

FIFTY-NINTH DAY

(Continued)

(Friday, April 28, 1995)

AFTER RECESS

The Senate met at 7:45 a.m. and was called to order by Senator Moncrief.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

H.C.R. 87 (Harris) Authorizing the burial of J. Neal Miller, Jr., in the State Cemetery. (vv)

S.C.R. 41 (Harris) Granting Tenneco permission to sue the state and The Texas A&M University System. (vv)

S.C.R. 52 (Henderson) Granting CW Systems, Inc., permission to sue the State of Texas and the University of Houston System. (vv)

S.C.R. 53 (Henderson) Granting John R. Phenix & Associates, Inc., permission to sue the State of Texas and the University of Houston System. (vv)

S.C.R. 62 (Rosson) Granting Cleola Sweed permission to sue the state and the Texas Department of Human Services. (vv)

S.C.R. 92 (Montford) Granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System. (vv)

S.C.R. 93 (Montford) Granting Imagents, Inc., permission to sue the State of Texas and The University of Texas System. (vv)

S.C.R. 103 (Harris) Granting National Projects, Inc., permission to sue the State of Texas and the Department of Criminal Justice. (vv)

S.C.R. 104 (Harris) Granting MKK-North Star permission to sue the State of Texas and the Department of Criminal Justice. (vv)

S.C.R. 105 (Harris) Granting Green International permission to sue the State of Texas and the Department of Criminal Justice. (vv)

S.C.R. 106 (Wentworth) Granting Harbert Construction Company permission to sue the State of Texas and the Texas Department of Criminal Justice. (vv)

H.B. 320 (Galloway) Relating to excluding land from the New Caney Municipal Utility District. (31-0) (31-0)

H.B. 750 (Nelson) Relating to the prohibition of certain disbursements from a county fund to a person with an outstanding debt to the state or the county. (31-0) (31-0)

H.B. 751 (Nelson) Relating to the auditing of county jails. (31-0) (31-0)

H.B. 1465 (Ellis) Relating to the authority of the governing bodies of certain public institutions of higher education to close streets or alleys running through the campuses of those institutions. (31-0) (31-0)

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1465** in Section 1. of the bill (line 14) by adding the following:

property abutting the street or alley and if the institution owns 20 or more acres of real property at the campus where the street or alley is located.

The committee amendment was read and was adopted by a viva voce vote.

H.B. 1475 (Bivins) Relating to counties authorized to employ a purchasing agent. (31-0) (31-0)

H.B. 1529 (Gallegos) Relating to examination requirements for certain reappointed police officers. (31-0) (31-0)

C.S.S.B. 269 (Truan) Relating to the identification of children suffering from lead poisoning. (31-0) (31-0)

C.S.S.B. 406 (Zaffirini) Relating to health care purchasing by state agencies. (31-0) (31-0)

S.B. 545 (Rosson) Relating to the consent of a person 16 years of age or older to donate blood or blood components. (31-0) (31-0)

C.S.S.B. 595 (Bivins) Relating to granting counties authority to abate a public nuisance on certain property and assess costs of abatement. (31-0) (31-0)

C.S.S.B. 760 (Madla) Relating to the authorization for the governing body of certain hospitals to conduct meetings by telephone conference call. (31-0) (31-0)

S.B. 1162 (Rosson) Relating to unannounced inspections made by certain health and human services agencies. (31-0) (31-0)

Senator Rosson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1162** as follows:

- (1) On page 1, line 8, strike "authorized."
- (2) On page 1, line 13, strike "authorized."
- (3) On page 1, line 18, strike "authorized."

The committee amendment was read and was adopted by a viva voce vote.

S.B. 1168 (Sims) Relating to requirements for the segregation of classes of inmates in county jails and for capacities in county jails. (31-0) (31-0)

S.B. 1197 (Sims) Relating to a special judge serving a county court. (31-0) (31-0)

S.B. 1378 (Wentworth) Relating to disposition of certain areas acquired or improved by a political subdivision with grants of money from the Texas recreation and parks account. (31-0) (31-0)

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1378** by striking Section 1, subsection (d) and replace with the following:

(d) This section applies to property:

(1) that borders on a reservoir, all or a portion of which has been annexed and later de-annexed;

(2) that is located in a county containing a municipality that has a population of more than 400,000; and

(3) that lies outside the city limits of any city.

(e) A political subdivision that accepts and uses money granted under this section to plan, acquire, or develop a park, recreational area, or open space on property as described in (d) above, may transfer title to the property to a non-governmental entity if the instrument of transfer restricts the use of the area to the purpose for which a grant under the program was awarded, as set forth in the grant documents. All funds received by the political subdivision shall go into a fund dedicated to the purchase or improvement of other property for outdoor public recreational use.

The committee amendment was read and was adopted by a viva voce vote.

S.B. 1388 (Rosson) Relating to the creation of a county mass transit authority. (31-0) (31-0)

C.S.S.B. 1439 (Brown) Relating to nonsubstantive codification of the general arbitration statutes into the Civil Practice and Remedies Code. (31-0) (31-0)

S.B. 1489 (Ratliff) Relating to research conducted by public senior colleges and universities on behalf of the Texas Department of Transportation. (31-0) (31-0)

S.B. 1617 (Harris) Relating to the Texas Real Estate Investment Trust Act. (31-0) (31-0)

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend S.B. 1617, introduced version, as follows:

(1) In Section 3.10, as renumbered by the bill (page 1, line 16, through page 4, line 8), strike Subsection (A) and substitute the following:
(A) One or more persons, may act as trust manager(s) of a real estate investment trust by subscribing and acknowledging to a declaration of trust before an officer duly authorized to take acknowledgments of deeds, which shall set forth:

(1) The name of the real estate investment trust and a statement that an assumed name certificate setting forth such name has been filed in the manner prescribed by law.

(2) A statement that it is formed pursuant to the provisions of this Act and has the following as its purpose:

To purchase, hold, lease, manage, sell, exchange, develop, subdivide and improve real property and interests in real property, and in general, to carry on any other business and do any other acts in connection with the foregoing and to have and exercise all powers conferred by the laws of the State of Texas upon real estate investment trusts formed under the Texas Real Estate Investment Trust Act, and to do any or all of the things hereinafter set forth to the same extent as natural persons might or could do. The term "real property" and the term "interests in real property" for the purposes stated herein shall not include severed mineral, oil or gas royalty interests.

~~(3) [As to any real property of any character, major capital improvements must be made within fifteen (15) years of purchase or the property must be sold. Such major capital improvements must equal or exceed the purchase price of such real property, if the same is unimproved property at the time of purchase or property outside the corporate limits of a city, town or village. Any citizen of the State of Texas may force compliance with this provision by filing suit in any district court of this state and shall receive from such real estate investment trust forced to sell under this provision the sum of five per cent (5%) of the sale price of such real property interest as compensation.]~~

~~[(4)]~~ The post office address of its initial principal office and place of business.

~~(4)~~ The street address of its registered office and the name of its registered agent at that address.

~~(5)~~ The name and business address, and post office address, if different from the business address, of each trust manager[, specifying the resident trust manager].

~~(6)~~ The period of its duration, which may be for a term of years or perpetual.

~~(7)~~ The aggregate number of shares of beneficial interest the real estate investment trust shall have authority to issue and the par value to be received by the real estate investment trust for the issuance of each of such shares. If the shares are divided into classes as permitted by

Section ~~3.30~~ [3-1] of this ~~Act~~ [Article], the declaration shall provide a description of each class, including any preferences, conversion, and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption.

(8) ~~[A statement that shares of beneficial interests will be issued only for money or property actually received.~~

~~[(9)]~~ A statement that the trust manager(s) shall manage ~~hold~~ the money or property received for the issuance of shares for the benefit of the shareholders of the real estate investment trust ~~owners of such shares~~.

(9) ~~[(10)]~~ A statement that the real estate investment trust will not commence business until it has received for the issuance of shares of beneficial interest consideration of at least a \$1,000 value, consisting of any tangible or intangible benefit to the real estate investment trust, including cash, promissory notes, services performed for, contracts for services to be performed for, or other securities of the real estate investment trust ~~[operations until the beneficial ownership is held by one hundred or more persons with no five (5) persons owning more than fifty per cent (50%) of the total number of outstanding shares of beneficial interest. The word person as used herein shall not include corporations].~~

(10) ~~[(11)]~~ Any provision, not inconsistent with law, including any provision which under this Act is permitted to be set forth in the bylaws ~~[by-laws]~~, which the trust manager(s) elect to set forth in the declaration of trust for the regulation of the internal affairs of the real estate investment trust.

(2) In the first sentence of proposed Subsection (C) of Section 4.10, as renumbered by the bill (page 10, line 7), strike "manager" and substitute "managers".

(3) In Section 5.10, as renumbered by the bill (page 19, line 22, through page 20, line 12), strike proposed Subsection (F) and substitute the following:

(F) The address of the location of the registered office in this state for a real estate investment trust may be changed to another address on filing with the county clerk of the county where the declaration of trust was filed a statement that is executed by the registered agent for the real estate investment trust, or if the agent is a corporation or real estate investment trust, by an officer on behalf of the corporation or the real estate investment trust, and that sets forth:

(1) The name of the real estate investment trust represented by the registered agent.

(2) The address at which the registered agent has maintained the registered office for the real estate investment trust.

(3) The new address at which the registered agent will maintain the registered office for the real estate investment trust.

(4) A statement that written notice of the change of address has been given to the real estate investment trust at least 10 days before the filing of the statement required by this Section.

(4) In proposed Section 5.20 (page 21, between lines 12 and 13), add a new Subsection (D) to read as follows:

(D) The secretary of state shall collect for state use the fee for maintaining a record of service of any process, notice, or demand on the secretary of state as agent for any real estate investment trust under this section that is established by Section A(20), Article 10.01, Texas Business Corporation Act.

(5) In proposed Subdivision (19), Subsection (A), of Section 6.10, as renumbered by the bill (page 24, line 9), between "1986" and "that", insert "(or any successor statute)".

(6) In proposed Section 7.10 (page 26, line 19, through page 27, line 12), strike proposed Subsection (A) and substitute the following:

(A) A real estate investment trust shall deliver certificates representing shares to which shareholders are entitled, or the shares of a real estate investment trust may be uncertificated shares. Unless otherwise provided by the declaration of trust or bylaws, the trust manager(s) of a real estate investment trust by resolution may provide that some or all of any or all classes and series of its shares shall be uncertificated shares; provided, that the resolution may not apply to shares represented by a certificate until the certificate is surrendered to the real estate investment trust. Certificates representing shares shall be signed by the officer or officers prescribed by the bylaws of the real estate investment trust to sign the shares, and may be sealed with the seal of the real estate investment trust, if any, or a facsimile of the seal. The signatures of the officer or officers on a certificate may be facsimiles. If an officer who has signed or whose facsimile signature has been placed on the certificate ceases to serve as an officer before the certificate is issued, the real estate investment trust may issue the certificate, and the certificate has the same effect as if that officer were serving as an officer on the date of the certificate's issuance.

(7) In proposed Section 7.20 (page 28, line 17, through page 29, line 8), strike Subsections (D) and (E) and substitute the following:

(D) In accordance with Chapter 8, Business & Commerce Code, a real estate investment trust, after the issuance or transfer of uncertificated shares, shall send to the registered owner of uncertificated shares a written notice containing the information required to be set forth or stated on certificates under this Act. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of the same class and series must be identical. A share may not be issued until the consideration for the share, fixed as provided by law, has been fully paid.

(E) A requirement of this Act regarding matters to be set forth on certificates representing shares of a real estate investment trust may not apply to or affect certificates outstanding when the requirement first becomes applicable to the certificates, but the requirement shall apply to all certificates issued after the requirement becomes applicable, whether the requirement relates to an original issue of shares, a transfer of shares, or otherwise.

(8) In Subsection (B) of Section 7.30, as renumbered by the bill (page 30, line 27), strike "for" each time it appears after "performed".

(9) In Subdivision (2)(b) of Subsection (B) of Section 9.20, as renumbered by the bill (page 41, line 26), between "cases" and "that", insert ",."

(10) In the last sentence of Subsection (A) of Section 10.30, as renumbered by the bill (page 52, line 24), strike "or with the secretary of state" and substitute "[~~or with the secretary of state~~]".

(11) In the last sentence of Subsection (B) of Section 10.30, as renumbered by the bill (page 53, lines 7-8), strike "or with the secretary of state" and substitute "[~~or with the secretary of state~~]".

(12) In proposed Subsection (H) of Section 13.10, as renumbered by the bill (page 68, line 12), between "name" and "if", insert ",."

(13) In Subsection (A) of Section 15.10, as renumbered by the bill (page 77, line 12, through page 78, line 10), strike Subdivisions (2) and (3) and substitute the following:

(2) The trust manager(s) of a real estate investment trust who vote for or assent to the making of a loan to an officer or trust manager(s) of the real estate investment trust or the making of any loans secured by the shares of the real estate investment trust, shall be jointly and severally liable to the real estate investment trust for the amount of such loan until the repayment thereof.

(3) If the real estate investment trust shall commence business [operations] before the real estate investment trust has received for the issuance of shares of beneficial interest consideration of at least a \$1,000 value, consisting of any tangible or intangible benefit to the real estate investment trust, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the real estate investment trust [~~beneficial ownership is held by one hundred (100) or more persons with no five (5) persons owning more than fifty per cent (50%) of the total number of outstanding shares of beneficial interest~~], the real estate investment trust manager(s) who assent thereto shall be jointly and severally liable to the trust for the part of the required consideration that has not been received before commencing business [~~all debts and obligations incurred by the trust prior to the time the beneficial ownership is so held~~], but such liability shall be terminated when the real estate investment trust has actually received the required consideration for the issuance [~~issued the required number~~] of shares.

(14) Insert a new proposed Section 19.20 (page 82, between lines 19 and 20) to read as follows:

Sec. 19.20. ARTICLES OF DISSOLUTION. (A) On the termination and liquidation of the real estate investment trust, an officer shall execute articles of dissolution on behalf of the real estate investment trust and the articles of dissolution shall set forth:

(1) The name of the real estate investment trust.

(2) The names and respective addresses of its officers.

(3) The names and respective addresses of its trust managers.

(4) That all remaining property and assets of the real estate investment trust have been distributed among its shareholders in

accordance with the shareholders' respective rights and interests after applying the property and assets to the just and equitable payment of the liabilities and obligations of the real estate investment trust.

(5) The date of the adoption of the resolution to dissolve the real estate investment trust by the shareholders of the real estate investment trust.

(6) The number of shares outstanding and the number of shares entitled to vote on the dissolution and if the shares of any class or series are entitled to vote on the dissolution as a class, the designation and number of outstanding shares entitled to vote on the dissolution of each of those classes or series.

(7) The number of shares voted for and against the dissolution, respectively, and if the shares of any class or series are entitled to vote on the dissolution as a class, the number of shares of each of those classes or series that voted for and against the dissolution.

(B) A copy of the articles of dissolution shall be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

(C) On the filing of the articles of dissolution with the county clerk of the county of the principal place of business of the real estate investment trust, the real estate investment trust shall cease to exist.

(15) Strike proposed Section 22.60 (page 89, lines 12-23), and substitute the following:

Sec. 22.60. EFFECT OF FILING OF ARTICLES OF AMENDMENT.

(A) On the filing of the articles of amendment with the county clerk of the county of the principal place of business of the real estate investment trust, the amendment becomes effective and the declaration of trust is considered to be amended accordingly.

(B) An amendment may not affect any existing cause of action in favor of or against the real estate investment trust, or any pending suit to which the real estate investment trust is a party, or the existing rights of persons other than shareholders. If the name of a real estate investment trust is changed by amendment, a suit brought by or against the real estate investment trust under its former name may not be abated for that reason.

(16) In proposed Subsection (A) of Section 23.10, as renumbered by the bill (page 92, line 19, through page 93, line 3), strike Subdivision (2) and substitute the following:

(2)(i) the merger is permitted by the laws of the state or country under whose law each corporation, if any, that is a party to the merger is incorporated, (ii) the merger is either permitted by the laws under which each other entity that is a party to the merger is organized or by the constituent documents of the other entity that are not inconsistent with those laws, and (iii) each domestic or foreign corporation, real estate investment trust, partnership or other entity that is a party to the merger complies with those laws or documents in effecting the merger, if one or more domestic or foreign corporations, real estate investment trusts, partnerships or other entities is a party to the merger or is to be created by the terms of the plan of merger; and

(17) In proposed Subsection (A) of proposed Section 23.20 (page 102, line 27, through page 103, line 7), strike Subdivision (2) and substitute the following:

(2) the issuance of shares or interests issued as part of the plan of exchange is either permitted by the laws under which the domestic or foreign corporations, real estate investment trusts, partnerships or other entities are incorporated or organized or not inconsistent with those laws, if one or more foreign corporations, real estate investment trusts, partnerships or other entities are to issue shares or other interests as part of the plan of exchange; and

(18) In the last sentence of proposed Subdivision (1), proposed Subsection (B) of proposed Section 23.30 (page 105, line 11), strike "manager's" and substitute "managers".

(19) In proposed Subsection (C) of proposed Section 23.30 (page 105, line 15), strike "manager's" and substitute "managers".

(20) In proposed Section 23.30 (pages 108, line 18, through page 109, line 21), strike proposed Subsections (I) and (J) and substitute the following:

(I) After a merger or share exchange is approved, and at any time before the merger or share exchange has become effective, the plan of merger or share exchange may be abandoned (subject to any contractual rights) by any of the real estate investment trusts that are a party to the merger, without shareholder action, in accordance with the procedures set forth in the plan of merger or exchange, or, if no such procedures are set forth in the plan, in the manner determined by the trust manager(s). If articles of merger or exchange have been filed with the county clerk of the county of the principal place of business of the real estate investment trust but the merger or share exchange has not become effective, the merger or share exchange may be abandoned as provided in this Subsection if a statement, executed on behalf of each domestic and foreign entity that is a party to the merger or share exchange by an officer or other duly authorized representative of the domestic or foreign entity, and stating that the plan of merger or exchange has been abandoned in accordance with the plan and this Subsection, is filed with the county clerk in each county where the principal place of business of a Texas real estate investment trust that is a party to the merger or exchange is located before the merger or share exchange takes effect.

(J) On the filing with the county clerk of the county of the principal place of business of the real estate investment trust of the statement described by Subsection (I) of this Section, the merger or share exchange is considered abandoned and may not take effect.

(21) In proposed Subsection (A) of proposed Section 23.40 (page 111, line 24 through page 112, line 1), strike Subdivision (6) and substitute the following:

(6) For each domestic or foreign corporation, or other entity that is a party to the plan of merger, a statement that the approval of the plan of merger was duly authorized by all action required by the laws under which it was incorporated or organized and by its constituent documents.

(22) In proposed Section 23.40 (page 112, line 2, through page 113, line 11), strike proposed Subsections (B), (C), and (D) and substitute the following:

(B) The original of the articles of merger or exchange, and the number of copies of the articles that is equal to the number of surviving, new, and acquiring domestic or foreign corporations, real estate investment trusts, partnerships and other entities that are parties to the plan of merger or exchange or that will be created by the terms of the plan of merger or exchange thereof, shall be filed with the county clerk in each county where the principal place of business of a Texas real estate investment trust that is a party to the merger or exchange is located.

(23) Strike proposed Section 23.50 (page 113, lines 12-15), and substitute the following:

Sec. 23.50. EFFECTIVE DATE OF MERGER OR SHARE EXCHANGE. Except as otherwise provided by Section 27.10 of this Act, the merger or share exchange is effective when the articles of merger or exchange are filed as required by Section 23.40 of this Act.

(24) In proposed Section 24.10 (page 117, lines 1-16), strike proposed Subsection (A) and substitute the following:

(A) Except as otherwise provided in the declaration of trust and except as provided in the next sentence of this Subsection, the sale, lease, exchange, or other disposition of all, or substantially all, of the property and assets of a real estate investment trust, when made in the usual and regular course of the business of the real estate investment trust, may be made on the terms and conditions and for the consideration, which may consist in whole or in part of money or real or personal property, including shares of any real estate investment trust or domestic or foreign corporation, as authorized by its trust manager(s) without authorization or consent of the shareholders. Except as otherwise provided in the declaration of trust, the trust manager(s) may authorize any pledge, mortgage, deed of trust, or trust indenture, and no authorization or consent of the shareholders shall be required for the validity of or for any sale pursuant to the terms of the pledge, mortgage, deed of trust, or trust indenture.

(25) In proposed Subsection (C) of proposed Section 25.30 (page 130, lines 18-20), strike proposed Subdivision (2) and substitute the following:

(2) pursuant to Subsection (B) of this Section, the demand terminates the shareholder's rights under Section 25.20 of this Act;

(26) In proposed Subsection (D) of proposed Section 26.10 (page 135, lines 16-26), strike proposed Subdivisions (5) and (6) and substitute the following:

(5) The articles of merger or exchange shall be filed with the county clerk in each county where the principal place of business of a Texas real estate investment trust that is a party to the merger or exchange is located in the manner and with the number of copies provided in Section 23.40 of this Act.

(6) On the filing of the articles of merger or share exchange as provided in Section 23.40 of this Act, the merger or share exchange

becomes effective with the same effect as if the merger or share exchange had been adopted by unanimous action of the trust managers and shareholders of the real estate investment trust being reorganized. The effectiveness of the merger or share exchange shall be determined as provided in Section 23.50 of this Act.

(27) Strike proposed Section 27.10 (page 136, line 11, through page 140, line 17), and substitute the following:

Sec. 27.10. DELAYED EFFECTIVENESS OF CERTAIN FILINGS.

(A) A permitted act may be made effective at a time and date after the time and date otherwise provided for the permitted act in this Act or may be made effective on the occurrence of future events or facts, including future acts of any person or entity, if:

(1) the articles, statement, application, or other filing that is required to be filed with the county clerk of the county of the principal place of business of the real estate investment trust by this Act to make effective the permitted act clearly and expressly set forth, in addition to any other statement or information required to be set forth in those documents:

(a) the time and date on which the permitted act is to become effective or whether the permitted act is to become effective on the occurrence of a future event or fact;

(b) the manner in which the future event or fact shall operate to cause the permitted act to become effective; and

(c) the date of the 90th day after the date of the filing of the articles, statement, application or other filing;

(2) in the case of a permitted act that is to become effective as of a time or date after the time and date otherwise provided in this Act, the subsequent time and date is not more than 90 days after the date of the filing of the articles, statement, application, or other filing that is otherwise required by this Act to be filed with the county clerk of the county of the principal place of business of the real estate investment trust to make effective the permitted act and the time on which the permitted act is to become effective is not midnight or noon; and

(3) in the case of a permitted act that is to take effect on the occurrence of events or facts that may occur in the future, other than the mere passage of time, a statement that all the events or facts on which the effectiveness of the permitted act is conditioned have been satisfied or waived, including the date on which the condition was satisfied or waived, is filed with the county clerk of the county of the principal place of business of the real estate investment trust within 90 days of the date of the filing of the articles, statement, application or other filing that is otherwise required by this Act for the permitted act to become effective.

(B) The statement required by Subdivision (3) of Subsection (A) of this Section shall be executed on behalf of each domestic or foreign real estate investment trust, corporation, partnership, or other entity that was required to execute the articles, statement, application, or other filing that is otherwise required to be filed with the county clerk of the county of the

principal place of business of the real estate investment trust to make effective the permitted act by this Act by an officer or other duly authorized representative of the entity, including an officer or duly authorized representative of any successor domestic or foreign real estate investment trust, corporation, partnership, or other entity. The original statement and a copy of the original statement must be filed with the county clerk of the county of the principal place of business of the real estate investment trust.

(C) If any permitted act is to take effect as of a time or date after the time and date otherwise provided in this Act for the permitted act to become effective, notwithstanding any other provision of this Act to the contrary, the permitted act, to the extent permitted by Subsection (A) of this Section, shall take effect on that subsequent time and date.

(D) If any permitted act is to be made effective on the occurrence of future events or facts, other than the mere passage of time, and the statement required by Subdivision (3) of Subsection (A) of this Section is filed with the county clerk of the county of the principal place of business of the real estate investment trust within the time prescribed in that Subdivision, the permitted act takes effect on the time and date on which the latest specified event or fact occurs or the time and date on which the condition is otherwise satisfied or waived. The time and date on which a condition to the effectiveness of a permitted act is satisfied or waived as set forth in a statement filed with the county clerk of the county of the principal place of business of the real estate investment trust under Subdivision (3) of Subsection (A) of this Section shall be conclusively regarded as the time and date on which the condition was satisfied or waived for purposes of this Section.

(E) If the effectiveness of any permitted act is conditioned on the occurrence of future events or facts, other than the mere passage of time, and the statement required by Subdivision (3) of Subsection (A) of this Section is not filed with the county clerk of the county of the principal place of business of the real estate investment trust within the time prescribed in that Subdivision, the permitted act may not take effect unless the articles, statement, application, or other filing required by this Act to be filed with the county clerk to make the permitted act effective are subsequently filed with the county clerk of the county of the principal place of business of the real estate investment trust.

(F) In this section, "permitted act" means:

- (1) the formation of a real estate investment trust under this Act;
- (2) an amendment to a real estate investment trust's declaration of trust, including an amendment effected pursuant to a statement of resolution establishing a series of shares;
- (3) the restatement of the declaration of trust of a real estate investment trust;
- (4) a merger or share exchange;
- (5) a cancellation of redeemable or reacquired shares or a reduction in stated capital;

- (6) a voluntary dissolution;
 (7) a bylaw or agreement restricting the transfer of shares or securities of a real estate investment trust pursuant to this Act;
 (8) a change in registered office or registered agent; or
 (9) a change of address of a registered agent.

The committee amendment was read and was adopted by a viva voce vote.

S.B. 1626 (Wentworth) Relating to serving copies of certain court proceedings on the attorney general. (31-0) (31-0)

**RESOLUTION REMOVED FROM
 LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senator Removing</u>
S.C.R. 125	Harris

**CONCLUSION OF SESSION FOR
 LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Truan, the Senate at 7:57 a.m. adjourned until 9:00 a.m. today.

APPENDIX

REPORT OF STANDING COMMITTEE

The following committee report was received by the Secretary of the Senate:

April 27, 1995

HEALTH AND HUMAN SERVICES — C.S.S.B. 1190

SIGNED BY THE GOVERNOR

(April 27, 1995)

H.C.R. 165

H.B. 305 (Effective immediately)

H.B. 582 (Effective September 1, 1995)

H.B. 839 (Effective August 28, 1995)

H.B. 1219 (Effective immediately)

SIXTIETH DAY
(Friday, April 28, 1995)

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Cain, Ellis, Gallegos, Galloway, Haywood, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Brown, Harris, Luna.

A quorum was announced present.

The Reverend Doug Richnow, Christ Church, Cedar Park, offered the invocation as follows:

Gracious heavenly Father, let us begin this day as we should begin all days by offering thanksgiving to You for the glory and love You grant to each of us.

I pray for Lieutenant Governor Bullock and the men and women of the Texas Senate that they may be led in the way of truth by Your Holy Spirit to make wise and gracious decisions regarding this state and its people with whose welfare they have been entrusted.

O Lord, give them eyes to envision the future and the boundlessness of our state. Give them ears to hear the cries of those in need or pain. Give them mouths to speak as worthy advocates for those things that would glorify You and reflect Your perfect will. Enlighten their minds, stir their hearts, and strengthen their wills that they may know that their true calling as elected officials of this state is to serve God's people diligently and faithfully. I pray these things in Your Son's most precious and holy name. Amen.

On motion of Senator Truan 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

On motion of Senator Truan, Senator Brown was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Harris was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Luna was granted leave of absence for today on account of important business.

MESSAGE FROM THE HOUSE

House Chamber
April 28, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 9, Relating to the functions and systems and programs administered by the Teacher Retirement System of Texas. (As substituted and amended)

S.B. 366, Relating to the continuation and functions of the Texas State Library and Archives Commission, including the commission's involvement with the management of governmental records. (As amended)

S.B. 450, Relating to regional water and wastewater planning for the County of El Paso. (As amended)

S.B. 606, Relating to the detection and prevention of osteoporosis. (As substituted and amended)

The House refused to concur in Senate amendments to **H.B. 327** and requested the appointment of a conference committee to consider the differences between the two houses. The House conferees are: Representatives Goodman, Chair; Place, Hightower, Van de Putte, and De La Garza.

H.B. 238, Relating to the use of assistance dogs for persons with disabilities; providing an offense.

H.B. 523, Relating to stolen vehicle checkpoints near the Mexico border; relating to the jurisdiction of a magistrate to hear a stolen property disposition hearing; relating to certain information required on a certificate of title.

H.B. 525, Relating to the requisites of a petition for the writ of habeas corpus.

H.B. 1001, Relating to the regulation of subdivisions in economically distressed areas and the delivery of water and sewer services to economically distressed subdivisions; providing civil and criminal penalties.

H.B. 1281, Relating to the operation of cable TV systems by general law municipalities.

H.B. 1396, Relating to certain reports and public records to be prepared by a personal bond office.

H.B. 1567, Relating to the operation and implementation of the correctional managed health care plan.

H.B. 1877, Relating to the authority of the board of regents of The University of Texas System to delegate certain powers and duties of the board.

H.B. 2027, Relating to the regulation of tanning facilities; providing civil and administrative penalties.

H.B. 2098, Relating to justice court juries in certain counties.

H.B. 2245, Relating to the continuation and functions of the Texas Animal Health Commission; providing administrative and criminal penalties.

H.B. 2467, Relating to tuition rates at public institutions of higher education.

H.B. 2495, Relating to the transfer of the Baylor College of Dentistry to The Texas A&M University System.

H.B. 2505, Relating to commercial animal feed; providing a penalty.

H.B. 1745, Relating to requiring immunization for hepatitis B of certain students.

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

CONCLUSION OF MORNING CALL

The President at 9:15 a.m. announced the conclusion of morning call.

CAPITOL PHYSICIAN

Senator Leedom was recognized and presented Dr. Robert Allen of Garland as the "Doctor for the Day."

The Senate welcomed Dr. Allen and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GUESTS PRESENTED

Senator Montford, joined by Senator Harris, was recognized and introduced to the Senate a group of student council and class officers from Trinity High School in Euless.

The Senate welcomed its guests.

MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 373 ON THIRD READING

Senator Armbrister moved that the regular order of business be suspended and that **C.S.S.B. 373** be placed on its third reading and final passage.

C.S.S.B. 373, Relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

The motion was lost by the following vote: Yeas 16, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Cain, Ellis, Gallegos, Lucio, Madla, Moncrief, Montford, Rosson, Sims, Truan, Turner, West, Whitmire, Zaffirini.

Nays: Bivins, Galloway, Haywood, Henderson, Leedom, Nelson, Nixon, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Absent-excused: Brown, Harris, Luna.

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 Bivins.

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

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

Members, Texas Racing Commission: LUKIN T. GILLILAND, Bexar County; DR. DEORSEY E. McGRUDER, Dallas County.

Members, Texas Woman's University Board of Regents: DR. RONALD F. GARVEY, Dallas County; KAY WILLIAMS GOODMAN, Denton County; RICHARD D. HAYES, Denton County; CHERYL B. WATTLEY, Dallas County; SHEILA WHITAKER-KELLAGHER, Dallas County.

Members, Texas Historical Commission: BRUCE T. AIKEN, Cameron County; JANE COOK BARNHILL, Washington County; SHIRLEY W. CALDWELL, Shackelford County; T. R. FEHRENBACH, Bexar County; F. LEE LAWRENCE, Smith County; CARL R. McQUEARY, Bell County; SUSAN MEAD, Dallas County.

Judge of the 233rd Judicial District Court, Tarrant County: WILLIAM W. HARRIS, Tarrant County.

Members, Texas Low-Level Radioactive Waste Disposal Authority: DR. WILLIAM L. FISHER, Travis County; MACARIO MARQUEZ, JR., Hudspeth County.

Members, Texas National Research Laboratory Commission: GEORGE S. BAYOUD, JR., Dallas County; J. FRED BUCY, Dallas

County; G. W. "BILL" CEVERHA, Dallas County; NICHOLAS B. JORDAN, JR., Ellis County.

Members, School Land Board: RICHARD M. LANDSMAN, Bexar County; WILLIAM F. WARNICK, Lubbock County.

**COMMITTEE SUBSTITUTE
HOUSE BILL 383 ON SECOND READING**

On motion of Senator Shapiro 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 third reading:

C.S.H.B. 383, Relating to liability of certain governmental units and to the employees and officers of those units.

The bill was read second time.

(Senator Armbrister in Chair)

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.H.B. 383** as follows:

(1) In SECTION 4, Sec. 108.002, add a new subsection (c) to read as follows:

(c) A provider of health care in Sections 108.002(a) and (b) is one of the following licensed health care providers:

- (1) physicians;
- (2) psychiatrists;
- (3) pharmacists;
- (4) registered nurses;
- (5) podiatrists;
- (6) chiropractors;
- (7) psychologists;
- (8) physician assistants;
- (9) licensed vocational nurses;
- (10) perfusionists;
- (11) dieticians;
- (12) respiratory therapists;
- (13) occupational therapists;
- (14) physical therapists;
- (15) audiologists;
- (16) speech therapists;
- (17) radiological technologists;
- (18) social workers;
- (19) professional counselors; and
- (20) family marriage therapists.

(2) In SECTION 4, Sec. 108.003, delete subsection (c) in its entirety.

The amendment was read.

(President in Chair)

Senator Leedom offered the following substitute for Floor Amendment No. 1:

Floor Amendment No. 2

Substitute the following for Floor Amendment No. 1 to **C.S.H.B. 383** in SECTION 4 by:

1. Striking Section 108.002(a) and (b), Civil Practices and Remedies Code, and inserting in lieu thereof the following:

Sec. 108.002(a). **LIMITATION OF LIABILITY.** (a) Except in an action arising under the constitution or laws of the United States, a [A] public servant, other than a person licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is not personally liable for damages in excess of \$100,000 arising from personal injury, death, or deprivation of a right, privilege, or immunity if:

(1) the damages [to the extent that the state is liable for indemnification under Section 104.002—that] are the result of an act or omission by the public servant's office, employment, or contractual performance for or service on behalf of a state agency, institution, [or] department, or local government; and

(2) for the amount not in excess of \$100,000, the public servant is covered:

(A) by the state's obligation to indemnify under Chapter 104;

(B) by a local government's authorization to indemnify under Chapter 102;

(C) by liability or errors and omissions insurance; or

(D) by liability or errors and omissions coverage under an interlocal agreement.

(b) Except in an action arising under the constitution or laws of the United States, a public servant, other than a person licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is not personally liable for damages in excess of \$100,000 for property damage if:

(1) the damages are the result of an act or omission by the public servant in the course and scope of the public servant's office, employment, or contractual performance for or service on behalf of a state agency, institution, department, or local government; and

(2) for the amount not in excess of \$100,000, the public servant is covered:

(A) by the state's obligation to indemnify under Chapter 104;

(B) by a local government's authorization to indemnify under Chapter 102;

(C) by liability or errors and omissions insurance; or

(D) by liability or errors and omissions coverage under an interlocal agreement.

2. Striking Sec. 108.003(c) in its entirety.

The substitute for Floor Amendment No. 1 was read.

On motion of Senator Shapiro, Floor Amendment No. 2 was tabled by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1, the amendment was adopted by a viva voce vote.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 383 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 **C.S.H.B. 383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Barrientos.

Absent-excused: Brown, Harris, Luna.

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

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the final passage of the bill.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a group of students and parents from the Laredo Independent School District.

The Senate welcomed its guests.

SENATE BILL 21 ON SECOND READING

On motion of Senator Armbrister 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. 21, Relating to the State Cemetery.

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

SENATE BILL 21 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 21** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 784 ON SECOND READING**

On motion of Senator Ratliff 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:

C.S.S.B. 784, Relating to the regulation of the practice of engineering; providing penalties.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 784** as follows:

(1) On page 5, line 52, committee printing, insert the words "or Registered Professional Engineer." before the period.

(2) On page 9, line 10, committee printing, strike "[~~certificate of registration or~~]" and substitute "certificate of registration or".

(3) On page 10, line 19, committee printing, insert the following after "efforts" and before "to": "or resistance to efforts".

(4) On page 11, line 59, committee printing, strike "for enforcement purposes" and substitute "as reimbursement for performance of the Board's regulatory functions".

(5) On page 12, committee printing, amend SECTION 30 by striking the word "occurs" in both places and "occurred" in one place and substituting "is reported to the Board" in all three places.

(6) On page 12, committee printing, delete SECTION 29 and renumber the following sections.

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 784 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 784** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

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

GUESTS PRESENTED

Senator Leedom was recognized and introduced to the Senate a group of students from Richardson High School.

The Senate welcomed its guests.

SENATE BILL 1391 ON SECOND READING

On motion of Senator Ellis 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. 1391, Relating to records and seals of notaries public and to qualification as a notary public.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **S.B. 1391** in the heading of SECTION 10, after the word "Subsection", and before the ",", (page 5, line 28 introduced version) by striking the "(a)" and inserting "(c)" in lieu thereof.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **S.B. 1391** as follows:

Delete the language following "SECTION 3." and preceding "Sec. 406.006 QUALIFICATION", and insert the following in lieu thereof:

"Amend Section 406.006, Government Code, by amending subsections (a), (b), and (c), and by adding new subsections (d) and (e) to read as follows:"

The committee amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Gallegos asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1391 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 **S.B. 1391** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Gallegos.

Absent-excused: Brown, Harris, Luna.

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

RECORD OF VOTE

Senator Gallegos asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 626 ON SECOND READING**

On motion of Senator Armbrister 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:

C.S.S.B. 626, Relating to certain laws governing water districts and nonprofit water or sewer service corporations; creating penalties; granting authority to issue bonds; granting the power of eminent domain.

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

VOTE RECONSIDERED

On motion of Senator Armbrister and by unanimous consent, the vote by which **C.S.S.B. 626** was passed to engrossment was reconsidered.

Question—Shall **C.S.S.B. 626** be passed to engrossment?

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 626** in SECTION 24 by adding a new subsection (a) and (b) to read as follows and renumbering subsequent subsection accordingly:

Sec. 54.739. ANNEXATION OF CERTAIN DISTRICTS. (a) Before a municipality may institute proceedings to annex a district, the municipality shall give the district not less than 48 nor more than 60 months' advance written notice of its intention to do so. After such written notice is given, the district may not issue any additional bonded indebtedness, extend any of its services to additional areas outside its boundaries, or institute any new type of service without the prior written approval of the governing body of the municipality, which approval may not be unreasonably withheld or delayed.

(b) The board of directors of the district may, by resolution, waive the giving of notice required under this section or agree to a shorter notice period.

The amendment was read.

Senator Barrientos offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **C.S.S.B. 626** in SECTION 24 by adding a new subsection (a) and (b) to read as follows and renumbering subsequent subsection accordingly:

Sec. 54.739. ANNEXATION OF CERTAIN DISTRICTS. (a) Before a municipality may institute proceedings to annex a district, the municipality shall give the district not less than 24 months advance written notice of its intention to do so. After such written notice is given, the

district may not issue any additional bonded indebtedness, extend any of its services to additional areas outside its boundaries, or institute any new type of service without the prior written approval of the governing body of the municipality, which approval may not be unreasonably withheld or delayed.

(b) The board of directors of the district may, by resolution, waive the giving of notice required under this section or agree to a shorter notice period.

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

The bill as amended was again passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 626 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 626 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

(Senator Armbrister in Chair)

SENATE BILL 1161 ON SECOND READING

On motion of Senator Rosson 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. 1161, Relating to out-of-hospital do-not-resuscitate orders; providing penalties.

The bill was read second time.

Senator Rosson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **S.B. 1161** as follows:

- 1) Amend Section 674.001, subsection (13) page 2, line 27 after the word "pain", by adding: ", or the provision of water or nutrition."
- 2) Amend Section 674.001, subsection (14), (B) page 3, line 22. Add after the word "pain": ", or to provide water or nutrition."

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1161 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1161** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1387 ON SECOND READING**

On motion of Senator Wentworth 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:

C.S.S.B. 1387, Relating to the transfer and enforcement of ad valorem tax liens.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1387** as follows:

(1) In SECTION 1, Section 32.06(e), Tax Code (page 1, line 42, senate committee printing), strike "Except as provided by Section 32.065, a [A]" and substitute "A".

(2) In SECTION 1, Section 32.06(e), Tax Code (page 1, lines 46-48, senate committee printing), strike ", plus any charge that is authorized by Section 32.065 and agreed to by the owner of the property under that section".

(3) In SECTION 1, Section 32.06(f), Tax Code (page 1, lines 53 and 54, senate committee printing), strike "and any charge previously agreed to and authorized by Section 32.065".

(4) In SECTION 1, Section 32.06(f), Tax Code (page 1, lines 55 and 56, senate committee printing), strike ", transfer expenses,".

(5) In SECTION 1, Section 32.06(i), Tax Code (page 2, lines 14 and 15, senate committee printing), strike "all authorized charges,".

(6) In SECTION 1 (page 2, line 31, through page 3, line 5, senate committee printing), strike proposed Section 32.065(b), Tax Code, and substitute the following:

(b) A contract entered into under Subsection (a) may provide for:

(1) an event of default; and

(2) notice of acceleration.

(7) In SECTION 1, proposed Section 32.065(c), Tax Code (page 3, lines 9 and 10, senate committee printing), strike "foreclosure, judicial sale, and the ability to purchase property" and substitute "foreclosure or judicial sale".

The amendment was read and was adopted by a viva voce vote.

Senator Galloway offered the following amendment to the bill:

Floor Amendment No. 2

Amend **C.S.S.B. 1387** as follows:

(1) On page 3, line 24, strike "possibility that" and substitute "type of possible".

(2) On page 3, line 25, insert the following after "fees" and before "may": "that".

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1387 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 **C.S.S.B. 1387** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Brown, Harris, Luna.

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

RECORD OF VOTES

Senators Gallegos and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 699 WITH HOUSE AMENDMENT

Senator Lucio, on behalf of Senator Sims, called **S.B. 699** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **S.B. 699** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the farm and ranch finance program.

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

SECTION 1. Section 59.012, Agriculture Code, is amended to read as follows:

Sec. 59.012. **DISPOSITION OF BOND PROCEEDS.** (a) Except as provided by Subsection [Subsections] (b) [~~and (c)~~] of this section, proceeds from the sale of the bonds, other than refunding bonds, shall be deposited in the state treasury to the credit of the fund.

(b) The board may provide for transferring to the interest and sinking account from the proceeds of the sale of bonds or from the available money in the fund directly an amount that, together with the accrued interest received, is sufficient to pay interest becoming due during the fiscal year in which the bonds are sold and to establish appropriate reserves.

~~[(c) At the timely request of the authority, the board shall provide for transferring from the proceeds of the sale of bonds or from available money in the fund directly an amount certified by the authority as reasonable and necessary to cover the costs of administering the program. That amount shall be deposited in the state treasury to the credit of a special fund to be known as the farm and ranch administrative expense fund.]~~

SECTION 2. Section 59.021, Agriculture Code, is amended by adding Subsection (i) to read as follows:

(i) In addition to other uses provided by this chapter, the authority may use money in the fund to pay costs and expenses of administering the program.

SECTION 3. Section 59.022(c), Agriculture Code, is amended to read as follows:

(c) The authority may set and collect fees the authority considers reasonable and necessary to cover the expenses of administering the program or considers in the best interest of the program. Those fees shall be deposited in the state treasury to the credit of the farm and ranch finance program ~~[administrative expense]~~ fund. An applicant for financial assistance participating in the program shall pay the costs of applying for, participating in, and administering and servicing the program, in amounts the authority considers reasonable and necessary. Any cost not paid by an applicant shall be paid from the fund.

SECTION 4. Section 59.024, Agriculture Code, is amended to read as follows:

Sec. 59.024. APPLICATION; ELIGIBILITY. (a) To borrow money from the fund, a person must submit an application to the authority that contains an acceptable agricultural business plan for the land proposed to be purchased that assures the authority the applicant intends to use the land for the primary purpose of farming or ranching.

(b) To be eligible to borrow money from the fund, a person, at the time of application, must:

(1) provide evidence to the authority that demonstrates that the person has at least three years of experience relevant to the person's agricultural business plan for the land proposed to be purchased ~~[be a member of a household that has derived at least 25 percent of its gross income from a farm or ranch for the preceding three years]; and~~

(2) have a net worth of less than \$300,000 ~~[\$250,000]~~.

SECTION 5. Section 59.025, Agriculture Code, is amended to read as follows:

Sec. 59.025. MAXIMUM AMOUNT OF LOAN [DOWNPAYMENT]. ~~[(a)]~~ A loan under this chapter may not exceed the lesser of:

(1) \$150,000; or

(2) an amount equal to 95 percent of the lesser of the purchase price of the land or the land's appraised value under Section 59.028~~[, less the down payment required under this subsection. If the purchase price of land purchased with financial assistance under this chapter is \$150,000 or less, the minimum down payment is equal to five percent of the purchase price. If the purchase price exceeds \$150,000, the minimum down payment is an amount equal to the sum of five percent of the purchase price plus the amount equal to the difference between the purchase price and \$150,000].~~

~~[(b) The authority shall provide by rule for the period during which and the manner in which the down payment provided for under Subsection (a) of this section shall be paid to the authority.~~

~~[(c) If the sale is not consummated, the authority shall refund the down payment to the borrower.]~~

SECTION 6. (a) The change in law made by this Act does not affect a loan made under Chapter 59, Agriculture Code, before the effective date of this Act, without regard to whether the sale of land for which the loan was made is consummated before the effective date of this Act.

(b) If a down payment is paid to the Texas Agricultural Finance Authority under Section 59.025, Agriculture Code, before the effective date of this Act, and the sale of land for which the down payment was paid is not consummated, the authority shall refund the down payment to the borrower in accordance with Section 59.025(c), Agriculture Code, before its amendment by this Act, and the former law is continued in effect for that purpose.

(c) The farm and ranch administrative expense fund is abolished.

SECTION 7. This Act takes effect September 1, 1995.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Lucio, on behalf of Senator Sims, 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.

The Presiding Officer asked if there were any motions to instruct the conference committee on S.B. 699 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lucio, Chair; Sims, Brown, Armbrister, and Bivins.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

S.B. 1680	S.B. 1685
S.B. 1681	S.B. 1686
S.B. 1682	S.B. 1687
S.B. 1683	S.B. 1688
S.B. 1684	

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

S.C.R. 133 by Armbrister Administration
Requesting the lieutenant governor and speaker to establish a joint interim committee to study the application of advanced electronics technology to correctional surveillance and security.

S.C.R. 135 by Lucio Education
Requesting the Texas Higher Education Coordinating Board to conduct a review of alternative dispute resolution procedures at public institutions of higher education.

S.B. 1680 by Luna Jurisprudence
Relating to the creation of five judicial districts composed of Bexar County.

S.B. 1681 by Nelson, Cain Economic Development
Relating to authorizing the Texas National Research Laboratory Commission to contract with a special utility district.

S.B. 1682 by Nelson, Cain Finance
Relating to the conveyance of a possessory interest in property acquired by a public entity or state agency in connection with the superconducting super collider facility.

S.B. 1683 by Nixon, Madla Natural Resources
Relating to the collection, management, and recycling of used oil and used oil filters.

S.B. 1684 by Harris Economic Development
Relating to illegal fireworks and certain offenses relating to fireworks.

S.B. 1685 by Sibley State Affairs
Relating to the detection and prevention of prostate cancer.

S.B. 1687 by Henderson Jurisprudence
Relating to the creation of certain judicial districts and to the offices of district attorney of certain judicial districts.

S.B. 1688 by Truan

Natural Resources
Subcommittee on Water

Relating to the establishment of the line of vegetation along the Gulf of Mexico where a natural vegetation line does not exist.

BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

H.C.R. 104

H.B. 722

H.B. 1318

AT EASE

The Presiding Officer, Senator Armbrister in Chair, at 10:23 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 10:32 a.m. called the Senate to order as In Legislative Session.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 10:33 a.m. agreed to adjourn, upon receipt of messages from the House, until 10:00 a.m. Monday, May 1, 1995.

AT EASE

The President at 10:34 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Truan at 1:41 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

House Chamber

April 28, 1995

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 178, Relating to delay of the vehicle emissions inspection and maintenance program. (As substituted and amended)

Respectfully,

Cynthia Gerhardt, Chief Clerk
House of Representatives

MEMORIAL RESOLUTION

H.C.R. 179 - (Leedom): In memory of former Representative Phillip LaFrance Willis.

CONGRATULATORY RESOLUTIONS

S.C.R. 136 - By Sibley: Designating the week that begins with Father's Day as Texas Prostate Cancer Awareness Week.

S.R. 847 - By West: Proclaiming April 29, 1995, as Black Data Processing Associates Day in Dallas.

S.R. 848 - By West: Congratulating Jennifer Ruud on being selected for participation in the eighth Texas Career and Technology Education Awards Program.

S.R. 849 - By Zaffirini: Recognizing the dedication ceremony of John B. Alexander High School in Laredo.

S.R. 850 - By Ellis: Recognizing the contributions of Texas public radio and television stations and the Texas Public Broadcasting Association.

S.R. 851 - By Ellis: Recognizing the weekend of May 19 through 21, 1995, as Africa Day in Houston.

S.R. 852 - By Ellis: Commending Reginald B. Cherry, M.D., of Houston for his many contributions during 20 years of practice.

S.R. 853 - By Whitmire: Honoring Raymond J. Snokhous for his dedication to preserving the Czech heritage in Texas.

S.R. 854 - By Barrientos: Congratulating Andy Russ of Austin on achieving the rank of Eagle Scout.

S.R. 855 - By Barrientos: Congratulating Daniel B. Frank of Pflugerville on achieving the rank of Eagle Scout.

S.R. 856 - By Barrientos: Congratulating David Russ of Austin on achieving the rank of Eagle Scout.

S.R. 857 - By Truan: Congratulating the Reverend B. T. Cherry on his 29th anniversary as pastor of Mount Zion Missionary Baptist Church in Robstown.

S.R. 858 - By Ratliff: Congratulating Austin Lewis Duff of Tyler on achieving the rank of Eagle Scout.

S.R. 859 - By Nixon: Congratulating Erik J. Gobel of Nacogdoches, who was elected president of the Student Government Association at Stephen F. Austin State University.

S.R. 860 - By Truan: Extending best wishes to the alumni of Falfurrias High School for a most rewarding reunion.

S.R. 861 - By Truan: Congratulating Vann M. Kennedy on the occasion of his 90th birthday.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 1:42 p.m. adjourned until 10:00 a.m. Monday, May 1, 1995.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

April 28, 1995

STATE AFFAIRS — C.S.S.B. 1333, C.S.S.B. 94, H.B. 984 (Amended), S.B. 1461, H.B. 677, S.B. 1671

FINANCE — H.B. 596, S.B. 1115, S.B. 1416, S.B. 1133, S.B. 1417, S.B. 1492, S.B. 1418 (Amended), C.S.S.B. 405, C.S.S.B. 589, C.S.S.B. 858, C.S.S.B. 833, C.S.S.B. 1136

HEALTH AND HUMAN SERVICES — C.S.S.C.R. 45, S.B. 913, C.S.S.B. 1596, C.S.S.B. 83

ECONOMIC DEVELOPMENT — S.B. 1667, S.B. 1514, S.B. 623, S.B. 1411 (Amended), S.B. 1409 (Amended), S.B. 1009 (Amended), C.S.S.B. 1528, C.S.S.B. 202, C.S.S.B. 628, C.S.S.B. 1544, C.S.S.B. 1618, C.S.S.B. 1646, C.S.S.B. 558, C.S.S.B. 1222, C.S.S.B. 1637, C.S.H.B. 971

NATURAL RESOURCES — C.S.S.B. 1601, C.S.S.B. 1396, H.B. 1187, S.B. 1660, S.B. 1076, S.B. 376, H.C.R. 24, S.B. 935, C.S.H.B. 475, S.B. 1657, S.B. 1645, S.B. 1647, H.B. 1493, H.B. 2642, C.S.S.B. 1619, S.B. 1679

CRIMINAL JUSTICE — S.B. 272 (Amended), S.B. 453, H.B. 462, S.B. 1093, S.B. 225 (Amended), H.B. 44, S.B. 919 (Amended), H.B. 1343 (Amended), H.B. 1155, S.B. 1655, C.S.S.B. 853, C.S.S.B. 676, C.S.S.B. 224, C.S.S.B. 1074, C.S.S.B. 357, C.S.S.B. 1135