.178, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsection (i-1) to read as follows:

(f) In the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy

of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (i) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(i) A registered owner who is the lessor of a vehicle for which a notice of nonpayment has been issued is not liable if, not later than the 30th day after the date the notice of nonpayment is mailed, the registered owner provides to the authority:

(1) a copy of the rental, lease, or other contract document [lease agreement] covering the vehicle on the date of the nonpayment, with the [The] name and address of the lessee [must be] clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under this section.

(i-1) If the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date of the violation is considered to be the owner of the vehicle for purposes of this section. The lessee is subject to prosecution for failure to pay the proper toll if the authority sends a notice of nonpayment to the lessee by first-class mail not later than the 30th day after the date of the receipt of the information from the lessor.

SECTION 6. Section 370.177, Transportation Code, is amended by amending Subsections (e), (g), and (i) and adding Subsection (e-1) to read as follows:

(e) It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Subsection (a).

(e-1) If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) [shown on the contract document] by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) An offense under Subsection (d), (e-1) [(e)], or (f) is a misdemeanor punishable by a fine not to exceed \$250.

(i) In the prosecution of an offense under this section, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including:

(1) evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b); or

(2) a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (e) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

SECTION 7. This Act takes effect September 1, 2009.

### **HB 4127 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4127**, A bill to be entitled An Act relating to the expenditure of public funds for certain playground facilities.

Representative Hartnett moved to concur in the senate amendments to **HB 4127**.

The motion to concur in the senate amendments to **HB 4127** prevailed by (Record 1096): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycocock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; Maldonado; Villarreal.

### Senate Committee Substitute

**CSHB 4127**, A bill to be entitled An Act relating to the expenditure of public funds for certain playground facilities.

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

SECTION 1. Sections 756.061(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Notwithstanding any other rule or statute, and except ~~[Except]~~ as provided by Subsection (b), on or after September 1, 2009 ~~[1997]~~, public funds may not be used:

(1) to purchase playground equipment that:

(A) does not ~~[substantially]~~ comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use" ~~[the Handbook for Public Playground Safety]~~ published ~~[in 1994]~~ by ASTM International; or

(B) has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed ~~[the United States Consumer Product Safety Commission (Publication No. 325)]~~;

(2) to purchase surfacing for the area under and around playground equipment if the surfacing will not ~~[substantially]~~ comply, on completion of installation of the surfacing, with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International ~~[the handbook described by Subdivision (1)]~~; or

(3) to pay for installation of playground equipment or surfacing if the installation will not ~~[substantially]~~ comply, on completion of the installation, with each applicable provision of the specifications ~~[handbook]~~ described by Subdivision (1) or (2), as applicable.

(b) Public funds may be used for maintenance of playground equipment or surfacing for the area under and around playground equipment that was purchased before September 1, 2009 ~~[1997]~~, even if the equipment or surfacing does not ~~[substantially]~~ comply, on completion of the maintenance, with each applicable provision of the specifications ~~[handbook]~~ described by Subsections ~~[Subsection]~~ (a)(1) and (a)(2).

SECTION 2. This Act takes effect September 1, 2009.

### HB 107 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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



**HB 107**, A bill to be entitled An Act relating to allowing for certain criminal proceedings in the absence of certain defendants.

Representative Phillips moved to concur in the senate amendments to **HB 107**.

The motion to concur in the senate amendments to **HB 107** prevailed by (Record 1097): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; Castro.

#### STATEMENT OF VOTE

When Record No. 1097 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

#### Senate Committee Substitute

**CSHB 107**, A bill to be entitled An Act relating to allowing for certain criminal proceedings in the absence of certain defendants.

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

SECTION 1. Chapter 27, Code of Criminal Procedure, is amended by adding Article 27.19 to read as follows:

Art. 27.19. PLEA BY CERTAIN DEFENDANTS. (a) Notwithstanding any other provision of this code, a court shall accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made:

(1) in accordance with the procedure established by Article 27.18; or

(2) in writing before the appropriate court having jurisdiction in the county in which the penal institution is located, provided that:

(A) the defendant is notified by the court of original jurisdiction of the right to counsel and the procedures for requesting appointment of counsel, and is provided a reasonable opportunity to request a court-appointed lawyer;

(B) if the defendant elects to proceed without counsel, the defendant must waive the right to counsel in accordance with Article 1.051;

(C) the defendant must waive the right to be present at the taking of the plea or to have counsel present, if the defendant has counsel; and

(D) if the defendant is charged with a felony, judgment and sentence are rendered in accordance with the conditions and the procedure established by Article 42.14(b).

(b) In this article, "penal institution" has the meaning assigned by Section 1.07, Penal Code.

SECTION 2. Article 42.14, Code of Criminal Procedure, is amended to read as follows:

Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor case, the [The] judgment and sentence [in a misdemeanor case] may be rendered in the absence of the defendant.

(b) In a felony case, the judgment and sentence may be rendered in the absence of the defendant only if:

(1) the defendant is confined in a penal institution;

(2) the defendant is not charged with a felony offense:

(A) that is listed in Section 3g(a)(1), Article 42.12; or

(B) for which it is alleged that:

(i) a deadly weapon was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; and

(ii) the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited;

(3) the defendant in writing before the appropriate court having jurisdiction in the county in which the penal institution is located:

(A) waives the right to be present at the rendering of the judgment and sentence or to have counsel present;

(B) affirms that the defendant does not have anything to say as to why the sentence should not be pronounced and that there is no reason to prevent the sentence under Article 42.07;

(C) states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case; and

(D) requests the court to pronounce sentence in the case in accordance with the plea agreement;

(4) the defendant and the attorney representing the state in the prosecution of the case have entered into a written plea agreement that is made a part of the record in the case; and

(5) sentence is pronounced in accordance with the plea agreement.

(c) A judgment and sentence may be rendered under this article in the absence of the defendant only after the defendant is notified by the court of original jurisdiction of the right to counsel and the defendant requests counsel or waives the right to counsel in accordance with Article 1.051.

(d) In this article, "deadly weapon" and "penal institution" have the meanings assigned by Section 1.07, Penal Code.

(e) If a defendant enters a plea of guilty or nolo contendere under Article 27.19, the attorney representing the state may request at the time the plea is entered that the defendant submit a fingerprint of the defendant suitable for attachment to the judgment. On request for a fingerprint under this subsection, the county in which the defendant is confined shall obtain a fingerprint of the defendant and use first-class mail or other means acceptable to the attorney representing the state and the county to forward the fingerprint to the court accepting the plea.

SECTION 3. Article 27.19, Code of Criminal Procedure, as added by this Act, and Article 42.14, Code of Criminal Procedure, as amended by this Act, apply to a plea entered or to a judgment and sentence rendered in a criminal case on or after the effective date of this Act, regardless of whether the offense for which the plea is entered or judgment and sentence are rendered is committed before, on, or after that date.

SECTION 4. This Act takes effect September 1, 2009.

## **HB 422 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 422**, A bill to be entitled An Act relating to information provided to a person applying for a state tax permit or license.

Representative Guillen moved to concur in the senate amendments to **HB 422**.

The motion to concur in the senate amendments to **HB 422** prevailed by (Record 1098): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez;

Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Davis, Y.

### Senate Committee Substitute

**CSHB 422**, A bill to be entitled An Act relating to information provided to a person applying for a state tax permit or license.

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

SECTION 1. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.00457 to read as follows:

Sec. 111.00457. INFORMATION RELATING TO OTHER PERMIT OR LICENSE REQUIREMENTS. (a) The comptroller shall include the following statement on each application for a permit or license issued by the comptroller:

WARNING. You may be required to obtain an additional permit or license from the State of Texas or from a local governmental entity to conduct business. A listing of links relating to acquiring licenses, permits, and registrations from the State of Texas is available online at <http://www.TexasOnline.com/portal/tol/en/9/1>. You may also want to contact the municipality and county in which you will conduct business to determine any local governmental requirements.

(b) The statement required by Subsection (a) must be placed in the applicant signature box or, if the application does not have an applicant signature box, on the last line above the applicant signature line, and in bold typeface that is at least as large as any other typeface appearing in the general instructions relating to the application.

(c) The comptroller shall revise the statement required by Subsection (a) as necessary to reflect any change in the Internet address that provides the listing of links.

SECTION 2. Not later than the 60th day after the effective date of this Act, the comptroller of public accounts shall modify each application for a permit or license issued by the comptroller as necessary to comply with Section 111.00457, Tax Code, as added by this Act.

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, 2009.

**HB 1161 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1161**, A bill to be entitled An Act relating to local regulation of distance requirements for the sale and consumption of alcoholic beverages near certain establishments.

Representative Geren 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 1161**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1161**: Geren, chair; Thompson, Hamilton, Chisum, and Giddings.

**HB 1294 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1294**, A bill to be entitled An Act relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.

Representative Eiland moved to concur in the senate amendments to **HB 1294**.

The motion to concur in the senate amendments to **HB 1294** prevailed by (Record 1099): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton;

Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam; Farrar; Giddings.

### Senate Committee Substitute

**CSHB 1294**, A bill to be entitled An Act relating to certain certifications, professional designations, and education requirements regarding the sale of life insurance and annuities.

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

#### ARTICLE 1. AGENT EDUCATION REQUIREMENTS

SECTION 1.001. Subchapter B, Chapter 1115, Insurance Code, is amended by adding Section 1115.056 to read as follows:

Sec. 1115.056. AGENT EDUCATION REQUIREMENTS. (a) A resident agent that intends to sell, solicit, or negotiate a contract for an annuity in this state or to represent an insurer in relation to such an annuity must submit evidence satisfactory to the department of completion of at least four hours of training relating to annuities before soliciting individual consumers for the purpose of selling annuities.

(b) The training required under Subsection (a) may be used to satisfy the continuing education requirements imposed under this code and rules adopted under this code for issuance of a license under this code.

SECTION 1.002. Chapter 4004, Insurance Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. CONTINUING EDUCATION REQUIREMENTS FOR SALE OF ANNUITIES

Sec. 4004.201. DEFINITION. In this subchapter, "annuity" has the meaning assigned by Section 1115.002.

Sec. 4004.202. REQUIRED CONTINUING EDUCATION REGARDING ANNUITIES. (a) This section applies to a resident agent who:

- (1) sells, solicits, or negotiates a contract for an annuity in this state; or
- (2) represents or purports to represent an insurer in relation to such an annuity.

(b) Each agent described by Subsection (a) must complete four hours of continuing education annually that specifically relates to annuities. The annual period under this section must be based on the agent's license expiration date or another date specified by the commissioner by rule, and the education requirement under this subsection must be met within that annual period, notwithstanding Section 4004.051(b).

(c) The continuing education required under this section may be used to satisfy the continuing education requirements under Subchapter B.

Sec. 4004.203. PROGRAM CERTIFICATION REQUIREMENTS. (a) The commissioner by rule shall adopt criteria for continuing education programs used to satisfy the requirements of Section 4004.202. Those criteria must include:

- (1) topics related specifically to annuities;
- (2) state laws and rules related to annuities, including requirements adopted under Chapter 1115;
- (3) prohibited sales practices regarding annuities;
- (4) recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an annuity; and
- (5) fraudulent and unfair trade practices regarding the sale of annuities.

(b) Subject matter determined by the commissioner to be primarily intended to promote the sale or marketing of annuities does not qualify as continuing education for purposes of this subchapter.

(c) Subchapter C applies to continuing education programs described by Subsection (a) and training under Section 1115.056. Any training program disapproved under Subsection (b) shall be presumed invalid for certification under Subchapter C unless the program is approved in writing by the commissioner.

SECTION 1.003. The commissioner of insurance shall adopt rules as required by Section 4004.203, Insurance Code, as added by this article, not later than December 1, 2009.

SECTION 1.004. Subchapter E, Chapter 4004, Insurance Code, as added by this article, applies to continuing education requirements for insurance agents for a license issued or renewed on or after April 1, 2010.

SECTION 1.005. Section 1115.056, Insurance Code, as added by this article, applies to training requirements for insurance agents for a license issued or renewed on or after April 1, 2010.

## ARTICLE 2. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR PROFESSIONAL DESIGNATIONS

SECTION 2.001. Subtitle A, Title 7, Insurance Code, is amended by adding Chapter 1117 to read as follows:

### CHAPTER 1117. USE OF SENIOR-SPECIFIC CERTIFICATIONS OR PROFESSIONAL DESIGNATIONS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1117.001. PURPOSE. The purpose of this chapter is to establish standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of certain senior-specific certifications and professional designations in soliciting the sale or purchase of, or providing advice made concerning, life insurance or annuity products.

Sec. 1117.002. DEFINITIONS. In this chapter:

(1) "Insurance agent" means an agent licensed under this code to sell, solicit the sale of, or negotiate a life insurance or annuity product.

(2) "Senior-specific certification or professional designation" means a certification or designation that implies that an insurance agent holds a special certification or has specialized training in advising or servicing seniors regarding purchasing or selling a life insurance or annuity product.

Sec. 1117.003. APPLICABILITY OF CHAPTER; CONSTRUCTION WITH OTHER LAW. (a) This chapter applies to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by an insurance agent.

(b) Nothing in this chapter may be construed to limit the commissioner's authority to enforce any other provision of this code or another law.

[Sections 1117.004-1117.050 reserved for expansion]

SUBCHAPTER B. USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS

Sec. 1117.051. CERTAIN USES OF SENIOR-SPECIFIC CERTIFICATIONS AND DESIGNATIONS PROHIBITED. (a) An insurance agent may not, directly or indirectly, use a senior-specific certification or professional designation in such a way as to mislead a purchaser or prospective purchaser that the agent has special certification or training in advising or servicing seniors in connection with the solicitation, sale, or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product:

(1) through any writing or other publication; or

(2) by issuing or disseminating analyses or reports related to a life insurance or annuity product.

(b) Subsection (a) prohibits the use of a senior-specific certification or professional designation only by an insurance agent using:

(1) a certification or professional designation that the agent has not actually earned or for which the agent is ineligible;

(2) a nonexistent or self-conferred certification or professional designation;

(3) a certification or professional designation that indicates or implies a level of occupational qualification obtained through education, training, or experience that the agent has not obtained; and

(4) a certification or professional designation that was obtained from an organization that:

(A) is primarily engaged in the business of instruction in sales or marketing;

(B) does not have reasonable standards or procedures for:

(i) assuring the competency of individuals granted a certification or designation by the organization; or

(ii) monitoring and disciplining individuals granted a certification or designation by the organization for improper or unethical conduct;

or

(C) does not have reasonable continuing education requirements in order to maintain the certification or designation for individuals granted a certification or designation by the organization.



(c) A rebuttable presumption exists that a certification or professional designation granted by an organization described by Subsection (b)(4) is not prohibited under Subsection (a) if the certification or designation issued by the organization does not primarily apply to sales or marketing and if the organization or the certification or designation has been accredited by:

- (1) the American National Standards Institute;
- (2) the National Commission for Certifying Agencies;
- (3) any organization that is included in "Accrediting Agencies Recognized for Title IV Purposes" published by the U.S. Department of Education; or
- (4) any other national accrediting organization recognized by the commissioner.

(d) In determining whether a word, a combination of words, or an acronym constitutes a senior-specific certification or professional designation, the commissioner shall consider:

- (1) the use of one or more words such as "senior," "retirement," "elder," or similar words combined with one or more words such as "certified," "registered," "chartered," "advisor," "specialist," "consultant," "planner," or similar words, in the name of the certification or professional designation; and
- (2) the manner in which those words are combined.

Sec. 1117.052. APPLICABILITY TO CERTAIN FINANCIAL SERVICES. (a) Notwithstanding Section 1117.003, for purposes of this chapter, a job title used within an organization that is licensed or registered by a state or federal financial services regulatory agency and that indicates seniority or standing within the organization, or that specifies an individual's area of specialization within the organization, is not a senior-specific certification or professional designation unless the title is used in a manner that is likely to confuse or mislead a reasonable consumer.

(b) For purposes of Subsection (a), "financial services regulatory agency" includes an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies, as defined by the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

SECTION 2.002. The change in law made by this article applies only to the solicitation of, sale of, or advice made in connection with, a life insurance or annuity product by an insurance agent on or after January 1, 2010. The solicitation of, sale of, or advice made in connection with, a life insurance or annuity product by an insurance agent before January 1, 2010, is covered by the law in effect at the time the solicitation or sale was made or the advice was given, and that law is continued in effect for that purpose.

#### ARTICLE 3. EFFECTIVE DATE

SECTION 3.001. This Act takes effect September 1, 2009.

### **HB 1883 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1883**, A bill to be entitled An Act relating to the authority of the Railroad Commission of Texas to determine whether certain transporters of natural or synthetic gas are gas utilities.

Representative Farabee moved to concur in the senate amendments to **HB 1883**.

The motion to concur in the senate amendments to **HB 1883** prevailed by (Record 1100): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam.

### **Senate Committee Substitute**

**CSHB 1883**, A bill to be entitled An Act relating to the status of certain transporters of natural or synthetic gas and liquified natural gas marine terminals as gas utilities.

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

SECTION 1. Section 121.005, Utilities Code, is amended by adding Subsection (d) to read as follows:

(d) The railroad commission may review a certification made by a person under Subsection (a). The railroad commission shall invite a person whose certification is being reviewed to an informal meeting to resolve the person's status under this subsection. If the person's status remains unresolved after the informal meeting and there is sufficient reason to move forward, the railroad

commission shall provide notice and an opportunity for a hearing. After notice and an opportunity for a hearing, the railroad commission may determine whether the person is eligible for an exemption under this subsection.

SECTION 2. Subsection (a), Section 121.007, Utilities Code, is amended to read as follows:

(a) A person operating a natural gas pipeline, a liquefied natural gas pipeline, or an underground storage facility is not a gas utility if the person certifies to the railroad commission that the person uses the pipeline or underground storage facility solely to deliver natural gas or liquefied natural gas or the constituents of natural gas or liquefied natural gas:

(1) to a liquefied natural gas marine terminal;

(2) from a liquefied natural gas marine terminal to the owner of the gas or another person on behalf of the owner of the gas; ~~[or]~~

(3) that is acquired, liquefied, or sold by the person as necessary for the operation or maintenance of its facility that is excluded as a gas utility under this section; or

(4) that has been stored for export.

SECTION 3. This Act takes effect September 1, 2009.

### **HB 1487 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1487**, A bill to be entitled An Act relating to the alignment of certain Medicaid procedures regarding written orders for diabetic equipment and supplies with comparable Medicare written order procedures.

Representative Guillen moved to concur in the senate amendments to **HB 1487**.

The motion to concur in the senate amendments to **HB 1487** prevailed by (Record 1101): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton;

Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam; Dunnam; Gutierrez; Isett.

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

Amend **HB 1487** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The Health and Human Services Commission may use state money to implement Section 531.099, Government Code, as added by this Act, only if the overall cost to the state of operating the Medicaid program does not increase as a result of aligning diabetic equipment and supplies written order procedures with Medicare diabetic equipment and supplies written order procedures as required by that section.

**HB 987 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 987**, A bill to be entitled An Act relating to competitive procurement and change order requirements for local governments.

Representative Creighton 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 987**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 987**: Creighton, chair; Coleman, Flynn, Gonzalez Toureilles, and Solomons.

**HB 2580 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 2580**, A bill to be entitled An Act relating to the establishment of a peace officer employment opportunity Internet website by the Commission on Law Enforcement Officer Standards and Education.

Representative Frost moved to concur in the senate amendments to **HB 2580**.

The motion to concur in the senate amendments to **HB 2580** prevailed by (Record 1102): 135 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Aycock.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam; Eiland; Miller, S.; Morrison.

### **Senate Committee Substitute**

**CSHB 2580**, A bill to be entitled An Act relating to the establishment of a peace officer employment opportunity Internet website by the Texas Workforce Commission.

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

SECTION 1. Subchapter A, Chapter 302, Labor Code, is amended by adding Section 302.016 to read as follows:

Sec. 302.016. PEACE OFFICER EMPLOYMENT OPPORTUNITY INTERNET WEBSITE. (a) In this section, "peace officer" has the meaning assigned by Section 1701.001, Occupations Code.

(b) The commission shall develop, maintain, and promote a statewide employment opportunity Internet website to facilitate:

(1) public awareness of peace officer employment opportunities with state and local law enforcement agencies; and

(2) an exchange of information between individuals seeking employment as peace officers in this state and state and local law enforcement agencies seeking applicants for employment as peace officers.

(c) The Internet website must:

(1) be accessible to members of the public; and

(2) provide to individuals seeking employment as peace officers and state and local law enforcement agencies that have posted employment opportunities on the website an organized means of exchanging information.

(d) The commission shall contract with the Commission on Law Enforcement Officer Standards and Education to develop a license verification interface to verify whether an applicant for employment as a peace officer:

(1) holds a current license issued by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code, and, if so, the level of that license; and

(2) has had the applicant's license revoked or suspended by the Commission on Law Enforcement Officer Standards and Education.

(e) The Commission on Law Enforcement Officer Standards and Education shall provide the commission with technical assistance in the development and testing of the license verification interface under Subsection (d).

(f) If the development and operation of the Internet website and the associated license verification interface is not possible due to a lack of available funding, the commission shall:

(1) enter into a memorandum of understanding with the Commission on Law Enforcement Officer Standards and Education to integrate a peace officer job matching database for individuals seeking employment as peace officers in this state and state and local law enforcement agencies seeking applicants for employment as peace officers into the commission's existing Labor Exchange System; and

(2) ensure that:

(A) the commission registers an Internet domain name that is unique and that identifies on its face the purpose of the peace officer job matching database; and

(B) the registered domain name and associated link directs users of the Internet to a web page that instructs users on how to use the Labor Exchange System and includes a link to enter that system.

SECTION 2. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

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, 2009.

**HB 2925 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2925**, A bill to be entitled An Act relating to protections provided by the Department of Agriculture for certain consumers; providing penalties.

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 2925**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2925**: Herrero, chair; Gonzalez Tourelles, Hardcastle, Creighton, and Cohen.

### **HB 3358 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative S. Turner called up with senate amendments for consideration at this time,

**HB 3358**, A bill to be entitled An Act relating to allowing municipal or county housing authorities in certain counties to create housing communities for veterans.

Representative S. Turner moved to concur in the senate amendments to **HB 3358**.

The motion to concur in the senate amendments to **HB 3358** prevailed by (Record 1103): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam.

### Senate Committee Substitute

**CSHB 3358**, A bill to be entitled An Act relating to allowing municipal or county housing authorities in certain counties to create housing communities for veterans.

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

SECTION 1. Subchapter D, Chapter 392, Local Government Code, is amended by adding Section 392.067 to read as follows:

Sec. 392.067. VETERANS HOUSING IN CERTAIN COUNTIES. (a) In this section, "veteran" means a person who has served on active duty in the armed forces of the United States or in the state military forces as defined by Section 431.001, Government Code.

(b) A county or municipal housing authority in a county with a population of more than 500,000 may borrow money, accept grants, and exercise its powers to provide safe and sanitary housing communities for veterans.

(c) As the authority considers necessary to achieve the purposes of this chapter, an authority may enter into a lease or purchase agreement or accept a conveyance regarding real property as part of a housing project that will benefit veterans. The agreement or conveyance may include any restrictive covenants that the authority considers appropriate regarding the property. As the authority considers necessary and on the stipulation of the parties, the covenants run with the property.

(d) A county or municipal housing authority to which this section applies is not subject to the limitations in Section 392.014, 392.015, or 392.017 with respect to a housing project that benefits veterans as authorized by this section.

SECTION 2. This Act takes effect September 1, 2009.

### **HB 3391 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Harper-Brown called up with senate amendments for consideration at this time,

**HB 3391**, A bill to be entitled An Act relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

Representative Harper-Brown moved to concur in the senate amendments to **HB 3391**.

The motion to concur in the senate amendments to **HB 3391** prevailed by (Record 1104): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;



Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — King, T.; Orr.

### Senate Committee Substitute

**CSHB 3391**, A bill to be entitled An Act relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

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

SECTION 1. Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111. SUNSET PROVISION. The Parks and Wildlife Department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2021 ~~[2009]~~.

SECTION 2. Section 11.012(c), Parks and Wildlife Code, is amended to read as follows:

(c) Commission ~~[Three commission]~~ members must be members of the general public and meet the qualifications provided by Section 11.0121 ~~[of this code]~~.

SECTION 3. Sections 11.0161(a), (b), (c), and (d), Parks and Wildlife Code, are amended to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission ~~[and describing the commission's procedures by which complaints are filed with and resolved by the commission]~~. The commission shall make the information available to the general public and appropriate state agencies.

(b) The department shall maintain a system to promptly and efficiently act on complaints ~~[file on each written complaint]~~ filed with the department that the department has the authority to resolve. The department shall maintain information about parties to the complaint, the subject matter of the complaint, ~~[file must include:~~

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

~~(2) the date the complaint is received by the department;~~

~~[(3) the subject matter of the complaint;~~  
~~[(4) the name of each person contacted in relation to the complaint;~~  
~~[(5)] a summary of the results of the review or investigation of the complaint, and its disposition [; and~~  
~~[(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint].~~

(c) The department shall make information available describing its ~~[provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and]~~ procedures for ~~[relating to]~~ complaint investigation and resolution.

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

SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Sections 11.0163, 11.0164, and 11.0174 to read as follows:

Sec. 11.0163. USE OF TECHNOLOGY. The commission shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Sec. 11.0164. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

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

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Sec. 11.0174. INTERNAL AFFAIRS OFFICE. (a) The executive director shall establish the office of internal affairs.

(b) The office of internal affairs has original departmental jurisdiction over all investigations of cases alleging criminal conduct:

(1) occurring on department property;

(2) engaged in by on-duty department employees; or

(3) engaged in by officers commissioned by the department performing off-duty work related to their official duties.

(c) The office of internal affairs shall oversee and review, but need not conduct, all investigations under this section.

(d) An investigation under this section may be initiated only by the executive director or the commission.

(e) The executive director shall appoint the head of the office of internal affairs. The head of the office of internal affairs serves until removed by the executive director.

(f) The head of the office of internal affairs shall:

(1) report directly to the executive director regarding performance of and activities related to investigations;

(2) report to the executive director for administrative purposes; and

(3) provide the executive director or commission with information regarding investigations as appropriate.

(g) The head of the office of internal affairs shall present at each regularly scheduled commission meeting and at other appropriate times a summary of information relating to investigations conducted under this section that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and any recommendations to avoid future complaints.

SECTION 5. Section 11.035, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) The department may deposit to the credit of the state parks account all revenue, less allowable costs, from the following sources:

(1) private contributions, grants, and donations received for state parks-related purposes; and

(2) federal funds received for state parks-related purposes.

SECTION 6. Section 11.037(b), Parks and Wildlife Code, is amended to read as follows:

(b) The department may [~~shall~~] deposit in the state land and water conservation account any [~~all~~] revenue received from the federal government or any other source for the purpose of administering programs authorized under Sections 13.301 through 13.311 of this code.

SECTION 7. Section 12.0011, Parks and Wildlife Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A local or state agency or private organization that receives a department recommendation or informational comment under Subsection (b) shall respond to the department in writing concerning the recommendation or comment. A response must include for each recommendation or comment provided by the department:

(1) a description of any modification made to the proposed project, fish and wildlife resource decision, or water flow schedule resulting from the recommendation or comment;

(2) any other disposition of the recommendation or comment; and

(3) as applicable, any reason the agency or organization disagreed with or did not act on or incorporate the recommendation or comment.

(d) A response under Subsection (c):

(1) must be submitted to the department not later than the 90th day after the date the agency or organization makes a decision or takes other action related to the recommendation or informational comment provided by the department; and

(2) is public information under Chapter 552, Government Code.

SECTION 8. Section 12.027, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.027. ADOPTION OF EMERGENCY RULES. If the commission or the executive director finds that there is an immediate danger to a species authorized to be regulated by the department, or that strict compliance with existing department rules would in any way prevent, hinder, or delay necessary action in coping with a disaster declared by the governor, the commission or the executive director may adopt emergency rules as provided by Chapter 2001, Government Code.

SECTION 9. Section 13.310(c), Parks and Wildlife Code, is amended to read as follows:

(c) The department shall deposit all funds received for the development of outdoor recreation resources in the state treasury to the credit of the state land and water conservation account, the Texas recreation and parks account, the large county and municipality recreation and parks account, or the state parks account.

SECTION 10. Sections 24.002, 24.003, 24.006, 24.052, 24.053, and 24.056, Parks and Wildlife Code, are amended to read as follows:

Sec. 24.002. TEXAS RECREATION AND PARKS ACCOUNT. The Texas recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only [~~as provided by this subchapter~~] for [~~grants to~~]:

(1) grants under this subchapter to a county or municipality with a population of less than 500,000; [~~or~~]

(2) grants under this subchapter to any other political subdivision that is not a county or municipality; or

(3) planning for, and acquisition, operation, and development of, outdoor recreation and conservation resources of this state and the administrative expenses incident to the projects or programs authorized under Subchapter D, Chapter 13.

Sec. 24.003. ACCOUNT REVENUE SOURCE; REVENUE DEDICATION. (a) The department shall deposit to the credit of the Texas recreation and parks account:

(1) an amount of money equal to 15 percent of the credits made to the department under Section 151.801, Tax Code; and

(2) money from any other source authorized by law.

(b) The department may deposit to the credit of the Texas recreation and parks account:

(1) private contributions, grants, and donations received in connection with this subchapter or Subchapter D, Chapter 13; and

(2) federal funds received in connection with this subchapter or Subchapter D, Chapter 13.

Sec. 24.006. FUNDS FOR GRANTS TO LOCAL GOVERNMENTS. When state revenues to the Texas recreation and parks account exceed \$14 million per year, an amount not less than 15 percent shall be made available for grants to local governments for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits.

Sec. 24.052. LARGE COUNTY AND MUNICIPALITY RECREATION AND PARKS ACCOUNT. The large county and municipality recreation and parks account is a separate account in the general revenue fund. Money in the account may be used only as provided by this subchapter or Subchapter D, Chapter 13.

Sec. 24.053. ACCOUNT REVENUE SOURCE; DEDICATION. (a) The department shall deposit to the credit of the large county and municipality recreation and parks account:

(1) an amount of money equal to 10 percent of the credits made to the department under Section 151.801, Tax Code; and

(2) money from any other source authorized by law.

(b) The department may deposit to the credit of the large county and municipality recreation and parks account:

(1) private contributions, grants, and donations received in connection with this subchapter or Subchapter D, Chapter 13; and

(2) federal funds received in connection with this subchapter or Subchapter D, Chapter 13.

Sec. 24.056. FUNDS FOR GRANTS TO LARGE COUNTIES AND MUNICIPALITIES. When state revenue to the large county and municipality recreation and parks account exceeds \$14 million per year, an amount not less than 15 percent shall be made available for grants to large counties and municipalities for up to 50 percent of the cost of acquisition or development of indoor public recreation facilities for indoor recreation programs, sports activities, nature programs, or exhibits.

SECTION 11. Section 43.071(5), Parks and Wildlife Code, is amended to read as follows:

(5) "Pen-reared birds" means bobwhite quail, pheasant, pigeons, partridge, and mallard ducks propagated or acquired under Chapter 45 of this code.

SECTION 12. Section 62.021(c), Parks and Wildlife Code, is amended to read as follows:

(c) This section does not prohibit the sale of:

(1) a live game animal, a dead or live game bird, or the feathers of a game bird if the sale is conducted under authority of a license or permit issued under this code; or

(2) the following inedible parts:

(A) an inedible part, including the feathers, bones, or feet, of a game bird other than a migratory game bird that was lawfully taken or is lawfully possessed;

(B) the hair, hide, antlers, bones, horns, skull, hooves, or sinew, as applicable, of a deer, pronghorn antelope, desert bighorn sheep, collared peccary or javelina, red squirrel, or gray squirrel; or

(C) the feathers of a migratory game bird in accordance with federal law.

SECTION 13. Section 64.002(b), Parks and Wildlife Code, is amended to read as follows:

(b) European starlings, English sparrows, and feral rock doves (Columba livia) may be killed at any time in any manner and their nests or eggs may be destroyed, and such conduct does not constitute an offense under Chapter 42, Penal Code.

SECTION 14. Section 66.007, Parks and Wildlife Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (m), (n), (o), (p), (q), (r), and (s) to read as follows:

(b) The department shall publish a list of:

(1) exotic fish and exotic shellfish, ~~and aquatic plants~~ for which a permit under Subsection (a) ~~[of this section]~~ is required; and

(2) exotic aquatic plants, as provided by this section, that are approved for importation into or possession in this state without a permit.

(c) The department shall make rules to carry out the provisions of this section. In adopting rules that relate to exotic aquatic plants, the department shall strive to ensure that the rules are as permissive as possible without allowing the importation or possession of plants that pose environmental, economic, or health problems.

(e) In this section:

(1) "Approved list" means the list published by the department under Subsection (b)(2) of exotic aquatic plants that a person may import into or possess in this state without an exotic species permit issued by the department.

(2) "Exotic ~~[, exotic fish, shellfish, or]~~ aquatic plant" means a nonindigenous ~~[fish, shellfish, or]~~ aquatic plant that is not normally found in aquatic or riparian areas ~~[the public water]~~ of this ~~[the]~~ state.

(3) "Exotic fish" means a nonindigenous fish that is not normally found in the public water of this state.

(4) "Exotic shellfish" means a nonindigenous shellfish that is not normally found in the public water of this state.

(m) A person may not import into or possess in this state an exotic aquatic plant unless:

(1) the plant is on the approved list; or

(2) the person has an exotic species permit issued by the department.

(n) In compiling the approved list, the department shall develop a process to evaluate the potential harm that may be caused by the importation or possession of exotic aquatic plant species into this state. The process must include the use of:

(1) a risk assessment model to help determine the potential harm of a species to the aquatic environment;

(2) published scientific research findings;

(3) findings from regulatory agencies; or

(4) scientific analyses from third-party laboratories.

(o) The approved list must include an exotic aquatic plant that:

(1) is widespread in this state; and

(2) is not, as determined by the department, a cause of environmental, economic, or health problems.

(p) The department shall develop an expedited process for obtaining approval for inclusion on the approved list of a previously unknown exotic aquatic plant. The commission may remove an exotic aquatic plant from the approved list if the results of further analysis conducted under Subsection (n) indicate that the plant should not be on the list. The department may enact an emergency rule as provided by Chapter 2001, Government Code, to remove an exotic aquatic plant from the approved list if the plant is determined to cause environmental, economic, or health problems.

(q) The commission shall exercise final approval for the inclusion of each plant on the approved list.

(r) In accordance with commission rules, the department may issue an exotic species permit to a permit applicant for an exotic aquatic plant not on the approved list if the proposed use of the plant is:

(1) as an experimental organism in a medical or other scientific research program approved by the department;

(2) as part of an exhibit approved by the department in a public aquarium or public zoo; or

(3) for an appropriate use that will not result in potential environmental, economic, or health problems.

(s) Nothing in this subchapter regarding exotic aquatic plants restricts the department's authority under this code regarding exotic harmful or potentially harmful fish or shellfish.

SECTION 15. Section 66.0071, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.0071. REMOVAL OF HARMFUL AQUATIC PLANTS. On leaving any public or private body of water in this state, a person shall immediately remove and lawfully dispose of any exotic ~~harmful or potentially harmful~~ aquatic plant not included on the approved list published under Section 66.007(b)(2) that is clinging or attached to the person's:

(1) vessel or watercraft; or

(2) trailer, motor vehicle, or other mobile device used to transport or launch a vessel or watercraft.

SECTION 16. Title 6, Parks and Wildlife Code, is amended by adding Chapter 92 to read as follows:

CHAPTER 92. INTERSTATE WILDLIFE VIOLATOR COMPACT

Sec. 92.001. MEMBERSHIP IN INTERSTATE WILDLIFE VIOLATOR COMPACT. (a) On behalf of this state, the commission may enter into the Interstate Wildlife Violator Compact.

(b) If necessary to protect the interests of this state, the commission may withdraw from the Interstate Wildlife Violator Compact in accordance with the terms of the compact.

(c) The commission may take all actions necessary to implement this chapter, including the adoption of rules and the delegation of authority to the director.

SECTION 17. (a) The Parks and Wildlife Department and the Texas Youth Commission jointly shall seek representation by the attorney general to pursue a modification of the terms and purposes of the Parrie Haynes Trust.

(b) The legislature intends that a modification of the terms and purposes of the Parrie Haynes Trust be pursued so that:

(1) the department may be designated as the state agency responsible for the trust, including all trust property and investments, and rights associated with the trust;

(2) control of the Parrie Haynes Ranch may be transferred to the department; and

(3) the purposes of the trust may be appropriately expanded to include benefiting disadvantaged and other youths of this state.

(c) This section expires on the earlier of:

(1) the date a court orders modification of the Parrie Haynes Trust in accordance with this section; or

(2) September 1, 2021.

SECTION 18. The change in law made by this Act in the qualifications of the members of the Parks and Wildlife Commission does not affect the entitlement of a person serving as a member of the commission immediately before September 1, 2009, to continue to carry out the functions of the person's office for the remainder of the person's term. The change in law applies only to a person appointed on or after September 1, 2009. This Act does not prohibit a person who is a member of the Parks and Wildlife Commission immediately before September 1, 2009, from being reappointed as a commission member if the person has the qualifications required for the position under Chapter 11, Parks and Wildlife Code, as amended by this Act.

SECTION 19. The change in law made by this Act to Section 11.0161, Parks and Wildlife Code, applies only to a complaint filed with the Parks and Wildlife Commission or the Parks and Wildlife Department on or after September 1, 2009. A complaint filed before September 1, 2009, is governed by the law in effect at the time the complaint was filed, and the former law is continued in effect for that purpose.

SECTION 20. Section 12.0011(c), Parks and Wildlife Code, as added by this Act, applies only to a recommendation or informational comment received by a local or state governmental agency from the Parks and Wildlife Department on or after September 1, 2009. A recommendation or informational comment



received by a local or state governmental agency from the Parks and Wildlife Department before September 1, 2009, is governed by the law in effect at the time the recommendation or informational comment was received, and the former law is continued in effect for that purpose.

SECTION 21. Section 62.021(c), Parks and Wildlife Code, as amended by this Act, applies to any sale of inedible parts of an animal or bird occurring on or after the effective date of this Act, regardless of the date the parts were acquired by the seller.

SECTION 22. (a) Not later than December 31, 2010, the Parks and Wildlife Department shall publish the initial list of approved exotic aquatic plants as provided by Section 66.007(b), Parks and Wildlife Code, as amended by this Act.

(b) The Parks and Wildlife Department may not enforce the permit requirements or prohibited actions regarding exotic aquatic plants that are not on the approved list under Section 66.007(b), Parks and Wildlife Code, as amended by this Act, before the date on which the list is published.

(c) The Parks and Wildlife Department shall continue to publish a list of harmful or potentially harmful exotic aquatic plants for which a permit under Section 66.007(a), Parks and Wildlife Code, is required until the date on which the initial list of approved exotic aquatic plants is published. The department is not required to maintain or publish the list of harmful or potentially harmful exotic aquatic plants after the date on which the list of approved exotic aquatic plants is published.

(d) The Parks and Wildlife Department shall continue to enforce Section 66.007, Parks and Wildlife Code, with regard to harmful or potentially harmful exotic aquatic plants that are included on the list for which a permit is required under that section as it existed immediately before the effective date of this Act, and that law is continued in effect until the date on which the department publishes the initial list of approved exotic aquatic plants.

(e) The provisions of Section 66.007, Parks and Wildlife Code, as amended by this Act, regarding harmful or potentially harmful exotic aquatic plants apply only to an offense that occurs on or after the date on which the Parks and Wildlife Department publishes the initial list of approved exotic aquatic plants. An offense that occurs before the date on which the initial list of approved exotic aquatic plants is published 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. For purposes of this subsection, an offense is committed before the date on which the initial list of approved exotic aquatic plants is published if any element of the offense occurs before that date.

(f) The Parks and Wildlife Department may not enforce the permit requirements or prohibited actions regarding exotic aquatic plants on the list of harmful or potentially harmful plants under Section 66.007, Parks and Wildlife Code, as that section existed before amendment by this Act, after the date on which the list of approved exotic aquatic plants is published.

(g) Section 66.0071, Parks and Wildlife Code, as amended by this Act, applies only to a person who takes a vessel or watercraft out of a public or private body of water in this state on or after the date the Parks and Wildlife Department publishes the initial list of approved exotic aquatic plants under Section 66.007(b), Parks and Wildlife Code, as amended by this Act. A person who takes a vessel or watercraft out of a public or private body of water in this state before the date the list of approved exotic aquatic plants is published is governed by the law in effect on the date the vessel or watercraft is taken out of the water, and the former law remains in effect for that purpose.

SECTION 23. This Act takes effect September 1, 2009.

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

Amend **CSHB 3391** (Senate committee report) in SECTION 7 of the bill, in amended Section 12.0011, Parks and Wildlife Code, as follows:

(1) On page 3, line 7, strike "A local or state agency or private organization" and substitute "An agency with statewide jurisdiction".

(2) On page 3, lines 17 and 18, strike "or organization".

(3) On page 3, line 22, strike "or organization".

### **HB 675 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 675**, A bill to be entitled An Act relating to a retired status license for an optometrist or therapeutic optometrist practicing voluntary charity care.

Representative Bonnen moved to concur in the senate amendments to **HB 675**.

The motion to concur in the senate amendments to **HB 675** prevailed by (Record 1105): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose;

Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Hardcastle.

### Senate Committee Substitute

**CSHB 675**, A bill to be entitled An Act relating to a retired status license for an optometrist or therapeutic optometrist practicing voluntary charity care.

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

SECTION 1. Subchapter F, Chapter 351, Occupations Code, is amended by adding Section 351.265 to read as follows:

Sec. 351.265. RETIRED STATUS. (a) The board by rule may allow a license holder to place the person's license on retired status. A license holder must apply to the board for retired status, on a form prescribed by the board, before the expiration date of the person's license.

(b) In determining whether to grant retired status, the board shall consider the age, years of practice, and status of the license holder at the time of the application.

(c) A license holder on retired status:

(1) must pay a license renewal fee in an amount equal to the renewal fee for a license on inactive status; and

(2) except as provided by Subsection (f), may not perform any activity regulated under this chapter.

(d) To reinstate a license placed on retired status, the license holder must submit a written request for reinstatement to the board. The board may return the license to active status and issue a renewal license if the license holder complies with any education or other requirement established by board rule and pays the renewal fee in effect at the time of the requested reinstatement.

(e) The board may charge a reasonable administrative fee to cover the cost of research and the preparation of documentation for the board's consideration of a request for reinstatement of a license on retired status.

(f) A license holder on retired status may perform an activity regulated under this chapter if the license holder's practice consists only of voluntary charity care, as defined by board rule. The board's rules under this subsection must prescribe the scope of practice permitted for the license holder, the license holder's authority to prescribe and administer drugs, and any continuing education requirements applicable to the license holder. The scope of practice of a license holder on retired status may not be greater than the scope of practice of the same license holder on active status.

SECTION 2. Subchapter G, Chapter 351, Occupations Code, is amended by adding Section 351.3065 to read as follows:

Sec. 351.3065. RENEWAL OF EXPIRED LICENSE BY RETIRED OPTOMETRIST OR THERAPEUTIC OPTOMETRIST. The board may renew the license of a person whose license has been expired for one year or more without requiring the person to comply with the requirements and procedures for an original license if the person places the person's renewed license on retired status and confines the person's practice solely to voluntary charity care under Section 351.265(f).

SECTION 3. Not later than December 1, 2009, the Texas Optometry Board shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 4. (a) Section 351.265, Occupations Code, as added by this Act, applies to an application for retired status filed on or after January 1, 2010.

(b) Section 351.3065, Occupations Code, as added by this Act, applies to an application for renewal of an expired license filed on or after January 1, 2010.

SECTION 5. This Act takes effect September 1, 2009.

### **HB 4149 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4149**, A bill to be entitled An Act relating to a study and report by the Texas Higher Education Coordinating Board regarding achievable cost-saving measures at public institutions of higher education.

Representative Rose moved to concur in the senate amendments to **HB 4149**.

The motion to concur in the senate amendments to **HB 4149** prevailed by (Record 1106): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Hamilton; Kent.

### Senate Committee Substitute

**CSHB 4149**, A bill to be entitled An Act relating to certain studies and reports by the Texas Higher Education Coordinating Board regarding achievable cost-saving measures and the use and availability of electronic textbooks at institutions of higher education.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0664 to read as follows:

Sec. 61.0664. STUDY OF ACHIEVABLE COST-SAVING MEASURES; REPORT. (a) The board shall conduct a study to identify achievable cost-saving measures in the management and operation of institutions of higher education.

(b) Not later than January 31, 2011, the board shall report the results of the study required by Subsection (a) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer for each legislative standing committee with primary jurisdiction over higher education. The report must include:

(1) the board's recommendations concerning cost-saving measures that are achievable at institutions of higher education; and

(2) an estimate of the amount of money that would be saved during a five-year period through the implementation of each recommendation.

(c) This section expires January 31, 2011.

SECTION 2. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0665 to read as follows:

Sec. 61.0665. STUDY ON USE AND AVAILABILITY OF ELECTRONIC TEXTBOOKS. (a) The board shall conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in this state and in other states. The study and policy recommendations must include a specific focus on the results of the pilot program implemented by The University of Texas at Austin with respect to the use of electronic textbooks and must address methods for encouraging the use of electronic textbooks at public or private institutions of higher education in this state.

(b) Each student regent serving under Section 51.355 or 51.356 shall assist the board in performing the board's duties under Subsection (a). The board shall establish procedures to assist a student regent in complying with this subsection.

(c) The board may solicit and accept gifts and grants from any public or private source to conduct the study and develop policy recommendations under this section.

(d) Not later than December 1, 2010, the board shall make an initial report and recommendations based on the study to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education. This subsection expires January 31, 2011.

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, 2009.

### **HB 4779 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 4779**, A bill to be entitled An Act relating to the powers and duties of the 3 B&J Municipal Utility District; providing authority to impose a tax and issue bonds.

Representative Gattis moved to concur in the senate amendments to **HB 4779**.

The motion to concur in the senate amendments to **HB 4779** prevailed by (Record 1107): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; King, T.

**Senate Committee Substitute**

**CSHB 4779**, A bill to be entitled An Act relating to the powers and duties of the 3 B&J Municipal Utility District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subchapter C, Chapter 8221, Special District Local Laws Code, is amended by adding Sections 8221.109, 8221.110, and 8221.111 to read as follows:

Sec. 8221.109. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8221.110. ROAD STANDARDS AND REQUIREMENTS. (a) 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 road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8221.111. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for a road project authorized by Section 8221.109.

SECTION 2. Section 8221.201, Special District Local Laws Code, is amended to read as follows:

Sec. 8221.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose, including a purpose described by Section 8221.109.

SECTION 3. Subchapter E, Chapter 8221, Special District Local Laws Code, is amended by adding Section 8221.203 to read as follows:

Sec. 8221.203. BONDS FOR ROAD PROJECTS. (a) At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

(b) The district may not issue bonds payable from ad valorem taxes to finance a road project 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.

SECTION 4. (a) The 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 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 Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act 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 Act are 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, 2009.

### **HB 1257 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1257**, A bill to be entitled An Act relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.

Representative Legler moved to concur in the senate amendments to **HB 1257**.

The motion to concur in the senate amendments to **HB 1257** prevailed by (Record 1108): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.



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

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — King, T.; Martinez.

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

Amend **HB 1257** (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.135 to read as follows:

Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a) If a qualified residential structure for which the owner receives an exemption under Section 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land if the owner does not establish a different principal residence for which the owner receives an exemption under Section 11.13 during that period and intends to return and occupy the structure as the owner's principal residence. To continue to receive the exemption, the owner must begin active construction of the replacement qualified residential structure or other physical preparation of the site on which the structure is to be located not later than the first anniversary of the date the owner ceases to occupy the former qualified residential structure as the owner's principal residence. The owner may not receive the exemption for that property under the circumstances described by this subsection for more than two years.

(b) For purposes of Subsection (a), the site of a replacement qualified residential structure is under physical preparation if the owner has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the structure or has conducted an environmental or land use study relating to the construction of the structure.

(c) If an owner receives an exemption for property under Section 11.13 under the circumstances described by Subsection (a) and sells the property before the owner completes construction of a replacement qualified residential structure on the property, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the years in which the owner received the exemption and the tax that would have been imposed had the owner not received the exemption in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(d) A tax lien attaches to property on the date a sale under the circumstances described by Subsection (c) occurs to secure payment of the additional tax and interest imposed by that subsection and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) A determination that a sale of property under the circumstances described by Subsection (c) has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the property as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property.

(f) The sanctions provided by Subsection (c) do not apply if the sale is:

(1) for right-of-way; or

(2) to this state or a political subdivision of this state to be used for a public purpose.

(g) The comptroller shall adopt rules and forms to implement this section.

(b) Section 11.26, Tax Code, is amended by adding Subsections (n) and (o) to read as follows:

(n) Notwithstanding Subsection (c), the limitation on tax increases required by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(o) Notwithstanding Subsections (a), (a-3), and (b), an improvement to property that would otherwise constitute an improvement under Subsection (b) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (b), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(c) Section 11.261, Tax Code, is amended by adding Subsections (l) and (m) to read as follows:

(l) Notwithstanding Subsection (d), a limitation on county, municipal, or junior college district tax increases provided by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(m) Notwithstanding Subsections (b) and (c), an improvement to property that would otherwise constitute an improvement under Subsection (c) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (c), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(d) Section 23.23(f), Tax Code, is amended to read as follows:

(f) Notwithstanding Subsections (a) and (e) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind ~~[mold]~~ or water damage. For purposes of appraising the property under Subsection (a) in the tax year in which the structure would have constituted a new improvement:

(1) the appraised value the property would have had in the preceding tax ~~[last]~~ year if the casualty or damage had not occurred ~~[in which the property was appraised for taxation before the casualty or damage occurred]~~ is considered to be the appraised value of the property for that year, regardless of whether that appraised value exceeds the actual appraised value of the property for that year as limited by Subsection (a) ~~[last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A)]~~; and

(2) the replacement structure is considered to be a new improvement only if:

(A) the square footage of the replacement structure exceeds that of ~~[to the extent it is a significant improvement over]~~ the replaced structure as that structure existed before the casualty or damage occurred; or

(B) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(e) This section applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

**HB 4102 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 4102**, A bill to be entitled An Act relating to the disaster contingency fund.

Representative Eiland 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 4102**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4102**: Eiland, chair; McCall, Taylor, Ritter, and Ortiz.

### **HB 1113 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1113**, A bill to be entitled An Act relating to the powers and duties of the Fort Bend County Municipal Utility District No. 194; providing authority to impose a tax and issue bonds.

Representative Zerwas moved to concur in the senate amendments to **HB 1113**.

The motion to concur in the senate amendments to **HB 1113** prevailed by (Record 1109): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Burnam.

**Senate Committee Substitute**

**CSHB 1113**, A bill to be entitled An Act relating to the powers and duties of the Fort Bend County Municipal Utility District No. 194; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8317 to read as follows:

CHAPTER 8317. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT  
NO. 194

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8317.001. DEFINITION. In this chapter, "district" means the Fort Bend County Municipal Utility District No. 194.

Sec. 8317.002. NATURE AND PURPOSES OF DISTRICT. (a) The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is essential to accomplish the purposes of Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

[Sections 8317.003-8317.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 8317.051. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes described by Section 8317.002.

Sec. 8317.052. 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. 8317.053. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

Sec. 8317.054. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8317.053 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8317.055. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for a road project authorized by Section 8317.053.

[Sections 8317.056-8317.100 reserved for expansion]

#### SUBCHAPTER C. BONDS AND OTHER OBLIGATIONS

Sec. 8317.101. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS FOR ROAD PROJECTS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for a road project authorized by Section 8317.053.

(b) The district may not issue bonds payable from ad valorem taxes to finance a road project 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) At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8317.102. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the district shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

SECTION 2. The Fort Bend County Municipal Utility District No. 194 retains all the rights, powers, privileges, authority, duties, and functions that it had before the effective date of this Act.

SECTION 3. (a) The 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 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 Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act 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 Act are fulfilled and accomplished.

SECTION 4. 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, 2009.

**SB 562 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Bonnen submitted the conference committee report on **SB 562**.

Representative Bonnen moved to adopt the conference committee report on **SB 562**.

The motion to adopt the conference committee report on **SB 562** prevailed by (Record 1110): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia; Corte; Crabb; Homer; Jones; Keffer; Kuempel; Smithee; Solomons.

Absent — Bolton; Dunnam; Gutierrez; Menendez; Pierson.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR  
(consideration continued)**

(Speaker pro tempore in the chair)

**SB 1403** (Smithee - House Sponsor), A bill to be entitled An Act relating to changing the Texas Health Insurance Risk Pool to the Texas Health Insurance Pool, and to the operation of that pool.

**SB 1474** (McReynolds - House Sponsor), A bill to be entitled An Act relating to compensation for certain emergency services personnel.

**SB 1485** (Bolton - House Sponsor), A bill to be entitled An Act relating to the sale of surplus or salvage property and firefighting equipment by an emergency services district.

**SB 1514** (Phillips - House Sponsor), A bill to be entitled An Act relating to child support arrearages and a credit based on certain disability payments.

**SB 1522** (Quintanilla, Chavez, Pickett, Marquez, and Moody - House Sponsors), A bill to be entitled An Act relating to the exemption of certain school districts from the drainage charge imposed by a municipal drainage utility system.

(Marquez in the chair)

**CSSB 1526** (Pickett - House Sponsor), A bill to be entitled An Act relating to the composition, administration, and duties, including reporting requirements, of the Border Health Institute.

**SB 1571** (Herrero - House Sponsor), A bill to be entitled An Act relating to the issuance of certain permits for overweight vehicles.

(Peña in the chair)

**SB 1574** (Marquez - House Sponsor), A bill to be entitled An Act relating to the requirement that the county clerk of certain counties prepare a written records management and preservation services plan.

**SB 1575** (Martinez - House Sponsor), A bill to be entitled An Act relating to the random assignment of criminal and civil cases in district courts in Hidalgo County.

**CSSB 1586** (Phillips - House Sponsor), A bill to be entitled An Act relating to the establishment of a shared database for deer breeder reporting requirements. (Flynn recorded voting no.)

**SB 1617** (W. Smith - House Sponsor), A bill to be entitled An Act relating to the titling and registration of certain motor vehicles.

(Speaker pro tempore in the chair)

### PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: At the beginning of the day today, or thereabouts, I asked that the chair give notice of my intent to bring up **SB 1007** by Isett, which is the TDI, or Department of Insurance, sunset bill, and also **SB 469** by Flores, which is the disabled veterans' tax exemption bill. There was some confusion. In part, I misstated the number. We cleared up that confusion, and the chair sustained points of order on those two. My understanding—and I've spoken with the chair repeatedly—but my understanding is, I'd been unable to be recognized to suspend the rules to bring up those two bills out of order today because there has been a list of members who signed a document objecting to bring up **SB 1007**, the Texas Department of Insurance sunset bill, and also **SB 469** by Flores, the disabled veterans' tax exemption bill. Those members have objected to taking those two bills out of order and considering them today. Is that correct?

SPEAKER PRO TEMPORE: That is correct.

DUNNAM: Could I have the names of those members, who objected and have prevented those bills from being taken up for a vote on suspension, placed in the journal, at this spot in the journal?



SPEAKER PRO TEMPORE: Yes.

DUNNAM: And can I—

SPEAKER PRO TEMPORE: Are you making a motion to put the names in the journal?

DUNNAM: And also, that my parliamentary exchange with you at this time be reduced to writing and placed in the journal so it's clear the members that did not want to take up these bills.

### REMARKS AND NAMES ORDERED PRINTED

Representative Dunnam moved to print remarks between the speaker pro tempore and Representative Dunnam and the names of the members who gave the chair notice of a standing objection to suspending the regular order of business for Sunday, May 24.

The motion prevailed.

The following members gave notice of a standing objection, to be in effect until 11:59 p.m, May 23, to suspending the regular order of business:

Berman, Aycock, Elkins, Fletcher, Swinford, S. King, Woolley, Phillips, J. Davis, Craddick, Eissler, Jackson, Hardcastle, Darby, Weber, B. Brown, Flynn, Cook, F. Brown, C. Howard, Crownover, Laubenberg, Morrison, Hartnett, Isett, Gattis, Chisum, Madden, W. Smith, S. Miller, Truitt, McCall, Patrick, Hamilton, Christian, Hancock, Otto, Lewis, Orr, Hunter, Sheffield, Button, Branch, D. Miller, Bonnen, Taylor, Zerwas, Legler, Geren, Harper-Brown, Kleinschmidt, Anderson, P. King, Shelton, Parker, Harless, Keffer, Smithee, Pitts, Paxton, Kolkhorst, and Hughes.

The following members gave notice of a standing objection, to be in effect until 11:59 p.m, May 24, to suspending the regular order of business:

Darby, Hilderbran, C. Howard, Crabb, Morrison, S. King, Anderson, Orr, W. Smith, Zerwas, Button, Craddick, T. Smith, Taylor, D. Miller, Crownover, Eissler, B. Brown, Fletcher, F. Brown, Isett, J. Davis, Otto, Hunter, Driver, Bonnen, Hardcastle, Jackson, Bohac, Truitt, Sheffield, Patrick, and Geren.

REPRESENTATIVE TAYLOR: You have those petitions, that have been referred to several times, with the names of folks who have asked not to take things out of order. Can you read what it says on that petition?

SPEAKER PRO TEMPORE: In just a minute. We've sent it off to be copied for Mr. Flores. The first one, the date of the 23rd, says, "On May 23, 2009, the undersigned house members oppose any motion, order, and/or request to take any bill, order, and/or joint resolution out of its regular order. This petition expires on May 23, 2009, at 11:59."

TAYLOR: Okay, can you read the one for the 24th as well? Or can you confirm it says exactly the same thing as that one?

SPEAKER PRO TEMPORE: Yes, except the date is on May 24th, until 11:59 p.m.

TAYLOR: It has been said several times from this back microphone that those members who signed that, signed in opposition to specific bills. In your reading of that, do you hear anything about specific bills being excluded from being moved forward in the calendar?

SPEAKER PRO TEMPORE: That refers to all bills.

TAYLOR: It refers to all bills, and it was done because there were efforts to move any number of bills up in the calendar, which violates our calendar rules. It violates the principles that we have as rules in this house, that we run by. Those names were not put on that list in opposition to any bill. In fact, when I was on the front mic earlier today, I referred to a number of very important issues that are on this calendar, that we're not getting to, because of certain acts on this floor. To blame the people who put their name on that list, who are trying to uphold the rules of this house, is a little bit ironic, when we have other people who are using other rules of the house that are postponing the order of business. I'd like to move that these comments be put in writing and placed in the journal, right alongside the names of the folks who signed that, who were standing up for the rules of the house.

#### **REMARKS ORDERED PRINTED**

Representative Taylor moved to print remarks between the speaker pro tempore and Representative Taylor.

The motion prevailed.

REPRESENTATIVE GEREN: What is the final time that a senate bill, on second reading, may be passed to third reading in this body? Would that be midnight, Tuesday night?

SPEAKER PRO TEMPORE: Tuesday night is correct.

GEREN: Midnight, Tuesday night? So, nothing that is going on tonight, or tomorrow, or Monday, would prevent this bill from being passed out before midnight, Tuesday night. Is that correct?

SPEAKER PRO TEMPORE: That is correct.

GEREN: So, the fact that you are not recognizing Mr. Flores tonight would not prevent that bill being brought up at some point between now and Tuesday night, midnight. Is that correct?

SPEAKER PRO TEMPORE: That is correct.

REPRESENTATIVE RAYMOND: Mr. Taylor alluded to the fact that the 50 some-odd members have objected to bringing up a motion to suspend in order to put forth bills that are important to all of us. He alluded to that and said that they are doing that to uphold the rules of the house, is that correct?

SPEAKER PRO TEMPORE: That is correct.

RAYMOND: Okay. Do the rules of the house allow us to make a motion to suspend to bring up any bill that is on the calendar?

SPEAKER PRO TEMPORE: Yes.

RAYMOND: Okay. Do the rules of the house allow members on the local and consent, when we are on the local and consent calendar, to come to the back mic and ask questions for nine minutes and 59 seconds before the bill dies?

SPEAKER PRO TEMPORE: Yes.

RAYMOND: The local calendar is the order of business that we're on, and it's in order, is that correct?

SPEAKER PRO TEMPORE: Yes.

RAYMOND: So everyone who has been asking questions on the bills that are before us have been following the rules, have we not?

SPEAKER PRO TEMPORE: Yes.

RAYMOND: Is the chair aware that this member, and many other members, are willing to vote according to the rules to suspend those rules to put forth any bill that is on the calendar, with the exception of the voter suppression bill?

SPEAKER PRO TEMPORE: I am now aware of your position.

RAYMOND: You are now aware that this member, and at least 74 members that I know of, are willing to make a motion, and to support a motion, to bring forth every bill that is on the calendar, with the exception of the voter suppression bill. So you're now aware that this member and 73 others are not blocking or stopping anything from coming forth. Those 59 members are.

### REMARKS ORDERED PRINTED

Representative Veasey moved to print remarks between the speaker pro tempore and Representative Raymond.

The motion prevailed.

Representative Weber moved to print remarks between the speaker pro tempore and Representative Geren.

The motion prevailed.

**SB 1620** (Paxton - House Sponsor), A bill to be entitled An Act relating to the regulation of property tax lenders.

#### Amendment No. 1

Representative Paxton offered the following amendment to **SB 1620**:

Amend **SB 1620** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter E, Chapter 14, Finance Code, is amended by adding Section 14.2015 to read as follows:

Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination by the commissioner or the commissioner's representative of a license holder or registrant under Subtitle B or C, Title 4, or Chapter 394 is confidential and may not be disclosed by the commissioner or an officer or employee of the Office of Consumer Credit Commissioner, including:

(1) information obtained from a license holder or registrant under Subtitle B or C, Title 4, or Chapter 394;

(2) work performed by the commissioner or the commissioner's representative on information obtained from a license holder or registrant for the purposes of an examination conducted under Subtitle B or C, Title 4, or Chapter 394;

(3) a report on an examination of a license holder or registrant conducted under Subtitle B or C, Title 4, or Chapter 394; and

(4) any written communications between the license holder or registrant, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination conducted under Subtitle B or C, Title 4, or Chapter 394.

(b) The commissioner or the commissioner's representative may disclose the confidential information or material described by Subsection (a):

(1) to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public;

(2) if the license holder or registrant consents to the release of the information or has published the information contained in the release; or

(3) if the commissioner determines that release of the information is required for an administrative hearing.

Amendment No. 1 was adopted.

### **ADJOURNMENT**

Representative Guillen moved that the house adjourn until 1:30 p.m. today, May 24.

The motion prevailed.

The house accordingly, at 12:22 a.m. May 24, adjourned until 1:30 p.m. today.

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### **ADDENDUM**

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### **SIGNED BY THE SPEAKER**

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

**House List No. 36**

**HB 1476, HB 1530, HB 1630, HB 2317, HB 2318, HCR 86, HCR 159, HCR 174, HCR 176**

**House List No. 37**

**HB 587, HB 605, HB 768, HB 1096, HB 1134, HB 1255, HB 1272, HB 1297, HB 1332, HB 1345, HB 1358, HB 1404, HB 1407, HB 1425, HB 1445, HB 1705, HB 1728, HB 1749, HB 1912, HB 2289, HB 2353, HB 2876, HB 2918, HB 2927, HB 3554, HB 4139, HB 4577, HB 4661, HJR 39**

**Senate List No. 37**

**SCR 76**

**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

Saturday, May 23, 2009

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**SCR 78** Averitt

In memory of James Michael Grant of Gatesville.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 22**

County Affairs - **SB 1705, SB 2468, SB 2517, SB 2553, SB 2574**

Elections - **SB 2085**

Environmental Regulation - **SB 184, SB 1472, SB 1757**

Higher Education - **SB 44, SB 174, SB 194, SB 382, SB 819, SB 857, SB 1343, SB 1394, SB 1443, SB 1728, SB 1729, SB 1764, SB 1798, SB 1895, SB 2046, SB 2240, SB 2262, SB 2376**

Human Services - **HCR 255, SB 1050, SB 1521, SB 1663, SB 2080, SB 2407, SB 2435**

Insurance - **SB 14**

Judiciary and Civil Jurisprudence - **SB 271, SB 397, SB 420, SB 497, SB 683, SB 742, SB 861, SB 1166, SB 1369, SB 1436, SB 1437, SB 1439, SB 1440, SB 1441, SB 1598, SB 1599, SB 1685, SB 1820, SB 2324, SB 2325, SB 2350, SB 2444, SB 2469, SB 2566, SCR 47**

Licensing and Administrative Procedures - **SB 2505**

Natural Resources - **SB 2440**

Pensions, Investments, and Financial Services - **SB 1358, SB 2064, SB 2233**

Public Education - **SB 100**

Public Health - **HR 1784, SB 7, SB 32, SB 86, SB 203, SB 287, SB 288, SB 289, SB 343, SB 424, SB 531, SB 571, SB 871, SB 887, SB 1127, SB 1171, SB 1326, SB 1409, SB 1645, SB 1720, SB 1803, SB 1853, SB 2384, SB 2397, SCR 42**

Public Safety - **SB 374, SB 652, SB 1164, SB 1317, SB 1742**

State Affairs - **SB 390, SB 671, SB 1068, SB 1110, SB 1629, SB 1630, SB 2145, SB 2381**

Technology, Economic Development, and Workforce - **SB 2576**

Transportation - **SB 1392, SB 1616, SB 1759, SB 2096**

Urban Affairs - **SB 1002, SB 1861**

Ways and Means - **SB 771, SB 2148**