

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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SIXTY-FIFTH DAY

(Saturday, May 23, 2009)

The Senate met at 10:13 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Honorable Craig Estes, Texas Senate, offered the invocation as follows:

I will sing of the Lord's great love forever; with my mouth I will make Your faithfulness known through all generations. I will declare that Your love stands firm forever, that You established Your faithfulness in heaven itself. You said, "I have made a covenant with my chosen one, I have sworn to David my servant, I will establish Your line forever and make Your throne firm through all generations." *Selah.* The heavens praise Your wonders, O Lord, Your faithfulness too, in the assembly of the holy ones. For who in the skies above can compare with the Lord? Who is like the Lord among the heavenly beings? In the council of the holy ones God is greatly feared; He is more awesome than all who surround Him. O Lord, God almighty, who is like You? You are mighty, O Lord, and Your faithfulness surrounds You. (Psalms 89:1-8)

Almighty God, please look kindly upon those who exercise governing power over Your people. I pray that they might always be people of honesty and integrity. May they always enjoy good health, support, and cooperation from those they serve. Give the men and women who govern this world wisdom so they might always know right from wrong, good from evil, and the difference between service to others and service to themselves. May they always exercise their authority with complete fairness and for the common good of all. May they always have the ability to see a vision of a better, more just, and a more equitable tomorrow. May those who govern be men and women of deep faith, enduring hope, and abiding love. Almighty God, when the human family is confronted with a serious difficulty or an unexpected crisis, please raise from our midst leaders who

can solve our problems and help deliver us from all those elements which rob peoples of their peace of mind and inner sense of security. We also pray for the continued recovery of our friend and colleague, Edmund Kuempel. Thank You for his progress and all of our colleagues in the Texas House that they may exercise their duties in a wise and expeditious manner. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

#### **CO-SPONSOR OF HOUSE BILL 221**

On motion of Senator Whitmire, Senator Patrick will be shown as Co-sponsor of **HB 221**.

#### **CO-SPONSOR OF HOUSE BILL 2941**

On motion of Senator Williams, Senator Patrick will be shown as Co-sponsor of **HB 2941**.

#### **CO-SPONSOR OF HOUSE BILL 3452**

On motion of Senator Ogden, Senator Patrick will be shown as Co-sponsor of **HB 3452**.

#### **CO-SPONSORS OF HOUSE BILL 4294**

On motion of Senator Shapiro, Senators Ellis, Van de Putte, and Watson will be shown as Co-sponsors of **HB 4294**.

#### **SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)**

On motion of Senator Eltife and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate was meeting today.

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 23, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HB 3411**, Relating to the powers and duties of the Castro County Hospital District.

**HB 4742**, Relating to the preservation of a record in a proceeding in a municipal court of record in Austin.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **RESOLUTION SIGNED**

The President announced the signing of the following enrolled resolution in the presence of the Senate: **SCR 76**.

### **INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

### **SENATE CONCURRENT RESOLUTION 78**

The President laid before the Senate the following resolution:

**SCR 78**, In memory of James Michael Grant of Gatesville.

AVERITT

The resolution was read.

On motion of Senator Averitt, the resolution was considered immediately and was adopted by a rising vote of the Senate.

In honor of the memory of James Michael Grant, the text of the resolution is printed at the end of today's *Senate Journal*.

### **AT EASE**

The President at 10:36 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

### **IN LEGISLATIVE SESSION**

The President at 11:34 a.m. called the Senate to order as In Legislative Session.

### **CONCLUSION OF MORNING CALL**

The President at 11:35 a.m. announced the conclusion of morning call.

### **HOUSE BILL 2941 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2941** at this time on its second reading:

**HB 2941**, Relating to the disclosure of certain ad valorem tax appraisal information and other confidential information.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2941** (Senate committee version) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 14), strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 1 of the bill, following proposed Section 552.148(d), Government Code (page 1, between lines 43 and 44), insert the following:

(e) This section applies to information described by Subsections (a), (c), and (d) and to an item of information or comparable sales data described by Subsection (b) only if the information, item of information, or comparable sales data relates to real property that is located in a county having a population of 20,000 or more.

The amendment to **HB 2941** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2941** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 2941 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2941** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 2003 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2003** at this time on its second reading:

**HB 2003**, Relating to the creation of the offense of online harassment.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2003** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering any subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 33.01, Penal Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Critical infrastructure facility" means:

(A) a chemical manufacturing facility;

(B) a refinery;

(C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;

(D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(E) a natural gas transmission compressor station;

(F) a liquid natural gas terminal or storage facility;

(G) a facility owned or operated by a telecommunications provider, as defined by Section 51.002, Utilities Code, including a telecommunications central switching office;

(H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

(I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; or

(J) a transmission facility used by a federally licensed radio or television station.

(K) a cable television or video service provider headend.

SECTION \_\_\_\_\_. Section 33.02, Penal Code, is amended by amending Subsections (b) and (d) and adding Subsections (b-1) and (b-2) to read as follows:

(b) An offense under Subsection (a) ~~[this section]~~ is a Class B misdemeanor, except that the offense is a state jail felony if:

(1) the defendant has been previously convicted two or more times of an offense under this chapter; or

(2) the computer, computer network, or computer system is owned by the government or a critical infrastructure facility.

(b-1) A person commits an offense if with the intent to obtain ~~[unless in committing the offense the actor knowingly obtains]~~ a benefit, ~~defraud~~ ~~[defrauds]~~ or harm ~~[harms]~~ another, or ~~alter~~ ~~[alters]~~, damage ~~[damages]~~, or delete ~~[deletes]~~ property, the person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.

(b-2) An offense under Subsection (b-1) ~~[in which event the offense]~~ is:

(1) ~~[a Class A misdemeanor if the aggregate amount involved is less than \$1,500;~~

~~[(2)]~~ a state jail felony if:

~~[(A)]~~ the aggregate amount involved is ~~[\$1,500 or more but]~~ less than \$20,000~~[-or~~

~~[(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];~~

(2) ~~[(3)]~~ a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;

(3) ~~[(4)]~~ a felony of the second degree if:

(A) the aggregate amount involved is \$100,000 or more but less than \$200,000; or

(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or

(4) ~~(5)~~ a felony of the first degree if the aggregate amount involved is \$200,000 or more.

(d) A person who is ~~is~~ subject to prosecution under this section and any other section of this code may be prosecuted under either or both sections.

SECTION \_\_\_\_\_. 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 \_\_\_\_\_. This Act takes effect September 1, 2009.

The amendment to **HB 2003** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Watson offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **HB 2003** (House committee printing) on page 2, lines 7-8, by striking "the actor's conduct consisted solely of action taken as an employee of" and substitute "the actor is any of the following entities or that the actor's conduct consisted solely of action taken as an employee of any of the following entities".

The amendment to **HB 2003** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2003** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

#### **HOUSE BILL 2003 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2003** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2570 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2570** at this time on its second reading:

**CSHB 2570**, Relating to the regulation of stipulated premium insurance companies.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2570 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2570** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**HB 1476, HB 1530, HB 1630, HB 2317, HB 2318, HCR 86, HCR 159, HCR 174, HCR 176.**

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1462 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1462** at this time on its second reading:

**CSHB 1462**, Relating to leave for certain state employees who volunteer or participate in training for Court Appointed Special Advocates.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1462 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1462** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1614 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1614** at this time on its second reading:

**HB 1614**, Relating to the punishment for the offense of criminal mischief.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 1614 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1614** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**REMARKS ORDERED PRINTED**

On motion of Senator Patrick and by unanimous consent, his remarks were ordered reduced to writing and printed in the *Senate Journal* as follows:

Members, on behalf of the Harris County delegation, we just want to recognize the fact that one of our business and community leaders, Linda and Jim McIngvale, known, famous around the state and country for Gallery Furniture, suffered a devastating fire two nights ago. That impacts our economy, their business, and the charitable organizations that they support, and they have been gracious in this fire. In fact, I was amazed that Mr. McIngvale showed up the very next morning to honor a request to speak at a school on that night to address a graduation ceremony. And, on behalf of the Harris County delegation, we want to wish the McIngvales a quick recovery of their business to help the Houston economy, and to the charitable organizations they support. And we are amazed by their grace in this time of devastation for their business. Thank you, Mr. President.

**COMMITTEE SUBSTITUTE****HOUSE BILL 1831 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1831** at this time on its second reading:

**CSHB 1831**, Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

The bill was read second time.



Senator Patrick offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1831** (Senate committee printing) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE \_\_. EMERGENCY WATER SERVICE

SECTION \_\_.01. Subchapter E, Chapter 13, Water Code, is amended by adding Sections 13.1395 and 13.1396 to read as follows:

Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS. (a) In this section:

(1) "Affected utility" means a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer:

(A) in a county with a population of 3.3 million or more; or

(B) in a county with a population of 400,000 or more adjacent to a county with a population of 3.3 million or more.

(2) "Emergency operations" means the operation of a water system during an extended power outage at a minimum water pressure of 35 pounds per square inch.

(3) "Extended power outage" means a power outage lasting for more than 24 hours.

(b) An affected utility shall:

(1) ensure the emergency operation of its water system during an extended power outage as soon as safe and practicable following the occurrence of a natural disaster; and

(2) adopt and submit to the commission for its approval an emergency preparedness plan that demonstrates the utility's ability to provide emergency operations.

(c) The commission shall review an emergency preparedness plan submitted under Subsection (b). If the commission determines that the plan is not acceptable, the commission shall recommend changes to the plan. The commission must make its recommendations on or before the 90th day after the commission receives the plan. In accordance with commission rules, an emergency preparedness plan shall provide for one of the following:

(1) the maintenance of automatically starting auxiliary generators;

(2) the sharing of auxiliary generator capacity with one or more affected utilities;

(3) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers or conveyors of potable or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(4) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(5) the use of on-site electrical generation or distributed generation facilities;

(6) hardening the electric transmission and distribution system serving the water system;

(7) for existing facilities, the maintenance of direct engine or right angle drives; or

(8) any other alternative determined by the commission to be acceptable.

(d) Each affected utility that supplies, provides, or conveys surface water shall include in its emergency preparedness plan under Subsection (b) provisions for the actual installation and maintenance of automatically starting auxiliary generators or distributive generation facilities for each raw water intake pump station, water treatment plant, pump station, and pressure facility necessary to provide water to its wholesale customers.

(e) The commission shall adopt rules to implement this section as an alternative to any rule requiring elevated storage.

(f) The commission shall provide an affected utility with access to the commission's financial, managerial, and technical contractors to assist the utility in complying with the applicable emergency preparedness plan submission deadline.

(g) The commission by rule shall create an emergency preparedness plan template for use by an affected utility when submitting a plan under this section. The emergency preparedness plan template shall contain:

(1) a list and explanation of the preparations an affected utility may make under Subsection (c) for the commission to approve the utility's emergency preparedness plan; and

(2) a list of all commission rules and standards pertaining to emergency preparedness plans.

(h) An emergency generator used as part of an approved emergency preparedness plan under Subsection (c) must be operated and maintained according to the manufacturer's specifications.

(i) The commission shall inspect each utility to ensure that the utility complies with the approved plan.

(j) The commission may grant a waiver of the requirements of this section to an affected utility if the commission determines that compliance with this section will cause a significant financial burden on customers of the affected utility.

(k) An affected utility may adopt and enforce limitations on water use while the utility is providing emergency operations.

(l) Except as specifically required by this section, information provided by an affected utility under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

Sec. 13.1396. COORDINATION OF EMERGENCY OPERATIONS. (a) In this section:

(1) "Affected utility" has the meaning assigned by Section 13.1395.

(2) "County judge" means a county judge or the person designated by a county judge.

(3) "Electric utility" means the electric transmission and distribution utility providing electric service to the water and wastewater facilities of an affected utility.

(4) "Retail electric provider" has the meaning assigned by Section 31.002, Utilities Code.

(b) An affected utility shall submit to the county judge, the office of emergency management of each county in which the utility has more than one customer, the Public Utility Commission of Texas, and the office of emergency management of the governor, a copy of:

(1) the affected utility's emergency preparedness plan approved under Section 13.1395; and

(2) the commission's notification to the affected utility that the plan is accepted.

(c) Each affected utility shall submit to the county judge and the office of emergency management of each county in which the utility has water and wastewater facilities that qualify for critical load status under rules adopted by the Public Utility Commission of Texas, and to the Public Utility Commission of Texas and the division of emergency management of the governor:

(1) information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status; and

(2) emergency contact information for the affected utility, including:

(A) the person who will serve as a point of contact and the person's telephone number;

(B) the person who will serve as an alternative point of contact and the person's telephone number; and

(C) the affected utility's mailing address.

(d) An affected utility shall immediately update the information provided under Subsection (c) as changes to the information occur.

(e) Not later than February 1 of each year, the county judge of each county that receives the information required by Subsections (c) and (d) shall:

(1) submit the information for each affected utility to each retail electric provider that sells electric power to an affected utility and each electric utility that provides transmission and distribution service to an affected utility; and

(2) in cooperation with the affected utility, submit for each affected utility any forms reasonably required by an electric utility or retail electric provider for determining critical load status, including a critical care eligibility determination form or similar form.

(f) Not later than May 1 of each year, each electric utility and each retail electric provider shall determine whether the facilities of the affected utility qualify for critical load status under rules adopted by the Public Utility Commission of Texas.

(g) If an electric utility determines that an affected utility's facilities do not qualify for critical load status, the electric utility and the retail electric provider, not later than the 30th day after the date the electric utility or retail electric provider receives the information required by Subsections (c) and (d), shall provide a detailed explanation of the electric utility's determination to each county judge that submitted the information.

SECTION \_\_.02. (a) Not later than December 1, 2009, the Texas Commission on Environmental Quality shall adopt standards as required by Section 13.1395, Water Code, as added by this article. As part of the rulemaking process, the commission shall conduct at least two public hearings in Harris County. The

commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives if the commission is unable to adopt the standards by the time provided by this subsection.

(b) Not later than November 1, 2009, each affected utility shall submit the information required by Section 13.1396, Water Code, as added by this article, to:

- (1) each appropriate county judge and office of emergency management;
- (2) the Public Utility Commission of Texas; and
- (3) the office of emergency management of the governor.

(c) Not later than March 1, 2010, each affected utility shall submit to the Texas Commission on Environmental Quality the emergency preparedness plan required by Section 13.1395, Water Code, as added by this article.

(d) Not later than July 1, 2010, each affected utility shall implement the emergency preparedness plan approved by the Texas Commission on Environmental Quality under Section 13.1395, Water Code, as added by this article.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Hegar.

Senator Ellis offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSHB 1831** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumber subsequent SECTIONS of that ARTICLE as appropriate:

SECTION 1. \_\_. Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.0212 to read as follows:

Sec. 207.0212. ELIGIBILITY OF CERTAIN PERSONS UNEMPLOYED BECAUSE OF DISASTER. (a) In this section, "disaster unemployment assistance benefits" means benefits authorized under Section 410, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5177), and rules adopted under that section.

(b) Notwithstanding Section 207.021, the governor, by executive order, may suspend the waiting period requirement imposed under Section 207.021(a)(7) to authorize an individual to receive benefits for that waiting period if the individual:

(1) is unemployed as a direct result of a natural disaster that results in a disaster declaration by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) is otherwise eligible for unemployment compensation benefits under this subtitle; and

(3) is not receiving disaster unemployment assistance benefits for the period included in that waiting period.

(2) Add the following appropriately numbered SECTION to ARTICLE 6 of the bill and renumber subsequent SECTIONS of that ARTICLE as appropriate:

SECTION 6.\_\_\_\_. The change in law made by SECTION 1.\_\_\_\_ of this Act applies only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after the effective date of this Act. A claim filed before that date is governed by the law in effect on the date that the claim was filed, and the former law is continued in effect for that purpose.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Hegar.

Senator Watson offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 1831** (committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTION accordingly.

SECTION \_\_\_\_\_. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

#### CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

(1) "Combined heating and power system" means a system that:

(A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:

(A) be continuously occupied;

(B) maintain operations for at least 6,000 hours each year;

(C) have a peak electricity demand exceeding 500 kilowatts; and

(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:

(i) command and control center;

(ii) shelter;

(iii) prison or jail;

(iv) police or fire station;

(v) communications or data center;

(vi) water or wastewater facility;

(vii) hazardous waste storage facility;

(viii) biological research facility;

(ix) hospital; or

(x) food preparation or food storage facility.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. Notwithstanding Chapter 2302, the entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Nays: Hegar.

Senator Ogden offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSHB 1831** (Senate committee printing) in ARTICLE 2 of the bill by adding appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION \_\_. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.073 to read as follows:

Sec. 38.073. AUTHORITY OF COMMISSION DURING AN EMERGENCY.

(a) On a declaration of a natural disaster or other emergency by the governor, the commission may require an electric utility, municipally owned utility, electric cooperative, qualifying facility, power generation company, exempt wholesale generator, or power marketer to sell electricity to an electric utility, municipally owned utility, or electric cooperative that is unable to supply power to meet customer demand due to the natural disaster or other emergency. Any plant, property, equipment, or other items used to receive or deliver electricity under this subsection are used and useful in delivering service to the public, and the commission shall allow timely recovery for the costs of those items. The commission may order an electric utility, municipally owned utility, or electric cooperative to provide interconnection service to another electric utility, municipally owned utility, or electric cooperative to facilitate a sale of electricity under this section. If the commission does not order the sale of electricity during a declared emergency as described by this subsection, the commission shall promptly submit to the legislature a report describing the reasons why the commission did not make that order.

(b) If an entity receives electricity under Subsection (a), the receiving entity shall reimburse the supplying entity for the actual cost of providing the electricity. The entity receiving the electricity is responsible for any transmission and distribution service charges specifically incurred in relation to providing the electricity.

(c) An entity that pays for electricity received under Subsection (b) and that is regulated by the commission may fully recover the cost of the electricity in a timely manner by:

(1) including the cost in the entity's fuel cost under Section 36.203; or

(2) notwithstanding Section 36.201, imposing a different surcharge.

SECTION \_\_. (a) Not later than November 1, 2009, the Public Utility Commission of Texas shall conduct and complete a study to evaluate:

(1) the locations in this state that are most likely to experience a natural disaster or other emergency;

(2) the ability of each entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, to comply with that section in the event of a natural disaster or other emergency;

(3) any steps an entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, should take to prepare to comply with that section; and

(4) the potential for distributed generation, including renewable power with battery backup and combined heat and power systems, to strengthen reliability of electric service during a natural disaster or other emergency.

(b) An entity described by Subsection (a), Section 38.073, Utilities Code, as added by this Act, shall comply with any order issued by the Public Utility Commission of Texas under that subsection while the study required by Subsection (a) of this section is conducted.

(c) The Public Utility Commission of Texas shall prepare a report based on the study conducted under Subsection (a) of this section. The report must include any recommendations the commission considers advisable in relation to the implementation of and compliance with Section 38.073, Utilities Code, as added by this Act. The commission may include the report in the report required by Section 31.003, Utilities Code.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Nays: Hegar.

Senator Zaffirini offered the following amendment to the bill:

#### **Floor Amendment No. 5**

Amend **CSHB 1831** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Subtitle F, Title 2, Health and Safety Code, is amended by adding Chapter 123 to read as follows:

#### CHAPTER 123. PUBLIC HEALTH EXTENSION SERVICE PILOT PROGRAM

Sec. 123.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services; and

(2) "Program" means the public health extension service pilot program established under this chapter.

Sec. 123.002. PROGRAM ESTABLISHED; PURPOSES. (a) The department shall establish a public health extension service pilot program in Health Service Region 11, a region of the state that may be particularly vulnerable to biosecurity threats, disaster, and other emergencies.

(b) The purpose of the program is to support local public health and medical infrastructure, promote disease control and medical preparedness, and enhance biosecurity, including detection of dangerous biologic agents, availability of pathology services, and management of hazardous materials.

Sec. 123.003. RULES. The executive commissioner of the Health and Human Services Commission may adopt rules for the implementation and administration of the program.

Sec. 123.004. PROGRAM ADMINISTRATION. The department may contract with The Texas A&M University System or The University of Texas System or both to implement or administer the program.

Sec. 123.005. PROGRAM OBJECTIVES. Through the program, the department may implement projects and systems to accomplish the purposes of the program described by Section 123.002, and may:

(1) provide support for regional disaster medical assistance teams and tactical medical operations incident management teams;

(2) establish a disaster training and exercise program;

(3) establish and equip caches of necessary medical supplies and equipment for use in disasters and other emergencies;

(4) establish a regionally based system of emergency medical logistics management to support state and federal emergency management authorities, including local patient triage sites and local emergency medical operations; and

(5) establish a regionally based system to provide technical assistance for disaster mitigation and recovery.

Sec. 123.006. REPORT. Not later than December 1, 2010, the department shall report to the governor, lieutenant governor, and speaker of the house of representatives on the program, including recommendations for continuing and expanding the program to other regions of the state.

Sec. 123.007. EXPIRATION. This chapter expires and the program is abolished September 2, 2011.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Nays: Hegar.

Senator Gallegos offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **CSHB 1831** by adding the following appropriately numbered section:

SECTION \_\_\_\_\_. Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES.

(a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.



(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 60 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not;

(1) be larger than forty square feet in size, and;

(2) be more than five feet in height, and;

(3) be placed in the right of way.

(4) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Nays: Hegar.

Senator Nichols offered the following amendment to the bill:

#### **Floor Amendment No. 7**

Amend **CSHB 1831**, Senate committee report version, by adding the appropriately numbered SECTIONS:

SECTION \_\_\_\_\_. Section 81.046, Health and Safety Code, is amended by amending Subsections (a), (c), and (f) and adding Subsection (g) to read as follows:

(a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(c) Medical or epidemiological information may be released:

(1) for statistical purposes if released in a manner that prevents the identification of any person;

(2) with the consent of each person identified in the information;

(3) to medical personnel treating the individual, appropriate state agencies in this state or another state, a health authority or local health department in this state or another state, or federal, county, or [and] district courts to comply with this chapter and related rules relating to the control and treatment of communicable diseases and health conditions or under another state or federal law that expressly authorizes the disclosure of this information;

(4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, but the information must be limited to the name, address, sex, race, and occupation of the patient, the date of disease onset, the probable source of infection, and other requested information relating to the case or suspected case of a communicable disease or health condition; or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the person identified in the information.

(f) Reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster to law enforcement personnel solely for the purpose of protecting the health or life of the person identified in the report, record, or information. Only the minimum necessary information may be released under this subsection, as determined by the health authority, the local health department, or the department.

(g) A judge of a county or district court may issue a protective order or take other action to limit disclosure of medical or epidemiological information obtained under this section before that information is entered into evidence or otherwise disclosed in a court proceeding.

SECTION \_\_\_\_\_. Section 81.103, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

(b) A test result may be released to:

- (1) the department under this chapter;
- (2) a local health authority if reporting is required under this chapter;
- (3) the Centers for Disease Control and Prevention of the United States Public Health Service if reporting is required by federal law or regulation;
- (4) the physician or other person authorized by law who ordered the test;
- (5) a physician, nurse, or other health care personnel who have a legitimate need to know the test result in order to provide for their protection and to provide for the patient's health and welfare;
- (6) the person tested or a person legally authorized to consent to the test on the person's behalf;
- (7) the spouse of the person tested if the person tests positive for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS;
- (8) a person authorized to receive test results under Article 21.31, Code of Criminal Procedure, concerning a person who is tested as required or authorized under that article; ~~and~~
- (9) a person exposed to HIV infection as provided by Section 81.050; and
- (10) a county or district court to comply with this chapter or rules relating to the control and treatment of communicable diseases and health conditions.

(k) A judge of a county or district court may issue a protective order or take other action to limit disclosure of a test result obtained under this section before that information is entered into evidence or otherwise released in a court proceeding.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Nays: Hegar.

Senator Nichols offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend **CSHB 1831** Senate committee report version by inserting the following appropriately numbered section and renumbering subsequent sections:

SECTION \_\_. Chapter 342, Local Government Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 342.901. TRANSPORT OF FIREWORKS. The transport of fireworks in unopened and original packaging may not be prohibited or regulated.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Nays: Hegar.

Senator Davis offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend **CSHB 1831** (Senate committee report) by adding the following SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Subchapter H, Chapter 660, Government Code, is amended by adding Section 660.209 to read as follows:

Sec. 660.209. STATE EMERGENCY SERVICES PERSONNEL. (a) In this section, "emergency services personnel" includes firefighters, police officers and other peace officers, emergency medical technicians, emergency management personnel, and other individuals who are required, in the course and scope of their employment, to provide services for the benefit of the general public during emergency situations.

(b) Notwithstanding any other provision of this chapter or the General Appropriations Act, a state employee who is emergency services personnel and who is deployed to a temporary duty station to conduct emergency or disaster response activities is entitled to reimbursement for the actual expense of lodging when there is no room available at the state rate within reasonable proximity to the employee's temporary duty station.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9 except as follows:

Nays: Hegar.

Senator Nelson offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend **CSHB 1831** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

(1) SECTION 1.07. Sec. 418.186. DISASTER AND EMERGENCY EDUCATION. (a) The Department of State Health Services shall establish a program designed to educate the citizens of this state on disaster and emergency

preparedness, response, and recovery. Before establishing the program, the department must collaborate with local authorities to prevent state efforts that are duplicative of local efforts. The program must address:

- (1) types of disasters or other emergencies;
- (2) the appropriate response to each type of disaster or emergency, including options for evacuation and shelter;
- (3) how to prepare for each type of disaster or emergency;
- (4) the impact of each type of disaster or emergency on citizens requiring medical assistance or other care;
- (5) ways to respond in a disaster or emergency or to assist the victims of a disaster or emergency; and
- (6) resources and supplies for disaster or emergency recovery.

(b) The executive commissioner of the Health and Human Services Commission, in cooperation with the governor, shall adopt rules to create and administer a disaster and emergency education program established under this section.

The amendment to **CSHB 1831** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Nays: Hegar.

Senator Carona moved to postpone further consideration of the bill to a time certain of 3:30 p.m. today.

The motion prevailed.

Question — Shall **CSHB 1831** as amended be passed to third reading?

### **COMMITTEE SUBSTITUTE HOUSE BILL 461 ON SECOND READING**

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 461** at this time on its second reading:

**CSHB 461**, Relating to the regulation of dyslexia practitioners and therapists; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **COMMITTEE SUBSTITUTE HOUSE BILL 461 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 461** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 829 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 829** at this time on its second reading:

**HB 829**, Relating to appeals to the commissioner of education.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 829 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 829** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 2169 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2169** at this time on its second reading:

**HB 2169**, Relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2169** by adding the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subsections (a) and (c), Section 29.190, Education Code, are amended to read, and subsection (e) is added as follows:

(a) A student is entitled to a subsidy under this section if:

(1) the student:

(A) ~~[(1)]~~ successfully completes the career and technology program of a school district in which the student receives training and instruction for employment in a current or emerging high-demand, high-wage, high-skill ~~[certain trade or]~~ occupation, as determined under subsection (e); or

(B) is enrolled in a special education program under Subchapter A;

(2) the student passes a certification examination to qualify for a license or certificate for the ~~[trade or]~~ occupation; and

(3) the student submits to the district a written application in the form, time, and manner required by the district for the district to subsidize the cost of an examination described by Subdivision (2) [demonstrates financial need].

(c) On approval by the commissioner, the agency shall pay each school district ~~[eligible student]~~ an amount equal to the cost paid by the district or student for the certification examination. To obtain reimbursement for a subsidy paid under this section, a district ~~[student]~~ must:

(1) pay the fee for the examination or pay the student the amount of the fee paid by the student for the examination; and

(2) submit to the commissioner a written application on a form prescribed by the commissioner stating ~~[demonstrating financial need and]~~ the amount of the fee paid under Subdivision (1) ~~[by the student]~~ for the certification examination.

(e) The commissioner, in collaboration with the Commissioner of Higher Education and the Workforce Commission, shall determine as necessary what qualifies for a high demand, high wage, high need occupation for purposes of this section.

SECTION \_\_\_\_\_. It is the intent of the legislature that the passage of S.B. No. 1313, Acts of the 81st Legislature, Regular Session, 2009, with any amendments to Section 21.190, Education Code, and the amendments by this Act shall be harmonized, if possible, as provided by Section 311.025(b), so that effect may be given to each. If amendments made to Section 21.190, Education Code, made by this Act are irreconcilable, it is the intent of the legislature that S.B. No. 1313, Acts of the 81st Legislature, Regular Session, 2009, prevail, regardless of the relative dates of enactment of this Act and S.B. 1313, Acts of the 81st Legislature, Regular Session, 2009, but only to the extent that any differences are irreconcilable.

The amendment to **HB 2169** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2169** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 2169 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2169** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1831 ON SECOND READING**

The President laid before the Senate **CSHB 1831** by Senator Carona on its second reading. The bill had been read second time, amended, and further consideration postponed to a time certain of 3:30 p.m. today:

**CSHB 1831**, Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

Question — Shall **CSHB 1831** as amended be passed to third reading?

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 11**

Amend **CSHB 1831** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS to the bill accordingly:

SECTION \_\_\_\_\_. Subdivision (12), Section 771.001, Health and Safety Code, is amended to read as follows:

(12) "Wireless service provider" means a provider of commercial mobile service under Section 332(d), Federal Telecommunications Act of 1996 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66), and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

(A) a service whose users do not have access to 9-1-1 service;

(B) a communication channel used only for data transmission;

(C) a wireless roaming service or other nonlocal radio access line service; ~~or~~

(D) a private telecommunications service; or

(E) a prepaid wireless telecommunications service, as defined by Section 771.081, only to the extent of the sale or provision of the service.

SECTION \_\_\_\_\_. Section 771.032, Health and Safety Code, is amended to read as follows:

Sec. 771.032. APPLICATION OF SUNSET ACT. (a) The Commission on State Emergency Communications is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011.

(b) As part of the Sunset Advisory Commission's review under Subsection (a), the Sunset Advisory Commission, in its report to the 82nd Legislature, shall include:

(1) the effect of the prepaid wireless 9-1-1 emergency services fee on revenues collected and the extent to which those revenues increased or decreased total revenues attributable to wireless telecommunications services; and

(2) whether the total of all revenues received from 9-1-1 services fees adequately fund public safety in this state at the time the review is conducted and whether the 9-1-1 services fees will continue to adequately fund public safety in future years.

SECTION \_\_\_\_\_. Subsection (d), Section 771.056, Health and Safety Code, is amended to read as follows:

(d) If the commission approves the plan, it shall allocate to the region from the money collected under Sections 771.071, 771.0711, ~~and~~ 771.072, and 771.082 and appropriated to the commission the amount that the commission considers appropriate to operate 9-1-1 service in the region according to the plan and contracts executed under Section 771.078.

SECTION \_\_\_\_\_. Section 771.075, Health and Safety Code, is amended to read as follows:

Sec. 771.075. USE OF REVENUE. Except as provided by Section 771.0751, 771.0753, 771.072(e), 771.072(f), ~~or~~ 771.073(e), or 771.082(g), fees and surcharges collected under this subchapter and Subchapter D-1 may be used only for planning, development, provision, and enhancement of the effectiveness of 9-1-1 service as approved by the commission.

SECTION 5. Subchapter D, Chapter 771, Health and Safety Code, is amended by adding Section 771.0753 to read as follows:

Sec. 771.0753. USE OF PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES FEE IN CERTAIN COUNTIES. (a) This section applies only to the use of fees and surcharges collected under Subchapter D-1 in:

(1) the county that has the highest population within a region subject to Subchapter D-1; or

(2) a county subject to Subchapter D-1 with a population of at least 700,000.

(b) In addition to use authorized or required by this subchapter, fees collected under Subchapter D-1 may be used for any costs considered necessary by the commission and attributable to:

(1) designing a 9-1-1 system; or

(2) obtaining and maintaining equipment and personnel necessary to establish and operate:

(A) a public safety answering point and related operations; or

(B) other related answering points and operations.

SECTION \_\_\_\_\_. Subsections (a), (d), and (e), Section 771.077, Health and Safety Code, are amended to read as follows:

(a) The comptroller may establish collection procedures to collect past due amounts and may recover the costs of collection from a service provider or business service user that fails to timely deliver the fees and the equalization surcharge to the comptroller. Subtitles A and B, Title 2, Tax Code, apply to the administration and collection of amounts by the comptroller under this subchapter. Section 771.084 applies to the administration and collection of amounts by the comptroller under Subchapter D-1.

(d) The comptroller shall:

(1) remit to the commission money collected under this section for fees provided by Section 771.0711 and associated late penalties;

(2) deposit to the 9-1-1 services fee account any money collected under this section for fees provided by Section 771.071 and associated late penalties; ~~and~~

(3) deposit to the account as authorized by Section 771.072 any money collected under this section for fees provided by Section 771.072 and associated late penalties; and

(4) remit to the commission any money collected under this section for fees provided by Section 771.082 and associated late penalties.

(e) The commission shall:

(1) deposit or distribute the money remitted under Subsection (d)(1) as Section 771.0711 provides for fees received under that section; ~~and~~



(2) distribute the money remitted under Subsection (d)(2) and appropriated to the commission under contracts as provided by Section 771.078(b)(1); and

(3) deposit or distribute the money remitted under Subchapter D-1 as Section 771.082 provides for fees received under that section.

SECTION \_\_\_\_\_. Subsection (b), Section 771.078, Health and Safety Code, is amended to read as follows:

(b) In making contracts under this section, the commission shall ensure that each regional planning commission receives money for 9-1-1 service in three ~~two~~ separately computed amounts as provided by this subsection. The commission must provide each regional planning commission with:

(1) an amount of money equal to the total of the revenue from the emergency service fees collected under Section 771.071 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the amount of those fees collected from the region and the denominator of which is the total amount of those fees collected in this state; ~~and~~

(2) an amount of money equal to the total of the revenue from the emergency service fee for wireless telecommunications connections under Section 771.0711 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the population of the region and the denominator of which is the population of this state; and

(3) an amount of money equal to the total of the revenue from the prepaid wireless 9-1-1 emergency services fee under Section 771.082 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the population of the region and the denominator of which is the population of this state.

SECTION \_\_\_\_\_. Subsection (b), Section 771.079, Health and Safety Code, is amended to read as follows:

(b) The account consists of:

(1) fees deposited in the fund as provided by Sections 771.071, ~~and~~ 771.0711, and 771.082; and

(2) notwithstanding Section 404.071, Government Code, all interest attributable to money held in the account.

SECTION \_\_\_\_\_. Chapter 771, Health and Safety Code, is amended by adding Subchapter D-1 to read as follows:

**SUBCHAPTER D-1. PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES FEE**

**Sec. 771.081. DEFINITIONS.** In this subchapter:

(1) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(2) "Prepaid wireless 9-1-1 emergency services fee" means the fee a seller collects from a consumer in the amount required under Section 771.082.

(3) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to access 9-1-1 emergency communications services that is paid for in advance at the time of purchase and that is sold:

(A) in predetermined units or dollars, the number of which declines with use in a known amount; or

(B) on a time period basis.

(4) "Retail transaction" means an individual purchase of a prepaid wireless telecommunications service from a seller for any purpose other than resale.

(5) "Seller" means a person who sells prepaid wireless telecommunications service to any person. The term includes "seller" and "retailer" as defined by Section 151.008, Tax Code.

(6) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Section 20.3.

Sec. 771.082. PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES FEE.

(a) A prepaid wireless 9-1-1 emergency services fee shall be collected by the seller from the consumer at the time of and with respect to each retail transaction of prepaid wireless telecommunications service occurring in this state. The amount of the prepaid wireless 9-1-1 emergency services fee shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer by the seller.

(b) The prepaid wireless 9-1-1 emergency services fee is two percent of the cost of each prepaid wireless telecommunications service purchased, regardless of whether the service was purchased in person, by telephone, through the Internet, or by any other method. Each service purchased is a separate item for purposes of calculating a fee under this subsection.

(c) For purposes of Subsection (a), a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state. Any other retail transaction, including a transaction over the Internet or via telecommunications service, shall be treated as occurring in this state for purposes of Subsection (a) if the transaction would be treated as occurring in this state under Section 151.061, Tax Code.

(d) The prepaid wireless 9-1-1 emergency services fee is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless service fees that the seller collects from consumers as provided by Section 771.084, including all such charges that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(e) The fee imposed under this subchapter is in addition to the taxes imposed under Chapter 151, Tax Code.

(f) The amount of the prepaid wireless 9-1-1 emergency services fee that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

(g) A seller may deduct and retain one percent of prepaid wireless 9-1-1 emergency services fees that it collects to offset its costs in administering this fee.

Sec. 771.083. EXCEPTIONS TO APPLICABILITY OF CHAPTER AND LIMITATIONS OF LIABILITY. (a) The comptroller shall establish procedures for a seller to document that a sale is not a retail transaction under this subchapter. The procedures shall substantially conform to procedures for documenting a sale for resale under Chapter 151, Tax Code.

(b) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of, or the failure to provide, 9-1-1 emergency service, or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 9-1-1 emergency service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(c) A provider or seller of prepaid wireless telecommunications service is not liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state in connection with any lawful investigation or other law enforcement activity by such investigative or law enforcement officer unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(d) Information that a provider or seller of prepaid wireless telecommunications service is required to furnish to a governmental entity in providing or selling 9-1-1 emergency service is confidential and exempt from disclosure under Chapter 552, Government Code. A provider or seller of prepaid wireless telecommunications service is not liable to any person who uses a 9-1-1 emergency service created under this chapter for the release of information furnished by the provider or seller of prepaid wireless telecommunications service in providing or selling 9-1-1 emergency service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific or seller-specific information may be extrapolated.

(e) In addition to the exemption from liability provided by Subsections (b), (c), and (d), each provider and seller of prepaid wireless telecommunications service is entitled to any other exemption from liability under this chapter, if any, that is provided to wireless service providers.

Sec. 771.084. APPLICATION OF PROVISIONS OF TAX CODE. Except as otherwise provided by this subchapter:

(1) the fee imposed by this subchapter is administered, imposed, collected, and enforced in the same manner as a tax under Chapter 151, Tax Code, is administered, imposed, collected, and enforced; and

(2) the provisions applicable to the sales tax imposed under Subchapter C, Chapter 151, Tax Code, apply to the fee imposed by this subchapter.

Sec. 771.085. ALLOCATION OF FEE. (a) After deducting an amount not greater than 10 percent of collected charges, as determined under Subsection (c), the comptroller shall deposit the money from the fees imposed by this subchapter, other than penalties and interest, to the credit of the 9-1-1 services fee account in the general

revenue fund. Until deposited to the credit of the 9-1-1 services fee account as required by Subsection (b), money the comptroller collects under this subchapter remains in a trust fund with the state treasury.

(b) Money collected under this subchapter may be used only for services related to 9-1-1 and emergency services, including automatic number identification and automatic location information services. Not later than the 15th day after the last day of the month in which the money is collected, the commission shall distribute to each emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population in the area served by the district bears to the population of the state. The remaining money collected under this subchapter shall be deposited to the 9-1-1 services fee account in the general revenue fund.

(c) The commission shall annually determine by rule the percentage of collected charges, not to exceed 10 percent, that under Subsection (a) shall be deducted by the comptroller and allocated as if collected under Section 771.072.

**Sec. 771.086. EXCLUSIVITY AND APPLICABILITY OF PREPAID WIRELESS 9-1-1 EMERGENCY SERVICES FEE.** (a) The prepaid wireless emergency services fee shall be the only 9-1-1 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for 9-1-1 funding purposes, on any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

(b) The emergency service fee for wireless telecommunications connections under Section 771.0711 applies to wireless telecommunications service that is not subject to the prepaid wireless 9-1-1 emergency services fee under this subchapter.

SECTION \_\_\_\_\_. This Act takes effect January 1, 2010.

The amendment to **CSHB 1831** was read.

Senator Hinojosa offered the following amendment to Floor Amendment No. 11:

### **Floor Amendment No. 12**

Amend Floor Amendment No. 11 by Senator Van de Putte to **CSHB 1831** by striking proposed Subsection (g) to Section 771.082, Health and Safety Code, and substituting the following:

(g) A seller may deduct and retain two percent of prepaid wireless 9-1-1 emergency services fees that it collects to offset its costs in administering the collection and remittance of this fee.

The amendment to Floor Amendment No. 11 to **CSHB 1831** was read and was adopted by the following vote: Yeas 23, Nays 7.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Huffman, Lucio, Nelson, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Hegar, Jackson, Nichols, Patrick, Williams.

Absent: Shapiro.

Question recurring on the adoption of Floor Amendment No. 11 to **CSHB 1831**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 as amended except as follows:

Nays: Hegar.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1831** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Hegar.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1831 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1831** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Hegar.

### **HOUSE BILL 4529 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4529** at this time on its second reading:

**HB 4529**, Relating to court reporter service fees in certain counties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 4529 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4529** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1151 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1151** at this time on its second reading:

**HB 1151**, Relating to temporary orders and orders for modification in suits affecting the parent-child relationship.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1151** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . . Section 162.3041, Family Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of doing any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(d) If the legislature does not appropriate sufficient money to provide adoption assistance to the adoptive parents of all children described by Subsection (a), the department shall provide adoption assistance only to the adoptive parents of children described by Subsection (a)(1). The department is not required to provide adoption assistance benefits under Subsection (a-1) unless the department is specifically appropriated funds for purposes of that subsection.

SECTION 2. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.015 to read as follows:

Sec. 264.015. TRAINING. The department shall include training in trauma-informed programs and services in any training the department provides to foster parents, adoptive parents, kinship caregivers, and department caseworkers. The department shall pay for the training provided under this section with gifts, donations, and grants and any federal money available through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

SECTION 3. Section 264.101, Family Code, is amended by amending Subsections (a-1) and (d) and adding Subsection (a-2) to read as follows:

(a-1) The department shall continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the last day of the month in which ~~[later of:~~

~~[(1) the date]~~ the child attains the age of 18. The department shall continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending ~~[- or~~

~~[(2) the date the child graduates from]~~ high school or ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(a-2) The department shall continue to pay the cost of foster care under:

(1) Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22; and

(2) Subsections (a-1)(2)-(5) until the last day of the month the child attains the age of 21.

(d) The executive commissioner of the Health and Human Services Commission may adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child becomes 18 years of age if the child meets the requirements for continued foster care under Subsection (a-1) ~~[is regularly attending an institution of higher education or a vocational or technical program].~~

SECTION 4. Subdivisions (1) and (3), Section 264.751, Family Code, are amended to read as follows:

(1) "Designated caregiver" means an individual who has a longstanding and significant relationship with a child for whom the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for the child, but is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

SECTION 5. Subchapter I, Chapter 264, Family Code, is amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

SECTION 6. Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for the payment of permanency care assistance benefits as provided by this subchapter.

(4) "Permanency care assistance benefits" means monthly payments paid by the department to a kinship provider under a permanency care assistance agreement.

(5) "Relative" means a person related to a foster child by consanguinity or affinity.

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

(a) The department shall enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) The department may enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and department rule.

(c) A court may not order the department to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and department rule, including requirements relating to the criminal history background check of a kinship provider.



(d) A permanency care assistance agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. The reimbursement of the nonrecurring expenses under this subsection may not exceed \$2,000.

Sec. 264.853. RULES. The executive commissioner shall adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive commissioner shall set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment the department would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, the department may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

Sec. 264.856. APPROPRIATION REQUIRED. The department is not required to provide permanency care assistance benefits under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

SECTION 7. (a) Not later than April 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement and administer the changes to Sections 162.3041 and 264.101, Family Code, as amended by this Act, and Subchapter K, Chapter 264, Family Code, as added by this Act.

(b) The rules adopted under Subsection (a) of this section shall provide that no payment for adoption assistance or permanency care assistance can be paid on behalf of a child over the age of 17 for any month prior to October 1, 2010.

(c) The rules adopted under Subsection (a) of this section shall provide that no payment of foster care benefits can be made under the amendments to Section 264.101, Family Code, with respect to a child over the age of 17 for any month prior to October 1, 2010, unless the child was eligible for foster care benefits after age 17 under the law and rules as they existed prior to the effective date of this Act.

SECTION 8. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. 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.

The amendment to **HB 1151** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Fraser offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 1151** (Senate committee report) by adding the following new SECTIONS as follows and renumbering existing SECTIONS accordingly:

SECTION \_\_. Subsection (c), Section 154.062, Family Code, is amended to read as follows:

(c) Resources do not include:

(1) return of principal or capital;

(2) accounts receivable; ~~or~~

(3) benefits paid in accordance with the Temporary Assistance for Needy Families program; or

(4) payments for foster care of a child ~~[aid for families with dependent children]~~.

SECTION \_\_. The change in law made by this Act to Subsection (c), Section 154.062, Family Code, applies only to a proceeding to establish or modify a child support obligation that is pending in a trial court on or filed on or after the effective date of this Act.

The amendment to **HB 1151** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1151** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 1151 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1151** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 23, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

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

**HB 407** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 802** (141 Yeas, 0 Nays, 1 Present, not voting)

**HB 1084** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 2283** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 2401** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 2467** (140 Yeas, 0 Nays, 1 Present, not voting)

**HB 2480** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 2893** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 2963** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 2972** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 2991** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 3097** (135 Yeas, 7 Nays, 3 Present, not voting)

**HB 4341** (141 Yeas, 0 Nays, 1 Present, not voting)

**HB 4593** (143 Yeas, 0 Nays, 1 Present, not voting)

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

**HB 72** (non-record vote)

House Conferees: Guillen - Chair/Gonzales/Gonzalez Toureilles/Hunter/Phillips

**HB 1711** (non-record vote)

House Conferees: Turner, Sylvester - Chair/Hodge/Madden/McReynolds/Sheffield

**HB 2275** (non-record vote)

House Conferees: Raymond - Chair/Flynn/Gonzales/Guillen/Merritt

**HB 4498** (non-record vote)

House Conferees: Hamilton - Chair/Chisum/Geren/Quintanilla/Thompson

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

**SB 93** (non-record vote)

House Conferees: Castro - Chair/Branch/Farias/Morrison/Pitts

**SB 1152** (non-record vote)

House Conferees: Anchia - Chair/Heflin/Marquez/McCall/Smith, Todd

**SB 1206** (non-record vote)

House Conferees: Edwards - Chair/Hodge/Madden/McReynolds/Turner, Sylvester

**SB 2423** (non-record vote)

House Conferees: Gonzalez Toureilles - Chair/Gonzales/Hopson/King, Susan/Zerwas

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 434** (141 Yeas, 0 Nays, 3 Present, not voting)

**SB 2306** (142 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 3218**

Vote reconsidered by which the house concurred in Senate amendments to HB 3218. The house has refused to concur in Senate amendments and requested the appointment of a conference committee to adjust the differences between the two houses:

House Conferees: Naishtat - Chair / Herrero / Phillips / Patrick / King of Zavala

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**HOUSE BILL 2161 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2161** at this time on its second reading:

**HB 2161**, Relating to the issuance of a personal identification certificate to present or former inmates of the Texas Department of Criminal Justice.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2161** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. 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.

The amendment to **HB 2161** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Whitmire offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2161** (engrossed version) as follows:

(1) In SECTION 2 of the bill, added Section 501.0165(c), Government Code (page 2, line 20), after the period, add "The memorandum of understanding must require the Department of State Health Services to electronically verify the birth record of an inmate whose name and any other personal information is provided by the department and to electronically report the recorded filing information to the Department of Public Safety to validate the identity of an inmate under this section.".

(2) In SECTION 2 of the bill, added Section 501.0165(d), Government Code (page 2, line 22), strike "any" and substitute "the actual".

(3) In SECTION 2 of the bill, in added Section 501.0165(d), Government Code (page 2, line 24), after the period add "The department may charge an inmate for the actual costs incurred under this section or the fees required by Section 521.421, Transportation Code.".

(4) Insert the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 521.001(a), Transportation Code, is amended by amending Subsection (1) and adding Subsections (1-a) and (7-a) to read as follows:

(1) "Correctional facility" means:

(A) a place described by Section 1.07(a)(14), Penal Code; or

(B) a secure correctional facility or secure detention facility, as defined by Section 51.02, Family Code.

(1-a) "Department" means the Department of Public Safety.

(7-a) "Parole facility" means a place described by Section 508.118 or 508.119, Government Code.

SECTION \_\_\_\_\_. Section 521.101, Transportation Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) A personal identification certificate issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

SECTION \_\_\_\_\_. Section 521.271, Transportation Code, is amended to read as follows:

Sec. 521.271. LICENSE EXPIRATION. (a) Each original driver's license and provisional license expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on the earlier of:

(A) the 18th birthday of the license holder; or

(B) the first birthday of the license holder occurring after the date of the application;

(3) an instruction permit expires on the second birthday of the license holder occurring after the date of the application; ~~and~~

(4) an occupational license expires on the first anniversary of the court order granting the license; and

(5) unless an earlier date is otherwise provided, a driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(b) Except as provided by Section 521.2711, a driver's license that is renewed expires on the earlier of:

(1) the sixth anniversary of the expiration date before renewal; or

(2) for a renewal driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility, the first birthday of the license holder occurring after the first anniversary of the date of issuance unless an earlier date is otherwise provided.

SECTION \_\_\_\_\_. Section 521.421, Transportation Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) The fee for a personal identification certificate issued under Section 501.0165, Government Code, is \$5.

(a-2) Except as provided by Subsection (a-1), the department by rule shall establish the fee for a personal identification certificate or driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

SECTION \_\_\_\_\_. Section 522.051, Transportation Code, is amended by adding Subsection (g) to read as follows:

(g) A commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance. The department by rule shall establish the fee for a commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

SECTION \_\_\_\_\_. Section 522.052, Transportation Code, is amended by adding Subsection (h) to read as follows:

(h) A renewal commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

The amendment to **HB 2161** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2161** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 2161 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2161** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 3226 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 3226** at this time on its second reading:

**HB 3226**, Relating to the payment of temporary housing costs for certain individuals who are released or are eligible for release on parole or to mandatory supervision.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Williams.

### **HOUSE BILL 3226 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3226** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

### **HOUSE CONCURRENT RESOLUTION 161 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **HCR 161** at this time on its second reading:

**HCR 161**, Granting John Cook permission to sue the Benbrook Water Authority.

The motion prevailed.

Senators Huffman, Patrick, Shapiro, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The resolution was read second time and was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Huffman, Patrick, Shapiro, Williams.

### **HOUSE BILL 537 ON SECOND READING**

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 537** at this time on its second reading:

**HB 537**, Relating to the transportation of children in motor vehicles; creating an offense.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 537** (Senate committee printing) as follows:

(1) Strike the recital to Section 1 of the bill and substitute the following:

SECTION 1. Section 545.412 (f), Transportation Code is amended to read as follows:

(2) Strike amended Section 545.412 (e), Page 1 lines 15-22.

The amendment to **HB 537** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Watson offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **HB 537** by adding an appropriately numbered SECTION to read as follows:

SECTION \_\_\_\_\_. Section 545.413(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if:

(1) the person:

(A) is at least 15 years of age;

(B) is riding in ~~[the front seat of]~~ a passenger vehicle while the vehicle is being operated;

(C) is occupying a seat that is equipped with a safety belt; and

(D) is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.



The amendment to **HB 537** was read and was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Jackson, Patrick, Williams.

On motion of Senator Eltife and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 537** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 537 ON THIRD READING**

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 537** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **COMMITTEE SUBSTITUTE HOUSE BILL 3452 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3452** at this time on its second reading:

**CSHB 3452**, Relating to the establishment of the Texas Armed Services Scholarship.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 3452** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 61.9773(a)(3)(A), Education Code (page 1, lines 54-54), strike "the Texas State Guard or".

(2) In SECTION 1 of the bill, in added Section 61.9773(a)(3), Education Code (page 1, line 58), strike "the Texas State Guard".

The amendment to **CSHB 3452** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3452** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3452 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3452** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3632 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3632** at this time on its second reading:

**CSHB 3632**, Relating to the authority of the state to acquire, sell, or exchange certain land.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3632** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The heading to Section 2165.2035, Government Code, is amended to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION \_\_\_\_\_. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204 and 2165.2045 to read as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) On or before December 1 of each even-numbered year, the commission shall submit a report to the legislature and the Legislative Budget Board describing the effectiveness of the program under this section.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin

that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) On or before December 1 of each even-numbered year, the commission shall submit a report to the legislature and the Legislative Budget Board describing the effectiveness of the program under this section.

SECTION \_\_\_\_\_. (a) In this section, "commission" means the Texas Facilities Commission.

(b) The commission shall conduct a study on the actual usage of state parking facilities by state employees. In conducting the study, the commission shall:

(1) for each state parking facility under the commission's charge and control, consider the:

- (A) available parking capacity of the facility;
- (B) number of state employees using the facility;
- (C) number of visitors using the facility;
- (D) amount and nature of revenue realized from the facility; and
- (E) excess capacity available within the facility; and

(2) develop recommendations for the redevelopment of significantly underused parking facilities to purposes more suited to the efficient administration of state government.

(c) Not later than September 1, 2010, the commission shall report the results of the study conducted under this section to the governor and the Legislative Budget Board.

(d) This section expires January 1, 2011.

The amendment to **CSHB 3632** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3632** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **COMMITTEE SUBSTITUTE HOUSE BILL 3632 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3632** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### VOTE RECONSIDERED

On motion of Senator Averitt and by unanimous consent, the vote by which **CSHB 3632** was finally passed was reconsidered.

Question — Shall **CSHB 3632** be finally passed?

Senator Nichols offered the following amendment to the bill:

#### Floor Amendment No. 1 on Third Reading

Amend **CSHB 3632** (Senate committee report version) on third reading, by adding the appropriately numbered SECTION, as follows:

SECTION \_\_\_\_\_. (a) Not later than September 30, 2009, the Texas Department of Transportation shall transfer to Polk County the real property described by Subsection (f) of this section.

(b) Polk County may use the property transferred under this Act only for a purpose that benefits the public interest of the state. If Polk County uses the property for any purpose other than a purpose that benefits the public interest of the state, Polk County shall pay to the Texas Department of Transportation an amount equal to the fair market value of the property on the date Polk County begins using the property for the purpose other than a purpose that benefits the public interest of the state, less the amount that Polk County paid to the Texas Department of Transportation under Subsection (c) of this section.

(c) On the effective date of the transfer authorized under Subsection (a) of this section, Polk County shall pay an amount to reimburse the Texas Department of Transportation for the department's actual costs to acquire the property. If the Texas Department of Transportation cannot determine that amount, the amount shall be determined based on the average historical right-of-way acquisition values for right-of-way located in proximity to the property described by Subsection (f) of this section on the date of original acquisition of the property by the Texas Department of Transportation. Money received by the Texas Department of Transportation under this subsection shall be deposited in the state highway fund and used in the Texas Department of Transportation district in which the property is located.

(d) The Texas Department of Transportation shall transfer the property by an appropriate instrument of transfer. The instrument of transfer must:

(1) provide that:

(A) Polk County may use the property only for a purpose that benefits the public interest of the state; or

(B) if Polk County uses the property for any purpose other than a purpose that benefits the public interest of the state, Polk County shall pay to the Texas Department of Transportation an amount equal to the fair market value of the property on the date Polk County begins using the property for the purpose other than a purpose that benefits the public interest of the state, less the amount that Polk County paid to the Texas Department of Transportation under Subsection (c) of this section; and

(2) describe the property to be transferred by metes and bounds.

(e) The Texas Department of Transportation shall retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of Polk County.

(f) The real property referred to in this section is described as follows:

FIELDNOTES of 10.549 Acres in the M.L. Choate Survey, A-15, Polk County, Texas and being all of a 1.338 Acre Tract described under Parcel 28, Part 1 in a Judgment of Court in the State of Texas, et al, versus Wayne Duncan and wife, Judy Duncan, dated August 6, 1975 and recorded in Volume 305, Page 357 of the Polk County Deed Records and also being part of a 20.198 Acre Tract described under Parcel 26, Part 2 in a deed from H.D. Nixon and wife, Bonibel Nixon, et al, to the State of Texas dated August 21, 1975 and recorded in Volume 305, Page 726 of said Deed Records. Said 10.549 Acres being more particularly described as follows:

BEGINNING at the most Northerly West corner of said 20.198 Acre Tract and an interior corner of a 224.204 Acre Tract conveyed to the City of Livingston by deed recorded in Volume 450, Page 805 of said Deed Records, found a concrete monument with a 1/2" iron rod for corner;

THENCE with the most Northerly Northwest Line of said 20.198 Acre Tract and a Southeast Line of said 224.204 Acre Tract, N48°28'33"E 399.68 feet to the most Northerly North corner of said 20.198 Acre Tract and an interior corner of said 224.204 Acre Tract, found a concrete monument with a 1/2" iron rod for corner;

THENCE with the most Northerly Northeast Line of said 20.198 Acre Tract, a Southwest Line of said 224.204 Acre Tract, the Southwest Line of Garden Ridge Subdivision as shown on a Plat recorded in Volume 11, Page 31 of the Polk County Plat Records, the Southwest Line of the residue of a 4.873 Acre Tract conveyed to Donald R. Langston by deed recorded in Volume 1064, Page 882 of said Official Records, and the Northeast Line of said 1.338 Acre Tract, S41°33'29"E 1,149.91 feet to an interior corner of said 20.189 Acre Tract and the South corner of said residue Tract, found a concrete monument with a 1/2" iron rod for corner which bears N41°26'31"W 200 feet from Highway No. 59 centerline station 164+49.77 and also marks the beginning of a Control of Access Line;

THENCE across and severing said 20.198 Acre Tract, S48°33'29"W, at 369.77 feet and N41°26'31"W 200 feet from station 161+10.00 pass the end of said Control of Access Line and continue on same course a total distance of 399.77 feet to an interior corner of said 20.198 Acre Tract and the East corner of a 1.250 Acre Tract conveyed to the Polk County Chamber of Commerce by deed recorded in Volume 1089, Page 79 of said Official Records, found a concrete monument with a 1/2" iron rod for corner which bears N41°26'31"W 200 feet from said Highway centerline at station 160+50.00;

THENCE with the Northeast Line of said 1.250 Acre Tract, the Northeast Line of said 224.204 Acre Tract, and the Southwest Line of said 20.198 Acre Tract, N41°33'13"W 1,149.34 feet to the Place of Beginning and containing 10.549 Acres of Land.

The bearings described herein are based upon the most Westerly Northwest Line of said 20.198 Acre Tract.

(g) Polk County shall pay any transaction fees resulting from the transfer of property under this Act.

The amendment to **CSHB 3632** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading.

On motion of Senator Averitt and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

**CSHB 3632** as again amended was again finally passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 2954 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2954** at this time on its second reading:

**HB 2954**, Relating to authorizing an increase in the student center fee at Texas Southern University.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 2954** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 12) strike "Subsections (a), (c), and (e)" and substitute "Subsections (a), (c), (d), and (e)".

(2) In SECTION 1 of the bill, immediately following amended Section 54.522(c), Education Code (page 1, between lines 34 and 35), insert the following:

(d) The board may not increase the amount of the student center fee [~~by more than 10 percent~~] in any academic year unless the amount of the increase is approved by a majority of the students voting in an election held for that purpose or by a majority of the student government of the institution.

The amendment to **HB 2954** was read.

Senator Patrick withdrew Floor Amendment No. 1.

**(Senator Carona in Chair)**

Senator Patrick again offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 2954** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 12) strike "Subsections (a), (c), and (e)" and substitute "Subsections (a), (c), (d), and (e)".

(2) In SECTION 1 of the bill, immediately following amended Section 54.522(c), Education Code (page 1, between lines 34 and 35), insert the following:

(d) The board may not increase the amount of the student center fee [~~by more than 10 percent~~] in any academic year unless the amount of the increase is approved by a majority of the students voting in an election held for that purpose or by a majority of the student government of the institution.

The amendment to **HB 2954** was again read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2954** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 2954 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2954** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 1290 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 1290** at this time on its second reading:

**HB 1290**, Relating to health benefit plan coverage for certain tests for the early detection of cardiovascular disease.

The motion prevailed.

Senators Fraser, Harris, and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 1290** (House engrossment) in SECTION 1 of the bill, by striking Section 1376.001(1)(B) (page 2, lines 5 through 11) and substituting the following:

(B) a health benefit plan that is offered by a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

The amendment to **HB 1290** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Nays: Fraser, Harris, Hegar, Patrick, Williams.

Senator Lucio offered the following committee amendment to the bill:

#### **Committee Amendment No. 2**

Amend **HB 1290** (House engrossment) in SECTION 1 of the bill, by striking Sec. 1376.001(D)(3) (page 2, lines 18 through 20).

The amendment to **HB 1290** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2 except as follows:

Nays: Fraser, Harris, Hegar, Patrick, Williams.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1290** as follows by adding the following new sections and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. Subchapter E, Chapter 1551, Insurance Code, is amended by adding Section 1551.225 to read as follows:

Sec. 1551.225. BARIATRIC SURGERY COVERAGE. (a) The board of trustees shall develop a cost-neutral or cost-positive plan for providing under the group benefits program bariatric surgery coverage for employees eligible to participate in the program under Section 1551.101.

(b) The board of trustees may adopt rules as necessary to implement this section.

SECTION \_\_\_\_\_. The board of trustees of the Employees Retirement System of Texas shall implement the plan required by Section 1551.225, Insurance Code, as added by this Act, as soon as practicable, but not later than September 1, 2010.

The amendment to **HB 1290** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Fraser, Harris, Hegar, Patrick, Williams.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1290** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Fraser, Harris, Hegar, Patrick, Williams.

**HOUSE BILL 1290 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1290** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Harris, Patrick.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5.



Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Hegar, Patrick, Williams.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3481 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3481** at this time on its second reading:

**CSHB 3481**, Relating to the right to an expunction of records and files relating to a person's arrest.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3481** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, strike amended Article 55.01(a), Code of Criminal Procedure (page 1, lines 15-60), and substitute the following:

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

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

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

(B) convicted and subsequently:

(i) pardoned; or

(ii) otherwise granted relief on the basis of actual innocence with respect to that offense; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending, provided that there was no court-ordered community supervision under Article 42.12 for the offense and that ~~each of the following conditions exist~~:

(A) an indictment or information charging the person with the commission of a felony or misdemeanor:

(i) was ~~has~~ not ~~been~~ presented against the person for the ~~an~~ offense at any time before the date of the petition for expunction, and more than 180 days have elapsed from the date of the person's arrest for the offense; ~~arising out of the transaction for which the person was arrested~~ or

(ii) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, was ~~if an indictment or information charging the person with commission of a felony was~~

~~presented, the indictment or information has been~~ dismissed or quashed and, if the offense was a felony, more than 180 days have elapsed from the date the indictment or information was dismissed or quashed[?] and[?]

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

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

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired ~~[the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and]~~

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

(2) Strike SECTION 3 of the bill (page 2, lines 18-21) and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. This Act applies to an expunction of arrest records and files for any criminal offense:

(1) that occurred before, on, or after the effective date of this Act; or

(2) for which a pardon or other relief on the basis of actual innocence was granted before, on, or after the effective date of this Act.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION \_\_\_\_\_. Article 55.02, Code of Criminal Procedure, is amended by adding Section 1a to read as follows:

Sec. 1a. (a) The trial court presiding over a case in which a defendant is convicted and subsequently pardoned or otherwise subsequently granted relief on the basis of actual innocence of the offense of which the defendant was convicted, if the trial court is a district court, or a district court in the county in which the trial court is located, shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

(b) The attorney for the state shall prepare an expunction order under this section for the court's signature.

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that the Department of Public Safety and the Texas Department of Criminal Justice shall:

(1) return all records and files that are subject to the expunction order to the court; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(d) The court shall retain all records and files provided to the court under Subsection (c) until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

SECTION \_\_\_\_\_. Subsection (a), Section 2, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(2) ~~[55.01(a)]~~ or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

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

SECTION \_\_\_\_\_. Subsection (c), Section 3, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state named in ~~[designated by the person who is the subject of]~~ the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order ~~[designated by the person]~~, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

SECTION \_\_\_\_\_. Subsection (a), Section 5, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsections (f) and (g), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(4) Renumber subsequent SECTIONS of the bill appropriately.

The amendment to **CSHB 3481** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3481** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3481 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3481** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1959 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1959** at this time on its second reading:

**CSHB 1959**, Relating to the governmental entities subject to the sunset review process.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1959** (Senate committee printing) by adding the following appropriately numbered Article to the bill and renumbering existing Articles of the bill accordingly:

ARTICLE \_\_\_\_ . ENTITIES WITH UNCHANGED 2009 SUNSET DATE  
SECTION \_\_\_\_ .01. TEXAS RESIDENTIAL CONSTRUCTION COMMISSION. (a) This section takes effect only if the Texas Residential Construction Commission is not continued in existence by another Act of the 81st Legislature, Regular Session, and Title 16, Property Code, expires on September 1, 2009.

(b) Notwithstanding Section 325.017, Government Code:

(1) on September 1, 2009, the Texas Residential Construction Commission has no responsibility or authority to regulate or take enforcement action against builders, third-party warranty companies, or arbitrators; and

(2) until February 1, 2010, the commission shall continue to handle requests for state-sponsored inspection and dispute resolution submitted to the commission before September 1, 2009, in accordance with this section.

(c) Except as provided by this section, a request for state-sponsored inspection and dispute resolution submitted to the Texas Residential Construction Commission before September 1, 2009, is governed by the law applicable to the request immediately before September 1, 2009.

(d) The parties to a request for state-sponsored inspection and dispute resolution submitted to the Texas Residential Construction Commission before September 1, 2009, may, but are not required to, continue to participate in the state-sponsored inspection and dispute resolution process, as it existed immediately before September 1, 2009, until January 31, 2010.

(e) Notwithstanding Chapter 27, Property Code, on and after September 1, 2009, a party to a dispute that is the subject of a request for state-sponsored inspection and dispute resolution submitted to the Texas Residential Construction Commission before September 1, 2009, may file an action arising out of the alleged construction defect that is the subject of the dispute before the later of:

- (1) the expiration of the applicable statute of limitations; or
- (2) the earlier of:

(A) the 45th day after the date on which a final, unappealable determination is received in connection with the request; or

(B) March 15, 2010.

(f) The Texas Residential Construction Commission may not refund any fees paid in connection with a request for state-sponsored inspection and dispute resolution filed with the commission before September 1, 2009.

(g) Until February 1, 2010, the Texas Residential Construction Commission shall maintain existing contractual relationships with third-party inspectors for the purposes of continuing the state-sponsored inspection and dispute resolution process for requests submitted before September 1, 2009. On and after September 1, 2009, a third-party inspector who performs inspections and issues reports in connection with a request for state-sponsored inspection and dispute resolution submitted before September 1, 2009, must meet the requirements of Title 16, Property Code, except that a third-party inspector is not required to submit an annual application or fee under Section 427.001, Property Code, as that section existed immediately before September 1, 2009.

(h) For the purposes of Section 27.004, Property Code, for a claim that was subject to Chapter 27 and Subtitle D, Title 16, Property Code, immediately before September 1, 2009, and for which a request for state-sponsored inspection and dispute resolution was not filed under that subtitle before September 1, 2009, notice must be given in the same manner and in the same time as is required by that section for a claim not subject to Subtitle D, Title 16, and any deadline under Section 27.004, Property Code, that applies with respect to the claim shall be computed as if the claim were not subject to Subtitle D, Title 16, Property Code.

(i) For the purposes of Section 27.0042, Property Code, if a request for state-sponsored inspection and dispute resolution is filed before September 1, 2009, and a final, unappealable determination is not received before February 1, 2010, a final, unappealable determination is considered to have been received on February 1, 2010.

(j) It is the intent of the legislature that the rights, duties, and obligations of parties to litigation pending on September 1, 2009, or to a cause of action that accrues before September 1, 2009, are not substantively impaired by the expiration of Title 16, Property Code. A court shall exercise its equitable jurisdiction to effectuate that intent.

The amendment to **CSHB 1959** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1959** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1959 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1959** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 1914 ON SECOND READING**

Senator Nichols moved to suspend the regular order of business to take up for consideration **HB 1914** at this time on its second reading:

**HB 1914**, Relating to abolishing the Private Sector Prison Industries Oversight Authority and to the certification and operation of private sector prison industries programs.

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Whitmire, Zaffirini.

Nays: Averitt, Duncan, Harris, Jackson, Ogden, Van de Putte, Wentworth, West, Williams.

Absent: Huffman.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 1914** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:

(1) "Authority" means the Private Sector Prison Industries Oversight Authority established under Subchapter C, Chapter 497, Government Code.

(2) "Department" means the Texas Department of Criminal Justice.

SECTION 2. STUDY. (a) The authority and the department shall jointly conduct a study regarding the operation and modernization of the private sector prison industries program under Subchapter C, Chapter 497, Government Code. In conducting the study, the authority and the department shall examine whether:

(1) the operation of private sector prison industries programs in this state causes a loss of existing jobs for employees in this state who are not incarcerated or imprisoned;

(2) new requirements are necessary to ensure that private sector prison industries programs are operated in a manner that is designed to avoid the loss of existing jobs for employees in this state who are not incarcerated or imprisoned;

(3) a governmental entity, before entering into a contract with an employer for a private sector prison industries program, should be required to notify legislators, local officials, and labor and business leaders of the contract;

(4) a contract entered into by a governmental entity concerning a private sector prison industries program should be required to include:

(A) specific job descriptions for any work that will be performed by participants under the contract; and

(B) a specific description of any product that will be manufactured under the contract;

(5) contracts concerning a private sector prison industries program should be made available on a publicly accessible Internet website;

(6) the statutory limitation on the overall number of participants in private sector prison industries programs should be lowered; and

(7) the private sector prison industries expansion account established under Section 497.056, Government Code, should be used to construct work facilities for private sector prison industries programs.

(b) The authority and the department may contract with any appropriate person or entity to assist in conducting the study under this section.

SECTION 3. REPORT. Not later than September 1, 2010, the authority and the department shall jointly report the results of the study conducted under this Act to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and the house of representatives that have primary jurisdiction over corrections. The report may include recommendations for legislation to address any areas of concern raised by the study.

SECTION 4. EXPIRATION. This Act expires October 1, 2010.

SECTION 5. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment to **HB 1914** was read.

On motion of Senator Nichols, Floor Amendment No. 1 was tabled by the following vote: Yeas 15, Nays 13.

Yeas: Carona, Deuell, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Lucio, Nelson, Nichols, Patrick, Shapleigh, Uresti, Whitmire.

Nays: Averitt, Duncan, Ellis, Harris, Huffman, Jackson, Ogden, Seliger, Van de Putte, Wentworth, West, Williams, Zaffirini.

Absent: Davis, Shapiro, Watson.

Senator Nichols offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 1914** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_\_\_\_. 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.

The amendment to **HB 1914** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Nichols and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1914** as amended was passed to third reading by the following vote: Yeas 25, Nays 6.

Yeas: Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Averitt, Duncan, Jackson, Ogden, Wentworth, Williams.

**HOUSE BILL 1914 ON THIRD READING**

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1914** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Averitt, Duncan, Jackson, Ogden, Wentworth, Williams.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

**SENATE RULE 5.14(a) SUSPENDED  
(Intent Calendar)**

On motion of Senator Williams and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar by 3:00 p.m., was suspended and the time was extended to 5:00 p.m. today.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2113 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2113** at this time on its second reading:



**CSHB 2113**, Relating to the holidays for members of fire and police departments in certain municipalities.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

### **Floor Amendment No. 1**

Amend **CSHB 2113** (Senate committee printing) by striking the words "~~and a police officer~~" from page 1, line 15, SECTION 1 of the bill and inserting the following new SECTION 2 as recited below and renumber existing SECTIONS of the bill accordingly:

SECTION 2. Section 142.0013, Local Government Code, is amended by adding new subsection (d) to read as follows:

(d) A police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

The amendment to **CSHB 2113** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Gallegos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2113** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2113 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2113** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time.

Senator Gallegos moved to postpone further consideration of the bill to a time certain of 3:45 p.m. today.

The motion prevailed.

Question — Shall **CSHB 2113** be finally passed?

### **HOUSE BILL 4009 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4009** at this time on its second reading:

**HB 4009**, Relating to the establishment of a victim assistance program to provide services to domestic victims of trafficking.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 4009** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.035 to read as follows:

Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE. (a) In this section, "task force" means the human trafficking prevention task force.

(b) The office of the attorney general shall establish the human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes.

(c) The task force is composed of the following:

(1) the governor or the governor's designee;

(2) the attorney general or the attorney general's designee;

(3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;

(4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;

(5) the public safety director of the Department of Public Safety or the director's designee;

(6) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A) the Texas Workforce Commission;

(B) the Texas Department of Criminal Justice;

(C) the Texas Youth Commission;

(D) the Texas Juvenile Probation Commission; and

(E) the Texas Alcoholic Beverage Commission; and

(7) as appointed by the attorney general:

(A) a public defender, as defined by Article 26.044, Code of Criminal

Procedure;

(B) an attorney representing the state;

(C) a representative of:

(i) a hotel and motel association;

(ii) a district and county attorneys association; and

(iii) a state police association;

(D) representatives of sheriff's departments;

(E) representatives of local law enforcement agencies affected by human trafficking; and

(F) representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by:

(i) identifying human trafficking victims;

(ii) providing legal or other services to human trafficking victims;

(iii) participating in community outreach or public awareness efforts regarding human trafficking;

(iv) providing or developing training regarding the prevention of human trafficking; or

(v) engaging in other activities designed to prevent human trafficking.

(d) The task force shall:

(1) collaborate, as needed to fulfill the duties of the task force, with:

(A) United States attorneys for the districts of Texas; and

(B) special agents or customs and border protection officers and border patrol agents of:

(i) the Federal Bureau of Investigation;

(ii) the United States Drug Enforcement Administration;

(iii) the Bureau of Alcohol, Tobacco, Firearms and Explosives;

(iv) the United States Immigration and Customs Enforcement

Agency; or

(v) the United States Department of Homeland Security;

(2) collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state;

(3) solicit cooperation and assistance from state and local governmental agencies, political subdivisions of the state, nongovernmental organizations, and other persons, as appropriate, for the purpose of collecting and organizing statistical data under Subdivision (2);

(4) ensure that each state or local governmental agency and political subdivision of the state that assists in the prevention of human trafficking collects statistical data related to human trafficking, including, as appropriate:

(A) the number of investigations concerning, arrests and prosecutions for, and convictions of:

(i) the offense of trafficking of persons; and

(ii) the offense of forgery or an offense under Chapter 43, Penal Code, if committed as part of a criminal episode involving the trafficking of persons;

(B) demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C) geographic routes by which human trafficking victims are trafficked and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D) means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E) social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(5) work with the Commission on Law Enforcement Officer Standards and Education to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;

(6) on the request of a judge of a county court, county court at law, or district court or a county attorney, district attorney, or criminal district attorney, assist and train the judge or the judge's staff or the attorney or the attorney's staff in the recognition and prevention of human trafficking;

(7) examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies;

(8) collaborate with state and local governmental agencies, political subdivisions of the state, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking; and

(9) develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and prosecute human trafficking offenders.

(e) The presiding officer of the task force is the attorney general or the attorney general's designee.

(f) The office of the attorney general shall supervise the administration of the task force. The attorney general shall provide the necessary staff and facilities to assist the task force in performing its duties.

(g) Not later than December 1 of each even-numbered year, the task force shall submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the legislature.

(h) This section expires September 1, 2013.

SECTION \_\_\_\_\_. Section 772.006, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The trafficking of persons investigation and prosecution account is created in the general revenue fund. The account is composed of legislative appropriations and other money required by law to be deposited in the account. Income from money in the account shall be credited to the account. Sections 403.095 and 404.071 do not apply to the account.

(e) The legislature may appropriate money from the trafficking of persons investigation and prosecution account created under Subsection (d) only to the criminal justice division for the purposes of this subsection. The division may use the appropriated money solely to distribute grants to:

(1) counties that apply for the grants and that have dedicated full-time or part-time personnel to identify, prevent, investigate, or prosecute offenses under Chapter 20A, Penal Code; and

(2) nongovernmental organizations that apply for the grants and that provide comprehensive services in this state to prevent the commission of offenses under Chapter 20A, Penal Code, or to address the needs of victims of those offenses, including public awareness activities, community outreach and training, victim identification services, legal services, and other services designed to assist victims.

(f) The total amount of grants that may be distributed to counties and nongovernmental organizations from the trafficking of persons investigation and prosecution account during each state fiscal year may not exceed \$10 million.

SECTION \_\_\_\_\_. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.056 to read as follows:

Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION.

(a) The director shall establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution.

(b) The director shall determine the size of the committee. The committee must be composed of:

(1) members of the Texas Juvenile Probation Commission, the Texas Youth Commission, and other relevant state agencies as determined by the director;

(2) members of the legislature;

(3) members of nongovernmental organizations that provide programs and services to combat and prevent trafficking of persons as described by Section 20A.02, Penal Code, in this state, including the following with respect to that trafficking:

(A) programs to promote public awareness;

(B) programs to identify and provide services to victims;

(C) legal services; and

(D) community outreach and training programs; and

(4) other juvenile justice experts.

(c) Not later than January 1, 2011, the committee shall prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

(d) This section expires June 1, 2011.

SECTION \_\_\_\_. Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.258 to read as follows:

Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON TRAFFICKING OF PERSONS. (a) The commission by rule shall require an officer first licensed by the commission on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons. The program must:

(1) consist of at least four hours of training; and

(2) include a review of the substance of Sections 20A.02 and 43.05, Penal Code.

(b) The commission shall make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution prohibited under Sections 20A.02 and 43.05, Penal Code.

(c) Not later than January 1, 2011, the commission shall begin offering the basic and advanced programs established under this section. This subsection expires September 1, 2011.

SECTION \_\_\_\_. Section 1701.402, Occupations Code, is amended by adding Subsection (h) to read as follows:

(h) As a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011, an officer must complete the basic education and training program on the trafficking of persons described by Section 1701.258(a).

SECTION \_\_\_\_. Subsections (a) and (b), Section 20A.02, Penal Code, are amended to read as follows:

(a) A person commits an offense if the person knowingly:

(1) [knowingly] traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or

(2) ~~[intentionally or knowingly]~~ benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services.

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.05 or 43.25 [43.02] and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION \_\_\_\_\_. Section 43.02, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) It is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02.

SECTION \_\_\_\_\_. Subsection (a), Section 43.05, Penal Code, is amended to read as follows:

(a) A person commits an offense if the person ~~[he]~~ knowingly:

(1) causes another by force, threat, or fraud to commit prostitution; or

(2) causes by any means a child [person] younger than 18 [17] years to commit prostitution, regardless of whether the actor knows the age of the child at the time the actor commits the offense.

SECTION \_\_\_\_\_. (a) Not later than December 1, 2009, the office of the attorney general shall establish the human trafficking prevention task force as required by Section 402.035, Government Code, as added by this Act.

(b) Not later than October 1, 2009, the executive director of the Texas Juvenile Probation Commission shall establish a committee to evaluate alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution, as required by Section 141.056, Human Resources Code, as added by this Act.

(c) Not later than December 1, 2010, the Commission on Law Enforcement Officer Standards and Education shall adopt the rules necessary to implement Section 1701.258, Occupations Code, as added by this Act.

(d) The changes in law made by this Act to Sections 20A.02, 43.02, and 43.05, Penal Code, apply 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.

The amendment to **HB 4009** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 4009** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **HOUSE BILL 4009 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4009** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **HOUSE BILL 3201 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **HB 3201** at this time on its second reading:

**HB 3201**, Relating to the designation of certain fire marshals and related officers, inspectors, and investigators and certain railroad peace officers as peace officers.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 3201** as follows:

- (1) On page 2, lines 44-46, strike subsection (37).
- (2) On page 2, lines 47 - page 3, line 48, strike Section 2.

The amendment to **HB 3201** was read.

Senator Wentworth moved to postpone further consideration of the bill to a time certain of 4:00 p.m. today.

The motion prevailed.

Question — Shall Floor Amendment No. 1 to **HB 3201** be adopted?

### **HOUSE BILL 3330 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3330** at this time on its second reading:

**HB 3330**, Relating to a disease surveillance program for elk; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 3330 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3330** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2113 ON THIRD READING**

The Presiding Officer laid before the Senate **CSHB 2113** by Senator Gallegos on its third reading. The bill had been read third time and further consideration postponed to a time certain of 3:45 p.m. today:

**CSHB 2113**, Relating to the holidays for members of fire and police departments in certain municipalities.

Question — Shall **CSHB 2113** be finally passed?

**CSHB 2113** was finally passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 431 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **CSHB 431** at this time on its second reading:

**CSHB 431**, Relating to design, construction, and renovation standards for state buildings and facilities.

The motion prevailed.

Senators Harris, Huffman, Ogden, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 431** (Senate committee printing) as follows:

(1) In Section 1 of the bill, in added Section 2166.409(c)(2), Government Code (page 1, line 54), strike "six" and substitute "seven".

(2) In Section 1 of the bill, in added Section 2166.409(c)(2)(E), Government Code (page 2, line 8), strike "and".

(3) In Section 1 of the bill, in added Section 2166.409(c)(2)(F), Government Code (page 2, line 10), after the underlined semicolon, insert "and".

(4) In Section 1 of the bill, in added Section 2166.409(c)(2), Government Code (page 2, between lines 10 and 11), insert the following:

(G) a list of registered interior designers submitted by the president of the Texas Association of Interior Design;

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.



All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 431** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS  
RELATING TO MILITARY INSTALLATIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

Sec. 397A.002. APPLICABILITY. (a) A regulation or compatible development standard adopted under this chapter does not apply to:

(1) an area located in a county with a population of less than 5,000 that is adjacent to an international border;

(2) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(3) a tract of land in agricultural use;

(4) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(5) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with a population of 60,000 or less and a municipality that, with respect to the same active military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) A commission is a political subdivision of the state, is subject to Section 245.006, and is entitled to immunity as described by Chapter 101, Civil Practice and Remedies Code.

(e) This chapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The governing body of a regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of the governing body of a commission.

(c) A member of a governing body of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the commission's authority over the area expires. The commission regains the authority in an area if the municipality disannexes the area.

Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the authority granted by Section 397A.006, a regional military sustainability commission shall recommend and adopt compatible development standards for the territory. The commission must consider and may adopt, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that

services aircraft and helicopters. The commission shall submit compatible development standards adopted under this section to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend and approve amendments to approved compatible development standards. The participating governmental entities may approve the commission's amended standards under procedures adopted by the entities.

Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this chapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this chapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.010. FUNDS. (a) A regional military sustainability commission does not have power to tax.

(b) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.011. RESTRICTIONS. (a) A regional military sustainability commission shall comply with laws applicable to participating governmental entities relating to:

- (1) reimbursement for travel expenses;
- (2) nepotism;
- (3) conflicts of interest; and
- (4) registration of lobbyists.

(b) To the extent of a conflict between laws applicable to participating governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

- (1) by a two-thirds vote of its governing body; and
- (2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that regulates territory around a military installation that is closed by the federal government and the regional compatible development standards adopted by the commission may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this chapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this chapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

The amendment to **CSHB 431** was read.

Senator Uresti withdrew Floor Amendment No. 2.

Senator Watson offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 431** (committee report page 2, between lines 50 and 51) by adding the following SECTION and renumbering subsequent SECTIONs accordingly:

SECTION \_\_\_\_\_. Subtitle G, Title 10, Government Code, is amended by adding Chapter 2311 to read as follows:

#### CHAPTER 2311. ENERGY SECURITY TECHNOLOGIES FOR CRITICAL GOVERNMENTAL FACILITIES

Sec. 2311.001. DEFINITIONS. In this chapter:

- (1) "Combined heating and power system" means a system that:
  - (A) is located on the site of a facility;

(B) is the primary source of both electricity and thermal energy for the facility;

(C) can provide all of the electricity needed to power the facility's critical emergency operations for at least 14 days; and

(D) has an overall efficiency of energy use that exceeds 60 percent.

(2) "Critical governmental facility" means a building owned by the state or a political subdivision of the state that is expected to:

(A) be continuously occupied;

(B) maintain operations for at least 6,000 hours each year;

(C) have a peak electricity demand exceeding 500 kilowatts; and

(D) serve a critical public health or public safety function during a natural disaster or other emergency situation that may result in a widespread power outage, including a:

(i) command and control center;

(ii) shelter;

(iii) prison or jail;

(iv) police or fire station;

(v) communications or data center;

(vi) water or wastewater facility;

(vii) hazardous waste storage facility;

(viii) biological research facility;

(ix) hospital; or

(x) food preparation or food storage facility.

Sec. 2311.002. COMBINED HEATING AND POWER SYSTEMS. When constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, the entity with charge and control of the facility shall evaluate whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period. Notwithstanding Chapter 2302, the entity may equip the facility with a combined heating and power system if the expected energy savings exceed the expected costs.

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

Senator Van de Putte offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSHB 431** by adding the following section, numbered appropriately, and by renumbering any subsequent sections of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 2305, Government Code, is amended by adding Section 2305.0321 to read as follows:

Sec. 2305.0321. PILOT REVOLVING LOAN PROGRAM FOR SOLAR ENERGY FOR SCHOOL BUILDINGS. (a) The energy office shall establish a pilot program under the loanstar revolving loan program to provide loans to pay the cost of

installing photovoltaic solar panels on public school buildings and the cost of associated energy efficiency improvements to the buildings. The energy office shall allocate to the pilot program at least \$4 million from the funds available to the loanstar revolving loan program.

(b) The energy office by rule shall establish the terms under which a loan may be made under the pilot program, including the interest rate for repayment of pilot program loans.

(c) Through the pilot program, the energy office shall offer to each school district the opportunity to apply for a loan to pay the cost of installing photovoltaic solar panels on at least one school building of the school district's choice and the cost of associated energy efficiency improvements to that building. The energy office by rule shall establish a procedure for determining which school districts qualify for a loan under the pilot program, including rules for selecting the school districts that will receive a loan if there is not sufficient money set aside for pilot program improvements at all school districts.

(d) Each school district that receives a loan shall pay for the principal of and interest on the loan for each school building improvement primarily from the amount budgeted for the energy costs of the school at which the solar panels are installed. The school district may make additional payments of the principal of or interest on a loan from money rebated to it as compensation for electric energy generated by the solar panels or money received as a gift or grant for the purpose of paying the loan.

(e) This section expires September 1, 2011, and the pilot program established under this section is dissolved on that date.

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

#### **Floor Amendment No. 5 was not offered.**

Senator Ellis offered the following amendment to the bill:

#### **Floor Amendment No. 6**

Amend **CSHB 431** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 2158.301, Government Code, as added by Chapter 939 (H.B. 3693), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 2158.301. ENERGY CONSERVATION: APPLIANCES, PRINTERS, AND PHOTOCOPY MACHINES. (a) Unless the comptroller approves a written request from a state agency for an exemption from the requirements of this subsection ~~[If available and cost effective]~~, a state agency shall purchase equipment and appliances, including printers and photocopy machines, for state use that meet or exceed[=

~~[(1) the federal energy conservation standards under Section 325, Energy Policy and Conservation Act (42 U.S.C. Section 6295), or a federal regulation adopted under that Act; or~~

~~[(2)]~~ the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

(b) A printer or photocopy machine purchased by a state agency must have duplexing capability and the ability to be programmed to default to double-sided printing or copying.

(c) A state agency printer or photocopy machine that has duplexing capability shall be programmed to default to double-sided printing or copying.

(d) The comptroller shall collect data on appliances purchased by state agencies and on the energy efficiency of the appliances.

SECTION \_\_\_\_\_. Chapter 2158, Government Code, is amended by adding Subchapter G to read as follows:

#### SUBCHAPTER G. LANDSCAPING EQUIPMENT

Sec. 2158.351. PURCHASE OF LANDSCAPING EQUIPMENT. (a) Except as provided by Subsection (b), a state agency may not purchase a lawnmower or other landscaping equipment unless the lawnmower or equipment is powered by propane or natural gas or is electrically powered.

(b) The comptroller may exempt from the requirements of this section a state agency that submits written justification demonstrating the reasons a propane, natural gas, or electrically powered lawnmower or other landscaping equipment does not fulfill the required functionality of a gasoline or diesel-powered lawnmower or other landscaping equipment.

SECTION \_\_\_\_\_. Chapter 2166, Government Code, is amended by adding Subchapter M to read as follows:

#### SUBCHAPTER M. BUILDING ACCESSORIES

Sec. 2166.601. PAINT. A state agency in the executive branch of state government that owns, operates, maintains, or has charge and control of a building shall, when feasible, require paint purchased for a new facility or for a remodel, repair, or renovation project to be a zero or low volatile organic compound paint.

Sec. 2166.602. CARPET, CARPET BACKING, AND CARPET TILES. A state agency that owns, operates, maintains, or has charge and control of a building shall, when feasible, require carpet, carpet backing, and carpet tiles purchased for a new facility or for a remodel, repair, or renovation project to contain postconsumer recycled content that meets the Carpet and Rug Institute's Green Label standard.

SECTION \_\_\_\_\_. Section 2158.301, Government Code, as added by Chapter 262 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Nays: Williams.

**(President in Chair)**

Senator Uresti offered the following amendment to the bill:

#### **Floor Amendment No. 7**

Amend **CSHB 431** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:



SECTION \_\_\_\_\_. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS  
RELATING TO MILITARY INSTALLATIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

Sec. 397A.002. APPLICABILITY. (a) A regulation or compatible development standard adopted under this chapter does not apply to:

(1) an area located in a county with a population of less than 5,000 that is adjacent to an international border;

(2) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(3) a tract of land in agricultural use;

(4) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(5) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with a population of 60,000 or less and a municipality that, with respect to the same active military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) A commission is a political subdivision of the state, is subject to Section 245.006, and is entitled to immunity as described by Chapter 101, Civil Practice and Remedies Code.

(e) This chapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The governing body of a regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of the governing body of a commission.

(c) A member of a governing body of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A regional military sustainability commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the commission's authority over the area expires. The commission regains the authority in an area if the municipality disannexes the area.

Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS.

(a) Before exercising the authority granted by Section 397A.006, a regional military sustainability commission shall recommend and adopt compatible development standards for the territory. The commission must consider and may adopt, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that services aircraft and helicopters. The commission shall submit compatible development standards adopted under this section to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend and approve amendments to approved compatible development standards. The participating governmental entities may approve the commission's amended standards under procedures adopted by the entities.

Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this chapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the regional military sustainability commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this chapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.010. FUNDS. (a) A regional military sustainability commission does not have power to tax.

(b) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.011. RESTRICTIONS. (a) A regional military sustainability commission shall comply with laws applicable to participating governmental entities relating to:

(1) reimbursement for travel expenses;

(2) nepotism;

(3) conflicts of interest; and

(4) registration of lobbyists.

(b) To the extent of a conflict between laws applicable to participating governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a regional military sustainability commission:

- (1) by a two-thirds vote of its governing body; and
- (2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A regional military sustainability commission that regulates territory around a military installation that is closed by the federal government and the regional compatible development standards adopted by the commission may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this chapter, a landowner aggrieved by a report submitted by the regional military sustainability commission or by a permit application decision of the participating governmental entity under this chapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

The amendment to **CSHB 431** was read.

Senator Uresti withdrew Floor Amendment No. 7.

Senator Watson offered the following amendment to the bill:

### **Floor Amendment No. 8**

Amend **CSHB 431** by adding the following section, numbered appropriately, and by renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Chapter 447, Government Code, is amended by adding Section 447.015 to read as follows:

Sec. 447.015. ALLOCATION OF FEDERAL QUALIFIED ENERGY CONSERVATION BONDS. (a) The comptroller may allocate to eligible issuers of bonds a portion of this state's allocation of federal qualified energy conservation bonds:

(1) in accordance with the federal law that establishes the federal subsidy for which the national limitation on qualified energy conservation bonds is established; and

(2) to the extent consistent with federal law, on receiving assurance from the issuer or other proper official that the issuance of the bond will achieve a purpose for which the federal subsidy is authorized.

(b) The state energy conservation office may administer programs established by the comptroller for:

- (1) allocating federal qualified energy conservation bonds; or
- (2) designating bonds entitled to the federal subsidy for qualified energy conservation bonds, as limited by the federal limitation on the issuance of the bonds.

(c) The comptroller may adopt rules as necessary for the comptroller or the state energy conservation office to administer effectively programs for allocating this state's allocation of the qualified energy conservation bonds. Rules adopted under this subsection:

(1) must be consistent with federal requirements and goals; and

(2) may include any necessary forms or procedures.

(d) The comptroller may charge a fee for each application the comptroller or the state energy conservation office receives under a program implemented under this section.

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8.

Senator Ogden offered the following amendment to the bill:

#### **Floor Amendment No. 9**

Amend **CSHB 431** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSHB 431** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 9.

On motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 431** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Nays: Harris, Huffman, Ogden, Williams.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 431 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 431** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Huffman, Ogden, Williams.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Huffman, Ogden, Patrick, Williams.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2344 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2344** at this time on its second reading:

**CSHB 2344**, Relating to the urban land bank demonstration program in certain municipalities.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2344 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2344** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 4501 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4501** at this time on its second reading:

**HB 4501**, Relating to an intercollegiate athletics fee at Texas Southern University.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 4501 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4501** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 3201 ON SECOND READING**

The President laid before the Senate **HB 3201** by Senator Wentworth on its second reading. The bill had been read second time, an amendment offered, and further consideration postponed to a time certain of 4:00 p.m. today:

**HB 3201**, Relating to the designation of certain fire marshals and related officers, inspectors, and investigators and certain railroad peace officers as peace officers.

Question — Shall Floor Amendment No. 1 to **HB 3201** be adopted?

**Floor Amendment No. 1**

Amend **HB 3201** (Senate committee report) as follows:

(1) On page 2, lines 44-46, strike subsection (37).

(2) On page 2, lines 47 - page 3, line 43, strike Section 2.

Senator Wentworth moved to table Floor Amendment No. 1.

The motion to table was lost by the following vote: Yeas 11, Nays 17.

Yeas: Duncan, Ellis, Eltife, Hinojosa, Lucio, Seliger, Shapiro, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Averitt, Davis, Deuell, Estes, Fraser, Gallegos, Harris, Hegar, Huffman, Nelson, Nichols, Ogden, Patrick, Shapleigh, Uresti, Van de Putte, Watson.

Absent: Carona, Jackson, West.

Question recurring on the adoption of Floor Amendment No. 1 to **HB 3201**, the amendment was adopted by the following vote: Yeas 17, Nays 11.

Yeas: Averitt, Davis, Deuell, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Nelson, Nichols, Ogden, Patrick, Shapleigh, Uresti, Van de Putte, Watson.

Nays: Duncan, Ellis, Eltife, Hegar, Lucio, Seliger, Shapiro, Wentworth, Whitmire, Williams, Zaffirini.

Absent: Carona, Jackson, West.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3201** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

**HOUSE BILL 3201 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3201** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.



**COMMITTEE SUBSTITUTE  
HOUSE BILL 4294 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4294** at this time on its second reading:

**CSHB 4294**, Relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 4294** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 28.002, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) In cooperation with the State Board of Education and with the participation of educators, the agency shall develop written materials that provide additional specific guidance regarding the essential knowledge and skills identified in accordance with Subsection (c). The materials must include appropriate clarifiers such as exemplar activities and qualifying statements.

SECTION \_\_\_\_\_. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.016 to read as follows:

Sec. 28.016. CURRICULUM MANAGEMENT SYSTEMS. (a) In this section, "curriculum management system" means a comprehensive, fully integrated online computer-based system that:

(1) links and aligns all teaching, learning, and assessment components of student academic achievement; and

(2) may include components such as curriculum, instructional resources, assessments, a data warehouse, and a reporting feature capable of being customized to meet specific school district needs.

(b) As a resource for school districts, the agency shall:

(1) evaluate curriculum management systems available in this state, including systems developed by school districts, regional education service centers, and regional education service center cooperatives; and

(2) compile a list of curriculum management systems that conform to the essential knowledge and skills of the required curriculum identified under Section 28.002.

The amendment to **CSHB 4294** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 4294** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, adding Section 31.004, Education Code (page 1, line 19), strike "required" and substitute "foundation".

(2) In SECTION 4 of the bill, adding Section 31.0231(c), Education Code (page 1, line 52), between "the" and "electronic", insert "State Board of Education must be given an opportunity to comment on the electronic textbook or instructional material. An".

(3) In SECTION 4 of the bill, adding Section 31.0231(c), Education Code (page 1, line 52), between "material" and the colon, insert "placed on the list adopted under Subsection (a)".

(4) In SECTION 4 of the bill, adding Section 31.0231(c)(1), Education Code (page 1, line 56), strike "and".

(5) In SECTION 4 of the bill, adding Section 31.0231(c)(2), Education Code (page 1, line 58), strike the period and substitute "; and".

(6) In SECTION 4 of the bill, add a new Subdivision (3) to added Section 31.0231(c), Education Code (page 1, between lines 58 and 59), to read as follows:

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(7) In SECTION 4 of the bill, adding Section 31.0231(h)(1), Education Code (page 2, line 34), between "manufacturers" and "and the", insert ", as appropriate,".

The amendment to **CSHB 4294** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Shapleigh offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 4294** (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.

The amendment to **CSHB 4294** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3.

### VOTE RECONSIDERED

On motion of Senator Shapiro and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 to **CSHB 4294** be adopted?

Senator Shapiro withdrew Floor Amendment No. 1.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 4294** as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

### **COMMITTEE SUBSTITUTE HOUSE BILL 4294 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 4294** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

### **REMARKS ORDERED PRINTED**

On motion of Senator Patrick and by unanimous consent, the remarks between Senator Shapiro and Senator Patrick regarding **CSHB 4294** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Patrick:** I think this is an excellent bill, and I'm glad to see where we're moving forward so that we stay up with technology that's racing ahead of what we do every two years. It's one of the reasons, maybe, we should be here more often at times.

**Senator Shapiro:** No, every eight years—

**Senator Patrick:** Yes.

**Senator Shapiro:** Or 12 years—

**Senator Patrick:** Or 12 years.

**Senator Shapiro:** Depending on which curriculum you're looking at.

**Senator Patrick:** And there is a concern, as you know, we discussed, and in committee I voted for this bill, and I asked you the key question, does this take away any authority or power of the SBOE, which is an elected board, which, you know, many taxpayers and many parents believe it gives them a real connection to what their students learn. Give me your view on this because I know there's a concern, I want to hear your answer, then follow up with a question.

**Senator Shapiro:** Absolutely. First let me, let me share with you that I believe in the power and the control that exists today, when the checks and balances that exist with SBOE. Their job is a very important one. It deals very specifically with content. And the content and the TEKS, which is what they do, and they do well, is what this is all about. The delivery mechanism will change. The potential, there's, this is all may, there's not a shall in here. There's not a forced change. In fact, it'll probably be a very gradual change, but the current SBOE responsibility of content and the TEKS remains intact. This will not take away that job and that responsibility. This is still content-driven, this is still TEKS-driven.

**Senator Patrick:** But here's my question: Currently, concerning a textbook, non-electronic, just a good old-fashioned textbook that weighs your back down when you put it in your knapsack, it's the TEKS, and a book could meet the TEKS standard but have things in there that are objectionable to the SBOE or to parents, and they have the power to reject that book even if it meets the TEKS standards, correct, currently?

**Senator Shapiro:** Only if it's factual information that there, that is not in there. TEKS gives you the authority to put the types of content that you want in each of the subjects, but you cannot have, the SBOE cannot say that book is objectionable because of this. It can be objectionable because of factual errors, or it can be objectionable because it's got so many errors in it that are other than factual errors, but other errors, you know—

**Senator Patrick:** But, but they—

**Senator Shapiro:** Punctuation.

**Senator Patrick:** They do have the opportunity to—

**Senator Shapiro:** Right.

**Senator Patrick:** Reject.

**Senator Shapiro:** Right.

**Senator Patrick:** Under this bill and the electronic textbooks, they do not have the power to reject an electronic textbook from the Commissioner's list, correct? That's what—

**Senator Shapiro:** This is the Commissioner's list, that's correct. But the Commissioner's list still includes all of those things that have already included in their content on the conforming list, or the non-conforming list. They've already made that decision. This is no different.

**Senator Patrick:** But just for clarity. Currently, they can reject a textbook, but under this bill they will not be able to reject an electronic textbook on the Commissioner's list.

**Senator Shapiro:** That's correct.

**Senator Patrick:** Okay, and that is the concern, I believe, of the members who have contacted you, contacted me, and members, and the parents, and I'm going to support the bill—

**Senator Shapiro:** (Inaudible, not speaking into the microphone)—

**Senator Patrick:** And vote for the bill, but that part of the bill greatly concerns me, because I think as we move forward rapidly, we could see a major shift to electronic textbooks, which, again, I'm fine with the technology. But as we do that, the SBOE, then, is not in a position to reject those books, and I think we have a great Commissioner today, and I have confidence in that Commissioner. I don't know who the future commissioners will be, and what they will put on that list, and this bill then,

takes away the power of the elected State Board of Education and the parents to reject those textbooks that even meeting some TEKS standards may be objectionable to them, and there is a clear change in that in this bill.

**Senator Shapiro:** Can I just express one more very quick thought?

**President:** Yes.

**Senator Shapiro:** I want to make sure that you understand, Senator Patrick, these textbooks will still be in the classroom.

**Senator Patrick:** I—

**Senator Shapiro:** Every—

**Senator Patrick:** Yeah—

**Senator Shapiro:** Classroom will have a set of textbooks—

**Senator Patrick:** Yes.

**Senator Shapiro:** Every classroom. There's not going to be no textbooks.

**Senator Patrick:** I understand.

**Senator Shapiro:** So, I think it's important to know that those textbooks are in the classroom, and they can certainly be utilized. And it's a good possibility many of them are going to continue to be utilized for quite awhile before they reach the point of full implementation of this particular bill.

**Senator Patrick:** And I am aware, and I know you and I have worked together this session to make sure, on many occasions, on many pieces of legislation, that the SBOE and its authority is protected on this bill. And, again, I like this technology, I support the bill, but I want to be sure, on the record, we are letting the public and the Members know we are moving to a position where the SBOE does not have the authority to reject a book, an electronic textbook, from the Commissioner's list. I think that's a quantum step forward, and I just want to be sure we know—

**Senator Shapiro:** Okay.

**Senator Patrick:** What we're doing and, again, support the bill. That's the only part that concerns me, and I would like to have addressed that, but I think our comments on the record—

**Senator Shapiro:** Thank you.

**Senator Patrick:** Are sufficient.

**Senator Shapiro:** Okay.

**Senator Patrick:** Thank you.

## HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

**HB 3411** to Committee on Natural Resources.

**HB 4742** to Committee on Jurisprudence.

## HOUSE BILL 4576 REREFERRED

Senator Lucio submitted a Motion In Writing requesting that **HB 4576** be withdrawn from the Committee on Administration and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

## HOUSE BILL 836 REREFERRED

Senator Hegar submitted a Motion In Writing requesting that **HB 836** be withdrawn from the Committee on Agriculture and Rural Affairs and rereferred to the Committee on Natural Resources.

The Motion In Writing prevailed without objection.

## SENATE BILL 1001 WITH HOUSE AMENDMENTS

Senator Deuell called **SB 1001** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

### Floor Amendment No. 1

Amend **SB 1001** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 501.153, Insurance Code, is amended to read as follows:

Sec. 501.153. AUTHORITY TO APPEAR, INTERVENE, OR INITIATE. The public counsel:

(1) may appear or intervene, as a party or otherwise, as a matter of right before the commissioner or department on behalf of insurance consumers, as a class, in matters involving:

(A) rates, rules, and forms affecting:

(i) property and casualty insurance;

(ii) title insurance;

(iii) credit life insurance;

(iv) credit accident and health insurance; or

(v) any other line of insurance for which the commissioner or department promulgates, sets, adopts, or approves rates, rules, or forms;

(B) rules affecting life, health, or accident insurance; or

(C) withdrawal of approval of policy forms:

(i) in proceedings initiated by the department under Sections 1701.055 and 1701.057; or

(ii) if the public counsel presents persuasive evidence to the department that the forms do not comply with this code, a rule adopted under this code, or any other law;

(2) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising from an action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this chapter;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of insurance consumers as a class in any proceeding in which the public counsel determines that insurance consumers are in need of representation, except that the public counsel may not intervene in an enforcement or parens patriae proceeding brought by the attorney general; ~~and~~

(4) may appear or intervene before the commissioner or department as a party or otherwise on behalf of small commercial insurance consumers, as a class, in a matter involving rates, rules, or forms affecting commercial insurance consumers, as a class, in any proceeding in which the public counsel determines that small commercial consumers are in need of representation; and

(5) may initiate a special rate hearing before the State Office of Administrative Hearings under Section 2251.106(d).

SECTION \_\_\_\_\_. Section 2251.106, Insurance Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

(b) The public insurance counsel, not later than the 30th day after the date of a rate filing under this chapter, may:

(1) file with the commissioner a written objection to:

(A) ~~(1)~~ an insurer's rate filing; or

(B) ~~(2)~~ the criteria on which the insurer relied to determine the rate; or

(2) initiate a special rate hearing before the State Office of Administrative Hearings under Subsection (d).

(c) A written objection filed under Subsection (b)(1) ~~(1)~~ must contain the reasons for the objection.

(d) If the public insurance counsel determines that a rate filing under this subchapter does not comply with the standards established under Subchapter B, the public insurance counsel may request that the State Office of Administrative Hearings conduct a special rate hearing to determine whether the filed rate is excessive or unfairly discriminatory. A special rate hearing under this subsection shall be conducted in the same manner as a rate hearing is conducted under Chapter 40, except that the public insurance counsel shall perform the duties and may assume the powers assigned to the commissioner under Sections 40.059 and 40.060.

(e) If, after a special rate hearing under Subsection (d), the administrative law judge determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Section 2251.051, the administrative law judge may order a refund or discount to the same extent and in the same amount that the commissioner may issue an order under Section 2254.003(b)(1). A decision of an administrative law judge



under this subsection is subject to judicial review as provided by Subchapter D, Chapter 36, to the same extent and in the same manner as an action of the commissioner.

## **Floor Amendment No. 2**

Amend Amendment No. 1 to **SB 1001** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 501.153, Insurance Code, is amended to read as follows:

Sec. 501.153. **AUTHORITY TO APPEAR, INTERVENE, OR INITIATE.** The public counsel:

(1) may ~~[appear or intervene]~~, as a party or otherwise and ~~[;]~~ as a matter of right before the commissioner or department on behalf of insurance consumers~~[;]~~ as a class, initiate proceedings concerning or appear or intervene in matters involving:

(A) rates, rules, and forms affecting:

- (i) property and casualty insurance;
- (ii) title insurance;
- (iii) credit life insurance;
- (iv) credit accident and health insurance; or

(v) any other line of insurance for which the commissioner or department promulgates, sets, adopts, or approves rates, rules, or forms;

(B) rules affecting life, health, or accident insurance; or

(C) withdrawal of approval of policy forms:

(i) in proceedings initiated by the department under Sections 1701.055 and 1701.057; or

(ii) if the public counsel presents persuasive evidence to the department that the forms do not comply with this code, a rule adopted under this code, or any other law;

(2) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising from an action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this chapter;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of insurance consumers as a class in any proceeding in which the public counsel determines that insurance consumers are in need of representation, except that the public counsel may not intervene in an enforcement or parens patriae proceeding brought by the attorney general; and

(4) may appear or intervene before the commissioner or department as a party or otherwise on behalf of small commercial insurance consumers, as a class, in a matter involving rates, rules, or forms affecting commercial insurance consumers, as a class, in any proceeding in which the public counsel determines that small commercial consumers are in need of representation.

SECTION \_\_\_\_\_. Section 2251.106, Insurance Code, is amended by amending Subsections (a), (b), and (c) to read as follows:

(a) ~~[On request to the commissioner, the]~~ The public insurance counsel shall ~~[may]~~ review all rate filings and additional information provided by an insurer under this chapter. Confidential information reviewed under this subsection remains confidential.

(b) The public insurance counsel, not later than the 30th day after the date of a rate filing under this chapter, shall, if the office determines that the filing does not comply with the requirements of this chapter:

(1) [may] file with the commissioner a written objection to:

(A) ~~[(4)]~~ an insurer's rate filing; or

(B) ~~[(2)]~~ the criteria on which the insurer relied to determine the rate; or

(2) request a rate hearing with the commissioner.

(c) A written objection filed under Subsection (b)(1) ~~[(b)]~~ must contain the reasons for the objection.

### Floor Amendment No. 3

Amend **SB 1001** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 501, Insurance Code, is amended by adding Section 501.161 to read as follows:

Sec. 501.161. REPORT TO LEGISLATURE. On or before December 31 of each even-numbered year, the office shall submit to the appropriate committees of each house of the legislature a written report containing any recommendations for legislation that the office determines are appropriate to benefit and protect insurance consumers, as a class, in the insurance market in this state.

### Floor Amendment No. 4

Amend **SB 1001** (House committee printing), by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 501.153, Insurance Code, is amended to read as follows:

Sec. 501.153. AUTHORITY TO APPEAR, INTERVENE, OR INITIATE. The public counsel:

(1) may appear or intervene, as a party or otherwise, as a matter of right before the commissioner or department on behalf of insurance consumers, as a class, in matters involving:

(A) rates, rules, and forms affecting:

(i) property and casualty insurance;

(ii) title insurance;

(iii) credit life insurance;

(iv) credit accident and health insurance; or

(v) any other line of insurance for which the commissioner or department promulgates, sets, adopts, or approves rates, rules, or forms;

(B) rules affecting life, health, or accident insurance; or

(C) withdrawal of approval of policy forms:

(i) in proceedings initiated by the department under Sections 1701.055 and 1701.057; or

(ii) if the public counsel presents persuasive evidence to the department that the forms do not comply with this code, a rule adopted under this code, or any other law;

(2) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising from an action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this chapter;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of insurance consumers as a class in any proceeding in which the public counsel determines that insurance consumers are in need of representation, except that the public counsel may not intervene in an enforcement or parens patriae proceeding brought by the attorney general; ~~and~~

(4) may appear or intervene before the commissioner or department as a party or otherwise on behalf of small commercial insurance consumers, as a class, in a matter involving rates, rules, or forms affecting commercial insurance consumers, as a class, in any proceeding in which the public counsel determines that small commercial consumers are in need of representation; and

(5) notwithstanding Section 556.006(a), Government Code, may appear before a legislative committee and support or oppose the passage or defeat of a legislative measure on behalf of insurance consumers, as a class.

#### **Floor Amendment No. 5**

Amend **SB 1001** as follows:

(1) Add a new appropriately numbered SECTION to the bill, appropriately renumbering subsequent SECTIONS, to read as follows:

SECTION \_\_\_\_\_. Subchapter D, Chapter 501, Insurance Code, is amended by amending Sections 501.151 and 501.153 and adding Section 501.1605 to read as follows:

Sec. 501.151. POWERS AND DUTIES OF OFFICE. (a) The office:

(1) may assess the impact of insurance rates, rules, and forms on insurance consumers in this state; ~~and~~

(2) shall advocate in the office's own name positions determined by the public counsel to be most advantageous to a substantial number of insurance consumers; and

(3) shall accept from a small employer, an eligible employee, or an eligible employee's dependent and, if appropriate, refer to the commissioner, a complaint described by Section 501.1605.

(b) The decision to refer a complaint to the commissioner under Subsection (a) is at the public counsel's sole discretion.

Sec. 501.153. AUTHORITY TO APPEAR, INTERVENE, OR INITIATE. The public counsel:

(1) may appear or intervene, as a party or otherwise, as a matter of right before the commissioner or department on behalf of insurance consumers, as a class, in matters involving:

(A) rates, rules, and forms affecting:

- (i) property and casualty insurance;
- (ii) title insurance;
- (iii) credit life insurance;
- (iv) credit accident and health insurance; or
- (v) any other line of insurance for which the commissioner or department promulgates, sets, adopts, or approves rates, rules, or forms;
- (B) rules affecting life, health, or accident insurance; or
- (C) withdrawal of approval of policy forms:
  - (i) in proceedings initiated by the department under Sections 1701.055 and 1701.057; or

- (ii) if the public counsel presents persuasive evidence to the department that the forms do not comply with this code, a rule adopted under this code, or any other law;

- (2) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding involving or arising from an action taken by an administrative agency in a proceeding in which the public counsel previously appeared under the authority granted by this chapter;

- (3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of insurance consumers as a class in any proceeding in which the public counsel determines that insurance consumers are in need of representation, except that the public counsel may not intervene in an enforcement or parens patriae proceeding brought by the attorney general; ~~and~~

- (4) may appear or intervene before the commissioner or department as a party or otherwise on behalf of small commercial insurance consumers, as a class, in a matter involving rates, rules, or forms affecting commercial insurance consumers, as a class, in any proceeding in which the public counsel determines that small commercial consumers are in need of representation; and

- (5) may appear before the commissioner on behalf of a small employer, eligible employee, or eligible employee's dependent in a complaint the office refers to the commissioner under Section 501.1605.

Sec. 501.1605. COMPLAINT RESOLUTION FOR CERTAIN PREMIUM RATE INCREASES. (a) A small employer, an eligible employee, or an eligible employee's dependent may file a complaint with the office alleging that a rate is excessive for the risks to which the rate applies, if the percentage increase in the premium rate charged to a small employer under Subchapter E, Chapter 1501, for a new rating period exceeds 20 percent.

(b) The office shall refer a complaint received under Subsection (a) to the commissioner if the office determines that the complaint substantially attests to a rate charged that is excessive for the risks to which the rate applies. A rate may not be considered excessive for the risks to which the rate applies solely because the percentage increase in the premium rate charged exceeds the percentage described by Subsection (a).

(c) With respect to a complaint filed under Subsection (a), the office may issue a subpoena applicable throughout the state that requires the production of records.

(d) On application of the office in the case of disobedience of a subpoena, a district court may issue an order requiring any individual or person, including a small employer health benefit plan issuer described by Section 1501.002, that is subpoenaed to obey the subpoena and produce records, if the individual or person has refused to do so. An application under this subsection must be made in a district court in Travis County.

### **Floor Amendment No. 6**

Amend Amendment No. 5 by Alvarado to **SB 1001** as follows:

(1) On page 1, line 6, strike "Sections 501.151 and 501.153" and substitute "Section 501.151".

(2) On page 1, line 8, strike "(a)".

(3) Strike proposed Section 501.151(a)(3), Insurance Code (page 1, line 15 through 18), and substitute the following:

(3) shall make recommendations to the legislature regarding accepting complaints described by Section 501.1605 and potentially referring complaints from small employers to the commission.

(4) Strike proposed Section 501.151(b), Insurance Code (page 1, lines 19 and 20).

(5) Strike page 1, line 21, through page 3, line 18.

(6) On page 3, line 22, between "office" and "alleging", insert "if recommended and, if so, in the manner recommended under Section 501.151(a)(3)".

(7) Add the following appropriately numbered item to the amendment and renumber subsequent items of the amendment accordingly:

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

SECTION \_\_\_\_\_. The office of public insurance counsel shall make the recommendations required by Section 501.151(a)(3), Insurance Code, as added by this Act, not later than January 1, 2011.

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1001** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 501, Insurance Code, is amended by adding Section 501.1531 to read as follows:

Sec. 501.1531. LOBBYING ACTIVITIES NOT AUTHORIZED. Section 501.153 does not authorize the public counsel to engage in activities to an extent or in a manner that would require a person engaging in those activities to register as a lobbyist under Section 305.003, Government Code.

The amendments were read.

Senator Deuell moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1001** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Hegar, Hinojosa, Williams, and Averitt.

### **SENATE BILL 472 WITH HOUSE AMENDMENTS**

Senator Estes called **SB 472** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Floor Amendment No. 4**

Amend **SB 472** (House committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 21), strike "printed" and substitute "conspicuously printed".

(2) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, lines 21 and 22), strike "canary yellow or a similarly colored yellow".

(3) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 23), strike "affixed to" and substitute "affixed to or enclosed with".

#### **Floor Amendment No. 5**

Amend **SB 472** (House committee printing) in SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 4, between lines 8 and 9), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

( ) a description of the availability of counseling by a housing counselor employed by an agency approved by the United States Department of Housing and Urban Development and the methods to obtain that counseling;

#### **Floor Amendment No. 6**

Amend **SB 472** (House committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 51.002(d-1)(7), Property Code (page 4, lines 12 through 13), and renumber existing subdivisions of that subsection accordingly.

(2) Strike SECTION 3 of the bill (page 5, lines 12 through 23).

#### **Floor Amendment No. 12**

Amend **SB 472** (House committee printing) as follows:

(1) In Section 5 of the bill (page 7, line 9), strike "The changes in law made by this Act" and substitute "Sections 24.005 and 51.002, Property Code, as amended by this Act, and Section 51.0022, Property Code, as added by this Act,".

(2) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.084 to read as follows:

Sec. 2306.084. MORTGAGE DEFAULT AND FORECLOSURE DATA COLLECTION AND REPORT. (a) The board shall prescribe the form and content of the form to be filed with the department under Section 51.0023, Property Code, and procedures for a person to submit the sworn form to the department electronically.

(b) The form prescribed for submission by a mortgage servicer under Section 51.0023(a), Property Code, must request information about the property, the debtor, and other facts surrounding the foreclosure, including:

(1) the type of lien being foreclosed, as listed in Section 50, Article XVI, Texas Constitution;

(2) the initial interest rate of the loan;

(3) the origination and maturity dates of the loan;

(4) the initial amount of the debt;

(5) whether the loan allows negative amortization or allows the payment of interest only;

(6) whether the interest rate could change and, if so, the minimum and maximum rates, the index used, the amount of the margin, how often the rate could adjust, how much the rate could adjust, and the current interest rate being charged;

(7) whether the loan allows for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments;

(8) whether the loan has a prepayment penalty or a universal default provision in which it allows for a change in the interest rate when there is a default by the debtor on any obligation to the lender or any other lender or there is a decrease in the debtor's credit score;

(9) the type of default;

(10) demographics of the debtor;

(11) whether the property was the debtor's residence;

(12) the zip code of the property subject to sale; and

(13) any other information the department finds appropriate to request from the mortgage servicer.

(c) The department shall make the data submitted under Section 51.0023, Property Code, available to the public on the department's Internet website.

(d) Not later than January 1 of each year, the department shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and attorney general regarding the data collected under Section 51.0023, Property Code. The department shall make the report required under this subsection available to the public on the department's Internet website.

SECTION \_\_\_\_. Chapter 51, Property Code, is amended by adding Section 51.0023 to read as follows:

Sec. 51.0023. DATA COLLECTION REGARDING RESIDENTIAL PROPERTY OCCUPIED BY TENANT. (a) A mortgage servicer who files a notice of sale under Section 51.002(b) regarding residential real property known by the mortgage servicer to be occupied by a tenant must submit to the Texas Department of Housing and Community Affairs a completed and sworn form prescribed by the board of the department under Section 2306.084(b), Government Code. The form must be submitted electronically in the manner prescribed by the board.

(b) If information requested by the form is unknown by the mortgage servicer, the mortgage servicer must provide the information that is known and submit an affidavit to the Texas Department of Housing and Community Affairs based on personal knowledge that the mortgage servicer made a diligent inquiry and has been unable to locate the information requested.

SECTION \_\_\_\_\_. (a) Not later than November 1, 2009, the board of the Texas Department of Housing and Community Affairs shall prescribe the forms and procedures required by Section 2306.084, Government Code, as added by this Act.

(b) Section 51.0023, Property Code, as added by this Act, applies only to a sale of residential real property in which notice of sale under Section 51.002, Property Code, is provided on or after December 1, 2009. A sale in which notice of sale is provided before December 1, 2009, is subject to the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

### **Floor Amendment No. 13**

Amend **SB 472** (House committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, lines 7 - 9), strike "deliver to the tenant not later than 24 hours after the time of the foreclosure sale" and substitute "give a tenant at least ten days' written notice to vacate before the purchaser may file a forcible detainer suit. The notice must be sent by certified mail and must include notice on a separate page"

(2) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, line 13) of the bill, between "failure to" and "pay rent", insert "comply with the terms of the lease agreement, including the obligation to".

(3) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, lines 13 and 14), strike ", including a late fee, as of the date of the sale"

(4) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, line 14), after the period, insert the following:

The notice under this section is deemed delivered when the notice is deposited in the United States mail, postage prepaid and addressed to "tenant" or "occupant." The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(5) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 21 and 22), strike "canary yellow or a similarly colored yellow".

(6) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 23), after the period, insert "The notice must be in English and Spanish and in conspicuous, bold, or underlined print."

(7) In SECTION 2 of the bill, in added Section 51.002(i), Property Code (page 4, line 24), after "(B)" insert the following:  
complies with the other material provisions of the lease agreement;

(C)

(8) In SECTION 2 of the bill, in added Section 51.002(i), Property Code (page 4, line 25), strike "(C)" and substitute "(D)".

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 472** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:



SECTION \_\_\_\_\_. Chapter 51, Property Code, is amended by adding Section 51.013 to read as follows:

Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of default is sent under Section 51.002(d) and a written authorization to communicate with a third party is received by the mortgage servicer from the debtor, a mortgage servicer shall communicate with the third party designated in writing by the debtor who provides assistance to the debtor, including a family member, licensed attorney of the debtor, or housing counseling agency approved by the United States Department of Housing and Urban Development.

(b) The notice described in Subsection (a) must be sent through the United States Postal Service, by hand delivery, or through electronic means.

(c) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

The amendments were read.

Senator Estes moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 472** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Averitt, Carona, Huffman, and Van de Putte.

### **SENATE BILL 488 WITH HOUSE AMENDMENT**

Senator Ellis called **SB 488** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **Amendment**

Amend **SB 488** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.

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

SECTION 1. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.428 to read as follows:

Sec. 545.428. VULNERABLE ROAD USERS. (a) In this section, "vulnerable road user" means:

(1) a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger;

(2) a person on horseback;

(3) a person operating equipment other than a motor vehicle, including a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or

(4) a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

(b) An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:

(1) vacate the lane in which the vulnerable road user is located if the highway has two or more marked lanes running in the same direction; or

(2) pass the vulnerable road user at a safe distance.

(c) For the purposes of Subsection (b)(2), the operator is presumed to have failed to comply with Subsection (b)(2) if the distance between the operator's vehicle and the vulnerable road user is less than:

(1) three feet if the operator's vehicle is a passenger car or light truck; or

(2) six feet if the operator's vehicle is a truck other than a light truck or a commercial motor vehicle as defined by Section 522.003.

(d) An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection or in such proximity to the intersection as to be an immediate hazard.

(e) An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the vulnerable road user is traveling and the braking requirements of the vehicle making the right-hand turn.

(f) An operator of a motor vehicle may not maneuver the vehicle in a manner that:

(1) is intended to cause intimidation or harassment to a vulnerable road user; or

(2) threatens a vulnerable road user.

(g) An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways.

(h) A person may not open the door on the side of a vehicle that is adjacent to moving traffic unless it is reasonably safe to open the door without interfering with the movement of traffic, including vulnerable road users. A person may not leave a door open on the side of a vehicle that is adjacent to moving traffic for a period longer than necessary to load or unload passengers or goods.

(i) A person may not harass, taunt, or throw an object or liquid at or in the direction of any vulnerable road user.

(j) A violation of this section is punishable under Section 542.401 except that:

(1) if the violation results in property damage, the violation is a misdemeanor punishable by a fine of not to exceed \$500; or

(2) if the violation results in bodily injury, the violation is a Class B misdemeanor.

(k) The presumption provided by Subsection (c) does not arise and may not be applied against the operator of the motor vehicle if at the time of the offense the vulnerable road user was acting in violation of the law.

(l) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

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

The amendment was read.

Senator Ellis moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 488** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Carona, Patrick, Davis, and Watson.

### **SENATE BILL 686 WITH HOUSE AMENDMENTS**

Senator Davis called **SB 686** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 686** (House committee printing) on page 2, line 18, by striking "commission" and substituting "department".

#### **Floor Amendment No. 2**

Amend **SB 686** as follows:

On page 1, line 8, strike "gas utility" and insert in lieu thereof, "pipeline"

On page 1, line 17, between the words a and pipeline facility, strike the word gas

On page 1, line 18, add to the end of the sentence between the word Code and the following: or Section 117.012 Nat. Res. Code.

Strike subsection (b) beginning on page 1, line 19 and striking through page 2, line 1, and renumber the succeeding subsections accordingly.

#### **Floor Amendment No. 3**

Amend **SB 686** (House committee printing) in SECTION 1 of the bill, by striking added Section 203.096(e), Transportation Code (page 2, lines 23 and 24), and substituting the following:

(e) A gas utility that lays, maintains, or operates a natural gas pipeline under this section in a municipality shall:

(1) comply with any applicable municipal ordinance relating to the excavation and restoration of a public right-of-way, if the ordinance does not conflict with a state or federal safety regulation; and

(2) pay any applicable charge under Section 121.2025, Utilities Code, and Sections 182.025 and 182.026, Tax Code.

#### **Floor Amendment No. 4**

Amend **SB 686** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) A county may allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way. The county may regulate the horizontal or vertical location of the pipeline within the right-of-way.

(b) The county may require a temporary water line operator to relocate facilities at the cost of the operator to accommodate construction or expansion of the road or for any other public work.

#### **Floor Amendment No. 5**

Amend **SB 686** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) A county may allow subsurface access to a county road right-of-way for the installation of a natural gas pipeline that does not interfere with existing utilities located in the right-of-way. The county may regulate the horizontal or vertical location of the pipeline within the right-of-way.

(b) The county may require a natural gas pipeline operator to relocate facilities at the cost of the operator to accomodate construction or expansion of the road or for any other public work.

#### **Floor Amendment No. 1 on Third Reading**

Amend **SB 686** by striking amendments number 4 and 5 from second reading and adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) A county shall allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way. The county may regulate the horizontal or vertical location of the water line within the right-of-way.

(b) A county may not adopt or enforce an ordinance or regulation that establishes or conflicts with a safety standard or practice applicable to a temporary water line that is regulated under state or federal law.

The amendments were read.

Senator Davis moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 686** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Davis, Chair; Carona, Watson, Nichols, and Shapiro.

### **SENATE BILL 1182 WITH HOUSE AMENDMENTS**

Senator Wentworth called **SB 1182** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 1182** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 261.201, Family Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) Notwithstanding Subsection (a), an investigating agency, other than the department or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law; and

(3) the identity of the person who made the report.

**Floor Amendment No. 2**

Amend **SB 1182** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 551, Government Code, is amended by adding Section 551.0415 to read as follows:

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality may receive from municipal staff and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- (6) announcements involving the public health and safety of people in the municipality.

**Floor Amendment No. 1 on Third Reading**

Amend **SB 1182** on third reading by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 552.008, Government Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) A member, committee, or agency of the legislature required by a governmental body to sign a confidentiality agreement under Subsection (b) may seek a decision as provided by Subsection (b-2) about whether the information covered by the confidentiality agreement is confidential under law. A confidentiality agreement signed under Subsection (b) is void to the extent that the agreement covers information that is finally determined under Subsection (b-2) to not be confidential under law.

(b-2) The member, committee, or agency of the legislature may seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and

briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the information covered by the confidentiality agreement is confidential under law, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court. A person may appeal a decision of the attorney general under this subsection to a Travis County district court if the person claims a proprietary interest in the information affected by the decision or a privacy interest in the information that a confidentiality law or judicial decision is designed to protect.

(b) Section 552.024, Government Code, is amended to read as follows:

Sec. 552.024. PERSONAL INFORMATION OF EMPLOYEES AND OFFICIALS ~~[ELECTING TO DISCLOSE ADDRESS AND TELEPHONE NUMBER]~~. (a) ~~Information [Each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information]~~ in the custody of a ~~[the]~~ governmental body that relates to the ~~[person's]~~ home address, home telephone number, or social security number of an employee or official of the governmental body or of a former employee or official of the governmental body, or that reveals whether the person has family members, is excepted from the requirements of Section 552.021.

(b) ~~[Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:~~

~~[(1) the employee begins employment with the governmental body;~~

~~[(2) the official is elected or appointed; or~~

~~[(3) the former employee or official ends service with the governmental body.~~

~~[(c) If the employee or official or former employee or official chooses not to allow public access to the information, the information is protected under Subchapter C.~~

~~[(d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.~~

~~[(e) An employee or official or former employee or official of a governmental body who wishes to [close or] open public access to the information may request in writing that the main personnel officer of the governmental body [close or] open access.~~

~~[(f) This section does not apply to a person to whom Section 552.1175 applies.]~~

(c) Subsection (a), Section 552.117, Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, or social security number of the following person or that reveals whether the person has family members:

(1) ~~[a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;~~

~~(2)~~ [2] a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section ~~[552.024 or]~~ 552.1175~~[-as applicable];~~

(2) ~~(3)~~ [3] a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(3) ~~(4)~~ [4] a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section ~~[552.024 or]~~ 552.1175;

(4) ~~(5)~~ [5] a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section ~~[552.024 or]~~ 552.1175~~[-as applicable];~~ or

(5) ~~(6)~~ [6] an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section ~~[552.024 or]~~ 552.1175.

(d) Section 552.138, Government Code, is amended to read as follows:

Sec. 552.138. EXCEPTION: FAMILY VIOLENCE ~~[SHELTER]~~ CENTER AND SEXUAL ASSAULT PROGRAM INFORMATION. (a) In this section:

(1) "Family violence ~~[shelter]~~ center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003.

(b) Information maintained by a family violence ~~[shelter]~~ center or sexual assault program is excepted from the requirements of Section 552.021 if it is information that relates to:

(1) the home address, home telephone number, or social security number of an employee or a volunteer worker of a family violence ~~[shelter]~~ center or a sexual assault program~~[-, regardless of whether the employee or worker complies with Section 552.024];~~

(2) the location or physical layout of a family violence ~~[shelter]~~ center;

(3) the name, home address, home telephone number, or numeric identifier of a current or former client of a family violence ~~[shelter]~~ center or sexual assault program;

(4) the provision of services, including counseling and sheltering, to a current or former client of a family violence ~~[shelter]~~ center or sexual assault program;

(5) the name, home address, or home telephone number of a private donor to a family violence ~~[shelter]~~ center or sexual assault program; or



(6) the home address or home telephone number of a member of the board of directors or the board of trustees of a family violence [~~shelter~~] center or sexual assault program[~~, regardless of whether the board member complies with Section 552.024~~].

(e) Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.150 to read as follows:

Sec. 552.150. EXCEPTION: INFORMATION THAT COULD COMPROMISE SAFETY OF PUBLIC OFFICER OR EMPLOYEE. (a) Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if:

(1) it is information that, if disclosed under the specific circumstances pertaining to the individual, could reasonably be expected to compromise the safety of the individual, such as information that describes or depicts the likeness of the individual, information stating the times that the individual arrives at or departs from work, a description of the individual's automobile, or the location where the individual works or parks; and

(2) the employee or officer applies in writing to the governmental body's officer for public information to have the information withheld from public disclosure under this section and includes in the application:

(A) a description of the information; and

(B) the specific circumstances pertaining to the individual that demonstrate why disclosure of the information could reasonably be expected to compromise the safety of the individual.

(b) On receiving a written request for information described in an application submitted under Subsection (a)(2), the officer for public information shall:

(1) request a decision from the attorney general in accordance with Section 552.301 regarding withholding the information; and

(2) include a copy of the application submitted under Subsection (a)(2) with the request for the decision.

(c) This section expires September 1, 2013.

(f) The changes in law made by this section apply in relation to a request for information made under Chapter 552, Government Code, before, on, or after the effective date of the relevant provisions of this Act.

(g) Subsections (b-1) and (b-2), Section 552.008, Government Code, as added by this section, take effect September 1, 2010.

### **Floor Amendment No. 2 on Third Reading**

Amend Amendment No. 2 by C. Howard to **SB 1182** on second reading by striking added Section 551.0415(b)(6), Government Code (page 2, lines 4 and 5 of the amendment), and substituting the following:

(6) announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

The amendments were read.

Senator Wentworth moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1182** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Carona, Duncan, Whitmire, and Eltife.

### **SENATE BILL 1557 WITH HOUSE AMENDMENT**

Senator Duncan called **SB 1557** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1557** on third reading by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 573.012, Health and Safety Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) A judge or magistrate may authorize, in the following order of priority, the transportation of a person apprehended under this section to the appropriate mental health facility by:

(1) a relative or other responsible person who has a proper interest in the person's welfare and who receives no remuneration, except for actual and necessary expenses;

(2) the facility administrator of the appropriate mental health facility, unless the administrator notifies the judge or magistrate that facility personnel are not available to transport the patient;

(3) a representative of the local mental health authority, who shall be reimbursed by the county;

(4) a special officer for mental health assignment certified under Section 1701.404, Occupations Code, who shall be reimbursed by the Department of State Health Services from money appropriated for that purpose, or if money is not appropriated for that purpose, as provided by Section 571.018;

(5) an emergency medical services provider, as defined by Section 773.003;  
or

(6) the sheriff, constable, or any on-duty peace officer if no person is available under Subdivision (1), (2), (3), (4), or (5) who shall be reimbursed by the Department of State Health Services from money appropriated for that purpose, or if money is not appropriated for that purpose, as provided by Section 571.018.

(k) A person who under Subsection (j) is authorized by the court to transport a person to a mental health facility may contract with a person that is listed as a qualified transportation service provider by the commissioners court of the county in which the court is located to provide the transportation authorized by the court.

SECTION \_\_\_\_\_. Subchapter B, Chapter 573, Health and Safety Code, is amended by adding Section 573.013 to read as follows:

Sec. 573.013. LIST OF QUALIFIED TRANSPORTATION SERVICE PROVIDERS. The commissioners court of a county by order shall:

(1) establish and maintain a list of qualified transportation service providers with whom a person may contract in accordance with Section 573.012;

(2) prescribe uniform standards that a person must meet to be listed as a qualified transportation service provider;

(3) establish an application procedure for a person to be included on the list, including an appropriate application fee to be deposited in the county general fund;

(4) require officers and employees of the county to contract with persons on the list, on a rotating basis, when the officer or employee is authorized to provide transportation under Section 573.012(j)(6); and

(5) ensure that the list is made available to any person authorized to provide transportation under Section 573.012.

The amendment was read.

Senator Duncan moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1557** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Whitmire, Seliger, Carona, and Hinojosa.

### **SENATE RULES SUSPENDED** **(Posting Rules)**

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider **HB 2828** today.

### **SENATE RULES SUSPENDED** **(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills today: **HB 3419**, **HB 3480**.

### **SENATE RULES SUSPENDED** **(Posting Rules)**

On motion of Senator Averitt and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider **HB 836** today.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Economic Development might meet and consider **HB 3676** today.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Higher Education might meet and consider **HB 746** today.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider the following bills today:

**HB 3417, HB 4576.**

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider the following bills today:

**HB 3002, HB 4742.**

**HOUSE BILL 999 REREFERRED**

Senator West submitted a Motion In Writing requesting that **HB 999** be withdrawn from the Committee on Education and rereferred to the Committee on Higher Education.

The Motion In Writing prevailed without objection.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 985** by Van de Putte, In memory of Bailey Marie Keller.

**SR 986** by Van de Putte, In memory of Elvira Gracio Galindo of San Antonio.

**SR 987** by Van de Putte, In memory of Salvador A. Mauricio of Bexar County.

**SR 994** by Carona, In memory of Trammell Crow.

**Congratulatory Resolutions**

**SR 988** by Hinojosa, Recognizing Jean Agnes Smith and the late William Dale "Bill" Matthews for their contributions to the Corpus Christi community.

**SR 990** by Davis, Recognizing Judi V. Bishop for her contributions to the YWCA of Fort Worth & Tarrant County.

**SR 991** by Davis, Recognizing Bonnie Mae Clayton on the occasion of the Foster family reunion.

**SR 992** by Davis, Recognizing Eva Lee Foster-Stout on the occasion of the Foster family reunion.

**SR 993** by Davis, Recognizing J. D. Foster on the occasion of the Foster family reunion.

### **Official Designation Resolution**

**SR 995** by Davis, Recognizing June 7 through 13, 2009, as 9-1-1 for Kids Education Week.

### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 5:31 p.m. adjourned, in memory of James Michael Grant, until 10:00 a.m. Monday, May 25, 2009.

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## **APPENDIX**

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### **COMMITTEE REPORTS**

The following committee reports were received by the Secretary of the Senate in the order listed:

May 23, 2009

GOVERNMENT ORGANIZATION — **CSHB 4767**

CRIMINAL JUSTICE — **CSHB 498, CSHB 1320, CSHB 1544, CSHB 2267, CSHB 3594**

INTERNATIONAL RELATIONS AND TRADE — **HB 1972**

CRIMINAL JUSTICE — **CSHB 3094**

INTERGOVERNMENTAL RELATIONS — **HB 4771**

BUSINESS AND COMMERCE — **CSHB 2360, CSHB 2438, CSHB 3114**

EDUCATION — **HB 200, HB 1322, HB 1470, HB 2703, HB 3220, HB 4407**

BUSINESS AND COMMERCE — **CSHB 3221**

CRIMINAL JUSTICE — **CSHB 1633, HB 1659 (Amended), CSHB 2139, CSHB 3202, CSHB 3228**

JURISPRUDENCE — **HB 319, HB 1665, HB 1809, HB 1968, HB 2232, HB 2368, HB 2435, HB 3075, HB 3085, HB 3086, HB 3350, HB 3601, HB 3857, HB 3876, HB 4426, HB 4445, HB 4685, HB 4741, HB 4750, HB 4793, HB 765, HCR 22**

STATE AFFAIRS — **HB 451, HB 824, HB 1193, HB 2000, HB 2181, HB 2685, HB 2847, HB 3069, HB 4519, HB 4560**

INTERGOVERNMENTAL RELATIONS — **CSHB 1976, CSHB 3485, CSHB 3612, CSHB 4715, CSHB 4778, CSHB 4799, CSHB 4825, CSHB 4827**

TRANSPORTATION AND HOMELAND SECURITY — **HB 598, CSHB 805, HB 2248, HB 2346 (Amended), CSHB 3095, HB 3593, HB 3599, HB 3638, HB 3785 (Amended), HB 4594**

ECONOMIC DEVELOPMENT — **CSHB 394, CSHB 3896**

STATE AFFAIRS — **CSHB 677, CSHB 719, CSHB 756, CSHB 1117, CSHB 1654, CSHB 1720, CSHB 4461**

CRIMINAL JUSTICE — **CSHB 459, CSHB 671, CSHB 2093, CSHB 2153, CSHB 3224, CSHB 3595**

BUSINESS AND COMMERCE — **CSHB 1182**

FINANCE — **HB 1801, HB 2654, HB 3206, HB 3477, HB 3611, HB 3613, HB 4583, HB 4611**

EDUCATION — **CSHB 3646**

HIGHER EDUCATION — **HB 101, CSHB 2425, CSHB 4471**

GOVERNMENT ORGANIZATION — **CSHB 2097**

EDUCATION — **CSHB 136**

NATURAL RESOURCES — **HB 1295, HB 1420, HB 3464, HB 4247**

TRANSPORTATION AND HOMELAND SECURITY — **HB 55 (Amended), CSHB 2462, CSHB 2553, CSHB 2682, HB 2854 (Amended), CSHB 4409, HB 2012 (Amended)**

NATURAL RESOURCES — **HCR 119, HCR 120, HB 1664, HB 2208, HB 2748, HB 3827, HB 3834, HB 3864, HB 4218, HB 4713, HB 4735, HB 4785, HB 4810, HB 4811**

STATE AFFAIRS — **CSHJR 14, CSHB 556, CSHB 2256, CSHB 2656**

BUSINESS AND COMMERCE — **CSHB 1243, CSHB 1822, CSHB 3628, CSHB 2649**

STATE AFFAIRS — **CSHB 358, CSHB 2525**

NATURAL RESOURCES — **HJR 102, HJR 128, HB 1796, HB 1890, HB 3547, HB 3861**

HIGHER EDUCATION — **CSHB 1935**

EDUCATION — **CSHB 281, CSHB 4435**

STATE AFFAIRS — **CSHB 3445, HB 148 (Amended)**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HJR 132**

NATURAL RESOURCES — **CSHB 2668, HB 4031 (Amended), CSHB 4300**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 300**

**INTERGOVERNMENTAL RELATIONS — HB 694, CSHB 1013, HB 1187, HB 1275, HB 1937, HB 2307, HB 2708, CSHB 3065, HB 3089, HB 3215, HB 3425, CSHB 3479, HB 3669, HB 4704, HB 4728, HB 4738, HB 4795, HB 4818, HB 4830**

**NATURAL RESOURCES — HB 2783 (Amended)**

**INTERGOVERNMENTAL RELATIONS — HB 3009 (Amended)**

**INTERNATIONAL RELATIONS AND TRADE — CSHCR 47, CSHB 2308**

**TRANSPORTATION AND HOMELAND SECURITY — HB 2057 (Amended)**

**NATURAL RESOURCES — CSHB 3526**

**FINANCE — CSHJR 36**

**NATURAL RESOURCES — CSHB 3335, CSHB 4299, CSHB 4438**

**INTERGOVERNMENTAL RELATIONS — HB 1517, HB 1727, HB 1946, CSHB 3006, HB 4775, HB 4784, HB 4829, CSSB 606**

### **BILLS ENGROSSED**

May 22, 2009

**SB 2539, SB 2540**

### **RESOLUTIONS ENROLLED**

May 22, 2009

**SCR 76, SR 975, SR 976, SR 977, SR 978, SR 979, SR 980, SR 981, SR 982, SR 983, SR 984**

### **SIGNED BY GOVERNOR**

May 23, 2009

**SB 473, SB 481, SB 526, SB 547, SB 629, SB 820, SB 858, SB 917, SB 918, SB 935, SB 1047, SB 1103, SB 1105, SB 1121, SB 1163, SB 1224, SB 1274, SB 1295, SB 1360, SB 1415, SB 1638, SB 1832, SB 1918, SB 1919, SB 1966, SB 2052, SB 2126, SB 2134, SB 2225, SCR 68, SCR 69, SCR 71**

**In Memory**  
**of**  
**James Michael Grant**  
**Senate Concurrent Resolution 78**

WHEREAS, Words cannot adequately express the sorrow felt at the tragic death of James Michael Grant of Gatesville on September 15, 2007, at the age of 44; and

WHEREAS, Michael Grant was born in Denton to Garnett and Nancy Grant on May 23, 1963; he graduated from Gatesville High School in 1981 and went on to attend Southwest Texas State University; he later became an integral part of the family business, including operating Grant's Bar & Grill in Copperas Cove for more than 10 years; and

WHEREAS, Possessing a natural love of learning, Mr. Grant eagerly consumed knowledge of history and politics and delighted in the family pastime of political debate; moreover, he was an avid reader whose goal it was to read all of the great books; equally comfortable with hands-on pursuits, he had a knack for building and repairing things, and he was a gifted writer and artist; his multifaceted interests also included star gazing at the top of Grant's Mountain, hunting, camping, football, guns, and cars; and

WHEREAS, Mr. Grant further distinguished himself as a dedicated and loving father who worked hard to provide a good home for his children; with his genuine love of life and his generosity toward others, he set an inspiring example for his daughters, Jana and Kate, and their remarkable achievements since his passing are due in no small part to the foundation he laid for them while he was alive; and

WHEREAS, His oldest daughter, Jana Ramsey Grant, is a graduating senior at Comanche High School, where she was not only named class favorite both her junior and senior years, but she was also selected as the 2008-2009 homecoming queen; in addition, she has participated in such UIL events as literary criticism, prose, poetry, and one-act play, for which she earned Honorable Mention All-Star Cast, and she is a member of the cheerleading squad; outside of school, she gives back to her fellow residents through her involvement in the faith-based group Community Rehab; and

WHEREAS, Kate Grant is a straight-A student in the gifted and talented program at Decatur Intermediate School and was an award-winning participant in the FFA food project at the Wise County Youth Fair; when she is not studying, she spends much of her time practicing for the Quest Aquatics Swim Team, and she plans to participate in track and field, cross-country, and volleyball at Decatur Middle School next year; moreover, she has explored public service as an honorary sergeant in the Texas House of Representatives and as a student scholar in Senator Kip Averitt's office; and



WHEREAS, Mr. Grant would no doubt beam with pride to see these talented young women today; left in his stead to share in the pleasure of their accomplishments are his father, Garnett Grant, and his siblings, Shelton and Kathy Grant; Michael Grant was the rock of his close-knit family, and it is only fitting that they are in turn providing such stability, encouragement, and guidance for his cherished daughters; and

WHEREAS, Michael Grant would have turned 46 years old on May 23, 2009, a day that will forever hold special meaning for those closest to him; although his many friends and loved ones have experienced tremendous grief in the wake of his death, they may take comfort in knowing that he embraced life to the fullest and brought immeasurable joy to countless people during his years on this earth; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby pay tribute to the memory of James Michael Grant and extend sincere sympathy to the members of his family: to his daughters, Jana Ramsey Grant and Kate Grant; to his father, Garnett Grant; to his brother, Shelton Grant; to his sister, Kathy Grant; to his companion, Cheri Lock Tull; and to all who mourn his passing; and, be it further

RESOLVED, That an official copy of this resolution be prepared for his family and that when the Texas House of Representatives and Senate adjourn this day, they do so in memory of Michael Grant.

AVERITT

