

Absent: Washington.

Absent-excused: Glasgow.

MEMORIAL RESOLUTIONS

S.R. 244 - By Montford: Memorial resolution for Dr. Dale P. Campbell.

S.R. 245 - By Caperton: Memorial resolution for Mrs. Venus Marek Sharp.

CONGRATULATORY RESOLUTIONS

H.C.R. 136 - (Harris): Extending congratulations to Justice Robert B. Maloney.

S.C.R. 95 - By Caperton: Expressing appreciation to Dr. Clare E. Gunn.

S.R. 243 - By Montford: Commending Herbert Williford.

S.R. 246 - By Caperton: Commending Dr. George Killinger.

RECESS

On motion of Senator Brooks, the Senate at 12:15 o'clock p.m. took recess until 9:30 o'clock a.m. tomorrow.

FORTY-FOURTH DAY

(Continued)

(Thursday, March 28, 1985)

AFTER RECESS

The Senate met at 10:00 o'clock a.m. and was called to order by Senator Blake.

SENATOR ANNOUNCED PRESENT

Senator Glasgow who had been previously announced as "Absent-excused" was announced "Present".

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

The regular order of business having been suspended by provisions of **S.R. 8**, adopted by the 69th Legislature, the following bills/resolutions were laid before the Senate, read second time, passed to engrossment/third reading, read third time and passed: (Sponsor, vote on Constitutional Three-day Rule and final passage indicated after caption of each bill.)

S.B. 362 (Caperton) Relating to the jurisdiction of the 82nd District Court and to the jurisdiction of the county courts in that judicial district. (30-1) Washington "Nay" (31-0)

S.B. 419 (Krier) Relating to the application of the Texas Pharmacy Act to a pharmacy in an institution licensed under the Texas Mental Health Code. (30-1) Washington "Nay" (31-0)

S.B. 593 (Williams) Relating to exempting members of the State military forces from drivers licensing requirements when operating official motor vehicles in performing military duties. (30-1) Washington "Nay" (31-0)

S.B. 679 (Farabee) Relating to the use of State funds to renovate improvements to community mental health and mental retardation centers. (30-1) Washington "Nay" (31-0)

S.B. 730 (Sims) Relating to the hunting and possession of certain exotic animals in Edwards County. (30-1) Washington "Nay" (31-0)

S.B. 762 (Sharp) Relating to the conveyance of a right-of-way in certain State-owned property in Fort Bend County. (30-1) Washington "Nay" (31-0)

S.B. 764 (Sims) Relating to the time period that an estray must be held before title to the animal vests in the county and the method of sale. (30-1) Washington "Nay" (31-0)

S.B. 835 (Sharp) Relating to the definition of public records and public information. (30-1) Washington "Nay" (31-0)

S.B. 1014 (Santiesteban) Relating to the disposition of penalties collected in connection with the mixed beverage gross receipts tax. (30-1) Washington "Nay" (31-0)

CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 10:07 o'clock a.m. adjourned until 11:00 o'clock a.m. today.

FORTY-FIFTH DAY (Thursday, March 28, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by Senator Grant Jones.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Whitmire, Williams.

Absent-excused: Uribe, Washington.

A quorum was announced present.

Senator John Leedom offered the invocation as follows:

Dear Heavenly Father, we thank Thee so much for the opportunity to come together at this time of year where Your hand is turning the countryside into nothing but beauty, and only Your hand could bring this to pass. As we come to the next week where we know that Your Son sacrificed for all of us, let us realize as we work together today that we should go about this in the same spirit of sacrifice and compassion and understanding and let You guide everything that we do so that Your will be heavy in our hearts. Thank You. Amen.

S.B. 679 (Farabee) Relating to the use of State funds to renovate improvements to community mental health and mental retardation centers. (30-1) Washington "Nay" (31-0)

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On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Washington was granted leave of absence for today on account of illness on motion of Senator Mauzy.

Senator Uribe was granted leave of absence for today on account of important business on motion of Senator Edwards.

MESSAGE FROM THE HOUSE

House Chamber
March 28, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 71, Relating to the renewal fee for a license to operate a youth camp.

S.B. 397, Relating to the appointment of a deputy assistant adjutant general.

S.J.R. 6, Proposing a constitutional amendment relating to the placement of state inmates in the penal or correctional facilities of other states.

S.C.R. 68, Honoring former United States Senator John Tower.

H.C.R. 15, Honoring former State Representative Jimmy Mankins.

H.C.R. 37, In memory of Judge Henry McKinney, Jr.

H.C.R. 112, Congratulating Robert Moreno on being awarded the Navy Achievement Medal.

H.C.R. 119, Honoring Lee Martin Harrah of Pampa.

H.C.R. 2, Expressing support of enhanced health education in grades Kindergarten through 12th.

H.C.R. 88, Expressing support for Texas Department of Health programs relating to Alzheimer's disease.

S.C.R. 41, Granting Herzog Contracting Corporation permission to sue the State. (As substituted)

S.C.R. 51, Granting Brinderson Corporation permission to sue the State. (As substituted)

S.C.R. 52, Granting J. A. Tobin Construction Company permission to sue the State. (As substituted)

S.C.R. 18, Supporting the development of a statewide professional and public education network to facilitate cooperation among cancer treatment facilities.

S.B. 237, Relating to certain taxes administered by the Comptroller of Public Accounts, time of accrual, amount of tax, due dates, periods covered, and required reports. (As substituted)

S.B. 325, Relating to the engineering excellence fund and its distribution and use.

S.B. 126, Relating to adoption of the Interstate Corrections Compact.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 803
C.S.S.B. 1057
C.S.S.B. 91
C.S.S.B. 1172
C.S.S.B. 821
C.S.S.B. 1168
S.B. 805 (Amended)
(Ordered not printed)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

S.B. 425
S.B. 559
C.S.S.B. 791
C.S.S.B. 339
C.S.S.B. 231
C.S.S.B. 279

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

H.B. 531
S.B. 966 (Amended)
S.B. 991
S.B. 1155
S.B. 967
C.S.S.B. 1132
C.S.S.B. 1009
C.S.S.B. 1282

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 913

(President in Chair)

GUEST PRESENTED

Senator Barrientos was recognized and introduced Dr. George F. Smith of Austin, the Capitol Physician for the Day.

The Senate welcomed Dr. Smith and expressed their appreciation to him.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Truan and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

- S.B. 1295** by Brooks Health and Human Resources
Relating to the operation of the Harris County Psychiatric Center; transferring the Texas Research Institute of Mental Sciences to The University of Texas System; amending Chapter 73, Texas Education Code; repealing Section 2.18 of Chapter 67, Acts of the 59th Legislature, Regular Session, 1965, and repealing Chapter 191, Acts of the 60th Legislature, Regular Session, 1967; and declaring an emergency.
- S.B. 1296** by Caperton, Edwards Education
Relating to the creation of a Geo-Technology Research Institute.
- S.B. 1297** by Montford Intergovernmental Relations
Relating to the official court reporters of the county courts at law of Lubbock County and to the salary of the judges of those courts.
- S.B. 1298** by Montford Intergovernmental Relations
Relating to the supplemental compensation of the district judges in Lubbock County.
- S.B. 1299** by Parker Natural Resources
Relating to approved activities under the shellfish culture license; and to the use of state submerged lands as culture sites for growing brood stock, producing seed stock, setting spats, and grow out; and to the development of regulations to protect the public health and safety in the transplanting, harvest, handling, and sale of cultured shellfish.
- S.B. 1300** by Jones State Affairs
Relating to the conveyance of certain state-owned real property in Travis County.
- S.B. 1301** by Jones State Affairs
Relating to the conveyance of certain state-owned real property in Travis County by the Texas Employment Commission.
- S.C.R. 97** by Truan Natural Resources
Requesting the assistance of the United States Coast Guard in policing offshore rig operations and shipping operations for dumping litter into the ocean.
- S.C.R. 98** by Truan Natural Resources
Urging the U.S. Environmental Protection Agency to add provisions to the outer continental shelf general permit.
- S.C.R. 99** by Truan Natural Resources
Directing the establishment by State agencies of a public awareness program relating to the problem of litter on Texas beaches.
- S.C.R. 100** by Truan Natural Resources
Authorizing the Texas Coastal and Marine Council to investigate the feasibility of ports in Texas creating incineration facilities.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 4**, To Committee on Health and Human Resources.
H.B. 123, To Committee on State Affairs.
H.B. 724, To Committee on Finance.
H.B. 525, To Committee on Criminal Justice.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

H.C.R. 108

H.B. 374

S.B. 424

S.B. 106

S.B. 34

SENATE RESOLUTION 248

Senator Brown offered the following resolution:

WHEREAS, Our distinguished colleague, Senator Roy Blake, will celebrate the great occasion of his birthday on March 29, 1985; and

WHEREAS, A native son of Texas, this prominent statesman is well known and respected for his sound judgment and superb leadership abilities; as chairman of the Administration Committee and a member of Economic Development, Finance, and State Affairs committees, Senator Blake articulately voices the concerns of the Third Senatorial District; and

WHEREAS, After serving five years in the Texas House of Representatives, this Nacogdoches businessman was elected to the Texas Senate in 1978; since then he has been a trenchant spokesman on behalf of all Texas citizens; and

WHEREAS, Through his resolute determination and hard work Senator Blake has carried on the best tradition of the early Texas pioneers from whom he is descended; and

WHEREAS, Senator Blake's lovely wife, Mae Deanne, affectionately known as Tootie, and children, Mrs. Stephen Muckleroy, Mrs. Don Chamnes, Roy, Ben, and Mary Ann have been a source of strength and support throughout his career; and

WHEREAS, It is with great pleasure that the Senate of the State of Texas honors such an accomplished gentleman as Senator Roy Blake on the occasion of his birthday; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 69th Legislature, hereby wish a hearty happy birthday with many happy returns to Senator Roy Blake; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Senator Blake as a token of deepest regard from the Members of the Texas Senate.

The resolution was read and was adopted.

HOUSE CONCURRENT RESOLUTION 37

The President laid before the Senate the following resolution:

H.C.R. 37, In memory of Judge Henry McKinney, Jr.

The resolution was read.

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

GUESTS PRESENTED

Senator Howard escorted members of Judge McKinney's family to the President's rostrum.

The President presented an enrolled copy of **H.C.R. 37** to Mrs. McKinney.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
March 27, 1985

**TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE,
REGULAR SESSION:**

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE STATE COMMISSION FOR THE BLIND:

For a term to expire February 1, 1991:

LEWIS TIMBERLAKE
P. O. Box 1571
Austin, Texas 78767-1571

(Mr. Timberlake is replacing Mrs. Paula Schuhmacher of Houston, Harris County, Texas, whose term expired.)

For a term to expire February 1, 1991:

WALTER MUSLER
722 Inspiration
San Antonio, Texas 78228

(Mr. Musler is being reappointed.)

TO BE A MEMBER OF THE ANTIQUITIES COMMITTEE:

For a term to expire January 31, 1987:

ANNE A. FOX
106 Fawn Drive
San Antonio, Texas 78231

(Ms. Fox is being reappointed.)

Respectfully submitted,

/s/Mark White
Governor of Texas

MESSAGE FROM THE HOUSE

House Chamber
March 28, 1985

**HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE**

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 95, Expressing sincere appreciation to Dr. Clare A. Gunn, who has contributed greatly to the State of Texas.

H.C.R. 140, In memory of the Honorable Ben Ramsey, former Lieutenant Governor of Texas.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read:

Austin, Texas
March 27, 1985

Mrs. Betty King
Secretary of the Senate
State Senate
Capitol Building
Austin, Texas 78701

Dear Mrs. King:

On February 11, 1985, I nominated Mr. B. J. McCombs of San Antonio for appointment to the Texas Aeronautics Commission for a term to expire February 1, 1991. Mr. McCombs is unable, at the present time, to accept this appointment. I, therefore, request that the Senate return the appointment to this Governor.

On March 4, 1985, I nominated Mr. Robert Mica of Flatonia for appointment to the Lower Colorado River Authority for a term to expire February 1, 1991. For personal reasons, Mr. Mica cannot accept this appointment. I, therefore, request that the Senate return the appointment to this Governor.

Respectfully submitted,

/s/Mark White
Governor of Texas

NOMINATIONS RETURNED

On motion of Senator Howard and by unanimous consent, the request to return to the Governor the nominations of Mr. B. J. McCombs and Mr. Robert Mica was granted.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Howard.

Senator Howard moved confirmation of the nominees reported favorably yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

Senator Sharp requested that the nomination of Robert Mica, to be a Member of the Lower Colorado River Authority, be severed and, as previously ordered, be returned to the Governor.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Washington.

Member, State Commission for the Blind: ROBERT PETERS, Ph.D., Smith County.

Members, Lower Colorado River Authority BURTON B. LeTULLE, Matagorda County; CECIL B. LONG, Bastrop County; JACK B. MILLER, San Saba County.

Members, Texas Parks and Wildlife Commission: ROBERT L. ARMSTRONG, Travis County; ANTONIO R. SANCHEZ, JR., Webb County.

Members, Board of Directors, Texas Housing Agency: W. E. DANIELS, Harris County; RICHARD JORDAN, Travis County; ARTHUR NAVARRO, Travis County.

Members, Central Colorado River Authority: BAKER RUDOLPH, Coleman County; JIM BOB THWEATT, Coleman County; ROY D. YOUNG, Coleman County.

Members, Dairy Advisory Board: WILBUR E. BLYTHE, Tarrant County; MS. DYMPLER C. COOKSEY, Harris County.

Members, State Commission on Judicial Conduct: (Appointed by the Supreme Court of Texas): JUDGE J. RAY KIRKPATRICK, Harrison County; JUDGE ELINOR WALTERS, Harris County.

Chairman, Statewide Health Coordinating Council: DR. MARION R. ZETZMAN, Dallas County.

Judge, 39th Judicial District, Haskell, Kent, Stonewall and Throckmorton counties: CHARLES CHAPMAN, Haskell County.

SENATE BILL 745 ON SECOND READING

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

S.B. 745, Relating to state contributions to the Teacher Retirement System of Texas and the optional retirement program for certain employees of institutions of higher education.

The bill was read second time and was passed to engrossment.

SENATE BILL 745 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 745** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Washington.

The bill was read third time and was passed.

SENATE BILL 906 ON SECOND READING

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

S.B. 906, Relating to the escheat of unclaimed property; providing penalties.

The bill was read second time.

Senator Jones offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 906**, Section 17, Chapter 74, Subchapter D, Sec. 74.304 (d) by deleting the words "for the property" in the last sentence of said paragraph.

The committee amendment was read and was adopted.

Senator Jones offered the following committee amendment to the bill:

Committee Amendment No. 2

Subchapter E, Sec. 74.401 is amended to read as follows:

"Sec. 74.401. SALE OF PROPERTY. (a) Except as provided by Subsection (c), the state treasurer shall sell at public sale all personal property, other than money, delivered to the state treasurer in accordance with Section 74.301. The state treasurer shall conduct the sale in the city in this state that the state treasurer determines affords the most favorable market for the particular property."

The committee amendment was read and was adopted.

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

The bill as amended was passed to engrossment.

SENATE BILL 906 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 906 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Washington.

The bill was read third time and was passed.

SENATE BILL 907 ON SECOND READING

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

S.B. 907, Relating to unclaimed funds of certain life insurance companies.

The bill was read second time and was passed to engrossment.

SENATE BILL 907 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 907 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Washington.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 63 ON SECOND READING

Senator Brown moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 63, Relating to the regulation of the use of pesticides; providing penalties; amending Chapter 76 of the Agriculture Code, as amended, by adding Subdivision (24) to Section 76.001; Subsection (e) to Section 76.003; Sections 76.009, 76.0091, 76.010, 76.011, 76.012, and 76.013 to Subchapter A; Subsection (d) to Section 76.104; Sections 76.1041, 76.1042, and 76.1043 to Subchapter E; and Subsection (f) to Section 76.201; and by amending Sections 76.004 and 76.105;

Subsections (a) and (c) of Section 76.108; Subsections (a), (b), (d), and (g) of Section 76.111; Section 76.112; and Section 76.202.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Glasgow.

Absent-excused: Uribe, Washington.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.S.B. 63, SECTION 4, Section 76.010 to read as follows:

“Section 76.010. SAFETY EDUCATION ADVISORY COMMITTEE. (a) The commissioner may appoint a safety education advisory committee to review and make recommendations concerning pesticide safety education programs.

The amendment was read and was adopted.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 63, SECTION 4, Section 76.013 to read as follows:

“Section 76.013. EDUCATION PROGRAMS. The appropriate state agencies shall cooperate to develop and provide education programs relating to the use of pesticides, including farm worker safety education. Any worker safety education program shall contain components on occupational hygiene.

The amendment was read and was adopted.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 63, SECTION 6, Section 76.1042, Subsection (c) to read as follows:

“(c) The department may not contract for the establishment and maintenance of a system to give and receive notice of scheduled pesticide applications.

The amendment was read.

(Senator McFarland in Chair)

On motion of Senator Brown, the amendment was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Truan, Whitmire, Williams.

Nays: Farabee, Glasgow, Howard, Sarpalius, Sharp, Sims, Traeger.

Absent-excused: Uribe, Washington.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.S.B. 63, SECTION 4 by deleting Sections 76.0091 and 76.010, and by amending Section 76.009 to read as follows:

"Section 76.009. ADVISORY COMMITTEE. The department may only establish the advisory committee relating to pesticide regulation provided in this chapter."

The amendment was read.

(President in Chair)

On motion of Senator Brown, the amendment was tabled by the following vote: Yeas 24, Nays 5.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Truan, Whitmire, Williams.

Nays: Farabee, Glasgow, Howard, Sarpalius, Sims.

Absent-excused: Uribe, Washington.

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

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 63 ON THIRD READING

Senator Brown moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 63 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Nays: Glasgow.

Absent: Edwards, Henderson, Parmer.

Absent-excused: Uribe, Washington.

The bill was read third time and was passed.

MESSAGE FROM THE HOUSE

House Chamber
March 28, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 131, Relating to appointment of a master for certain district courts in Dallas County.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1267 ON SECOND READING

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

S.B. 1267, Relating to regulation of manufactured housing; providing for installation, registration, fees, and penalties.

The bill was read second time.

Senator McFarland offered the following amendment to the bill:

1. Amend **S.B. 1267** by adding a new SECTION 1 as follows:

“SECTION 1. Article 6701-1/2, Revised Statutes, is amended to read as follows:

“Art. 6701-1/2. A. Manufactured housing as defined by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon’s Texas Civil Statutes) which is in excess of legal size limits for motor vehicles shall not be moved over the highways, roads and streets in this state except in accordance with permits issued by the State Department of Highways and Public Transportation. Counties and municipalities [~~Local political subdivisions~~] may designate to said department the routes to be used within the limits of their jurisdiction [~~such subdivision~~]; however, no additional permit, bond, fee or license may be required [~~by the local political subdivision~~]. For purposes of this Article, the terms “manufactured housing” or “manufactured home” include temporary chassis systems and returnable undercarriages used for the transportation of the home; the term also refers to a transportable section which is transported on a chassis system or returnable undercarriage and which is constructed so that it cannot, without dismantling or destruction, be transported within the legal size limits for motor vehicles.

“B.(1) The application for a permit and the permit shall be in the form as prescribed by the State Department of Highways and Public Transportation; however, the [~~application and~~] permit must contain the overall length, width, and height of the manufactured home and the [~~overall length and width of the~~] towing vehicle [~~and the manufactured home~~] in combination. [~~The length and width of the manufactured home shall be measured in accordance with the rules and regulations of the Texas Department of Labor & Standards relating to the titling of the manufactured home.~~] The overall combined length of the manufactured home and the towing vehicle shall include the length of the hitch or towing device. The height shall be measured from the roadbed to the highest elevation of the manufactured home. The width of the home or section shall include any roof or eave extension or overhang on either side.

“(2) The permit shall contain the route for the transportation of the manufactured home from the point of origin to the point of destination. The route shall be the shortest practical distance including divided and interstate systems, except where construction is in progress, or bridge or overpass width or height would create a safety hazard, or except highways in urban areas with heavy traffic conditions [~~distance practical taking into account the conditions of the highways, roads, and streets and the length, width, and height of the manufactured home~~].

“C.(1) The State Department of Highways and Public Transportation shall [~~not~~] only issue [~~a~~] permits to [~~any~~] persons [~~which is not~~] registered as manufacturers or retailers with the Texas Department of Labor & Standards or [~~which is not~~] certificated for the transportation of manufactured housing by the Railroad Commission of Texas or the Interstate Commerce Commission except as otherwise expressly authorized by this Section. The registration number or the certificate number of the person to whom the permit is issued shall be affixed to the rear of the manufactured home during transportation with letters and numbers which are at least eight (8) inches in height.

“(2) The State Department of Highways and Public Transportation may issue single trip permits to owners of manufactured homes provided that the ownership of the manufactured home and of the towing vehicle is shown to be the same person

by the title to the home and to the towing vehicle or that a lease duly filed pursuant to Article 6701c-1 (Vernon's Texas Civil Statutes) shows the owner of the manufactured home to be the lessee of the towing vehicle. Single trip permits may also be issued to installers registered with the Department of Labor and Standards for the transportation of manufactured homes over routes between points when such transportation would be excluded from regulation under the Motor Carrier Act (Article 911b, Vernon's Texas Civil Statutes). The owner or installer must have proof of insurance coverage in force as required in Section H. of this Article.

"D. [There shall also accompany the application for permit a] A fee of Ten Dollars (\$10) [~~which fee~~] for each permit shall be collected by the State Department of Highways and Public Transportation and deposited in the Treasury of the State of Texas to the credit of the State Highway Fund. [~~Said fee shall be paid by cashiers or certified check, postal or express money order.~~] On application said department shall issue permit books or packets containing twenty (20) [~~fifty (50) or one hundred (100)~~] individual permits provided that the aggregate fee of Ten Dollars (\$10) per permit is received with such application. The book type permit can be used for the movement of any manufactured home regardless of width, length or height, and route approval can be secured by telephone from the issuing office along with any required validation number for the permit.

"E. (1) All manufactured homes which exceed twelve (12) feet in total width shall have one rotating amber beacon of not less than eight (8) inches mounted somewhere on the roof at the rear of the manufactured home. In addition the towing vehicle shall have one rotating amber beacon of not less than eight (8) inches mounted on top of the cab. These beacons shall be operational during any permitted move over the highways, roads, and streets of this state.

"(2) All manufactured homes which exceed sixteen (16) feet, but are not more than eighteen (18) feet, in total width shall have one escort flag vehicle which shall precede the home on two lane roadways and shall follow the home on roadways of four or more lanes.

"(3) All manufactured homes which exceed eighteen (18) feet in total width shall be both preceded and followed by an escort flag vehicle during any movement over the highways, roads, and streets of this state.

"(4) Escort flag vehicles shall have two simultaneous flashing lights or shall have one rotating amber beacon of not less than eight (8) inches on top of the vehicle, which shall be visible from both front and rear, shall have one red sixteen (16) inch square flag mounted on each of the four corners of the vehicle, and shall have a "wide load" sign mounted on the front and rear of the vehicle; the sign shall have a yellow background with black letters at least eight (8) inches in height.

"(5) Two transportable sections of a multi-section manufactured home, or two single section manufactured homes, when towed together in convoy shall be considered one home for purposes of the escort flag vehicle requirements of this Article, provided the distance between the two units does not exceed 1,000'. [If the width or overall length of the manufactured home and the towing vehicle in combination is in excess of sixteen feet or one hundred feet, respectively, the State Department of Highways and Public Transportation shall require one or more escort vehicles as necessary for traffic safety, and the department may require proof of property damage or liability insurance in an amount sufficient to cover any damage to the highways, roads, and streets or property of the state or local subdivisions as a result of the transportation of the manufactured home].

"(6) The State Department of Highways and Public Transportation shall publish a map or a list updated annually of all bridges or overpasses, which due to height or width, require an escort flag vehicle to stop on-coming traffic while the manufactured home crosses the bridge or overpass.

"(7) No escort flag vehicles may be required except as expressly authorized in this section.

“F. A [The] permit[s] shall be good for a period of up to ten (10) days and valid only for a single continuous movement.

“G. Movements authorized by the [said] permits shall be made during daylight hours only and may be made on any day except national holidays. The State Department of Highways and Public Transportation may also limit the hours for travel on certain routes because of heavy traffic conditions; the department shall publish any limitations on movements during national holidays or any limitations during certain hours of heavy traffic conditions and make such publications available to the public prior to the limitations becoming effective.

“H.(1) A manufactured home shall not be towed in excess of posted speed limits or 55 miles per hour whichever is less.

“(2) Brakes on the towing vehicle and the manufactured home, temporary chassis system or returnable undercarriage, shall be capable of assuring that the maximum stopping distance from an initial velocity of twenty (20) miles per hour does not exceed forty (40) feet.

“(3) Each manufactured home shall be equipped with a light-wiring harness during transportation over the roadways to provide right and left turn signal lights and braking or stopping lights and parking lights on the rear of the home.

“(4) The towing vehicle shall be covered by liability insurance of not less than \$300,000 combined single limit.

“I.(1) Any person who violates any provision of this Article is guilty of a Class C misdemeanor.

“(2) Any person found guilty of violating the provisions of this Article may also be assessed a civil penalty of not less than \$200 nor more than \$500 for each of the following violations:

“(a) failing to obtain a permit; or

“(b) failing to have the required rotating amber beacons on the manufactured home or towing vehicle; or

“(c) failing to provide the escort flag cars as required; or

“(d) failing to have the required insurance coverage. The civil penalty may be awarded by the court having jurisdiction over Class C misdemeanors and shall be paid to the county in which the person was found guilty.”

2. Amend S.B. 1267 by adding a new SECTION 2 as follows:

“SECTION 2. Section 13, Texas Manufactured Housing Standards Act, as amended (Article 522If, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 13. SECURITY REQUIRED. (a) The department may not issue a certificate of registration, unless the applicant first files a surety bond, a cash deposit, or other security in such form as the commissioner may prescribe and a written irrevocable designation of the commissioner as agent for service of legal process.

“(b) If a surety bond is filed, it shall be continuous and remain in effect until cancelled by the surety company with notice as provided by this Act. A cash deposit or other security need not be posted annually so long as the applicable amount specified in this section remains posted. If a claim is made against a cash deposit causing the deposit to be lessened, the depositor has 20 calendar days in which to deposit additional money or other security so that compliance may be had with the requirements of this section. If the deficit is not eliminated within 20 days, the certificate of registration of the inadequately covered manufacturer, retailer, broker, or installer is immediately suspended. If a bond is cancelled, the certificate of registration is immediately suspended.

“(c) If a cash deposit or other security is posted, the interest from said deposit shall go to the depositor.

"(d) The bond shall be a surety bond issued by a company authorized to do business in this state and shall be in conformity with the Insurance Code. The cash deposit or other security shall be in such a form as the commissioner may deem appropriate.

"(e) The bond, cash deposit, or other security shall be to the state for the use by a consumer, the state, or any political subdivision thereof who secures any judgment against a manufacturer, retailer, broker, or installer for damages, restitution, or expenses including reasonable attorney's fees resulting from a cause of action connected with the sale, lease-purchase, exchange, brokerage, or installation of a manufactured home, including but not limited to:

"(1) retention or conversion of money, property, or any other thing of value from consumers in the form of down payments, any sales and use taxes, deposits, or insurance premiums;

"(2) failure to give proper title documents or certificates of title to consumers;

"(3) failure to give or the breach of any manufactured home warranty required by this Act or by the Federal Trade Commission or the violation of any requirements of the Texas Credit Code or of the federal Truth-in-Lending Act; or

"(4) engaging in any false, misleading, or deceptive acts or practices as the term is set forth in and as those acts or practices are declared unlawful by the provisions of Chapter 17, Subchapter E, Business & Commerce Code. The bond or other security shall not be liable for judgments resulting from tort claims, except as expressly set forth hereinabove, nor for any punitive, exemplary, or treble damages. A consumer, the state, or any political subdivision thereof may recover against the principal or surety jointly and severally for such damages, restitution, or expenses, provided, however, that in no event shall a surety or the cash deposit or other security posted under this section be liable for an amount in excess of actual damages, restitution, or expenses, including reasonable attorney's fees. Any judgment obtained against a principal is conclusive against the surety or other security if notice of the filing of suit is given as required by this section. The bond or other security shall be open to successive claims up to the amount of face value of the bond or other required security. The surety shall not be liable for successive claims in excess of the bond amount, regardless of the number of years the bond remains in force.

"(f) A consumer shall inform the manufacturer, retailer, or installer, and the department of any claim against the bond or security no later than two years after the purchase of the mobile home. Whenever the department receives notice of a claim against a bond, the department shall promptly notify the bonding company involved. If the consumer claim results in a private lawsuit being filed by the consumer, the consumer shall notify the attorney general's office and the surety company by certified mail of the filing of the lawsuit. At the time of sale or delivery of a manufactured home to a consumer, the consumer must be given conspicuous written notification of this two-year limit and the notice requirements.

"(g) Any manufacturer, retailer, broker, or installer who maintains a place of business at one or more locations shall file with the department a separate bond or other security for each location. Property used for the business that is not contiguous to a bonded location requires a separate bond. Any location at which a manufactured home is shown to the public or at which it is offered for sale, exchange, or lease-purchase by a retailer to consumers is a location which is required to be bonded. A manufactured home installed on a permanent foundation system and offered for sale as real estate is not a business location that requires a bond. A temporary location for a bona fide trade show sponsored by a nonprofit corporation which qualifies for tax exemption pursuant to Section 50 (c) of the U.S. Internal Revenue Code is not a location which requires a bond.

“(h) A manufacturer shall be bonded, supply a cash deposit or other security in the amount of \$500,000 [~~\$100,000~~]. A retailer shall be bonded, supply a cash deposit or other security in the amount of \$100,000 [~~\$50,000~~]. A broker shall be bonded, supply a cash deposit or other security in the amount of \$80,000 [~~\$40,000~~]. An installer shall be bonded, supply a cash deposit or other security in the amount of \$20,000 [~~\$10,000~~]. A person [Retailers, brokers, and installers] registered with the department and bonded prior to September 1, 1985 [1983], shall have until September 1, 1987 [January 1, 1984], to provide the additional amount of bond, cash deposit, or other security required by this Act for each location. A retailer holding a valid certificate of registration shall not be required to be bonded or file any security to secure a certificate of registration as a broker or an installer. A new bond shall not be required for any change of ownership of a person registered with the department nor for any change of a location; however, a proper endorsement of the original bond may be required by the department.

“(i) The bonding company must provide written notification to the department at least 60 days prior to the cancellation of any bond required by this Act. Any cash deposit or other security on file with the department shall remain on file with the department two years after the person ceases business as a manufacturer, retailer, broker, or installer or at such time as the department may determine that no claims exist against the cash deposit or security.

“(j) A consumer may assign any claim against the bond or other security to any person registered with the department who has performed services for, or rendered any benefit to, the consumer, and the assignee is entitled to recover against the bond or other security in accordance with the terms of the assignment. Otherwise, a consumer may not assign any claim.”

3. Amend S.B. 1267 by deleting SECTION 6 (lines 19-26 on page 7 and lines 1-9 on page 8).

4. Renumber SECTIONS 1, 2, 3, 4, 5, 7, 8, and 9 of S.B. 1267 appropriately.

The amendment was read and was adopted.

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

The bill as amended was passed to engrossment.

SENATE BILL 1267 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1267 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Uribe, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 805 ORDERED NOT PRINTED

On motion of Senator Farabee and by unanimous consent, S.B. 805 was ordered not printed.

MEMORIAL RESOLUTION

S.R. 247 - By Washington: Memorial resolution for Bennie Hubbard.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:21 o'clock p.m. adjourned in memory of former Lieutenant Governor Ben Ramsey until 11:00 o'clock a.m. Monday, April 1, 1985.

APPENDIX

Sent to Governor
(March 27, 1985)

S.B. 133

(March 28, 1985)

S.B. 329

S.B. 380

S.B. 34

S.B. 106

S.B. 424

In Memory

of

Former Lieutenant Governor Ben Ramsey

Senator Blake offered the following resolution:

(House Concurrent Resolution 140)

WHEREAS, Former Lieutenant Governor Ben Ramsey died on March 27, 1985, at the age of 81, and with the death of this exemplary Texan, the state has lost one of its most distinguished and respected citizens; and

WHEREAS, Mr. Ramsey, who presided over the Texas Senate for 10 years, brought to that office the strong leadership and outstanding executive capability that also marked his long tenure as Railroad Commissioner from 1961 to 1977; and

WHEREAS, A native of San Augustine, he was born on December 28, 1903; after completing his high school education, he worked on his family's farm and was employed in his father's law office; and

WHEREAS, This ambitious young man later attended The University of Texas, and in 1931, he received his license to practice law; and

WHEREAS, That same year, Mr. Ramsey began his noteworthy public service career with the state when he was sworn in as a member of the House of Representatives of the 42nd Legislature; he served two terms as State Representative from 1931 to 1935, and then returned to San Augustine for six years to resume his successful law practice; and

WHEREAS, In 1940, he won election to the Texas Senate, where he served during the 47th, 48th, 49th, and 50th legislatures; following his terms in the Senate he was appointed by Governor Beauford Jester to serve as Secretary of State; and

WHEREAS, A truly successful campaigner who won all of his bids for election, Mr. Ramsey ran for Lieutenant Governor in 1950; in this, his first statewide race, he became the first candidate in Texas with opposition to receive a million votes; and

WHEREAS, As Lieutenant Governor from 1951 to 1961, this commendable public servant carried out his demanding duties as presiding officer of the Senate with integrity and fairness, recognizing at all times the crucial leadership role entrusted to him; and

WHEREAS, In 1961, after winning reelection to an unprecedented sixth term in office, he resigned to accept an appointment by Governor Price Daniel to a vacancy on the Railroad Commission of Texas; later that year, he was elected to serve the remainder of the vacant term, and in 1964 and 1970 was reelected to full six-year terms; and

WHEREAS, When Mr. Ramsey retired from public office in 1977, the Texas Legislature honored him with a commendatory resolution and with a bust that is now displayed in the Senate Chamber; and

WHEREAS, This dedicated Texan exemplified the true meaning of public service throughout his long and productive career in state government, and the members of the Texas Legislature join the other citizens of the state in mourning his death; now, therefore, be it

RESOLVED, That the 69th Legislature of the State of Texas hereby pay tribute to the life of former Lieutenant Governor Ben Ramsey and extend sympathy to his family: to his wife, Florine Ramsey; to his daughters, Rita

Kreisle, Ann Ramsey, and MariBen Ramsey; and to his granddaughter; and, be it further

RESOLVED, That official copies of this resolution be prepared for his family, that pages be set aside in the Journals of the House of Representatives and Senate in his honor, and that when the two houses of the Texas Legislature adjourn this day, they do so in memory of former Lieutenant Governor Ben Ramsey.

The resolution was read.

On motion of Senator Barrientos and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

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