

# HOUSE JOURNAL

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EIGHTIETH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTY-FIRST DAY — TUESDAY, MAY 22, 2007

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

The roll of the house was called and a quorum was announced present (Record 1584).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent — Castro; Darby; Hilderbran; Laubenberg; Mallory Caraway; McClendon; Moreno; Olivo; Paxton.

The invocation was offered by Daryl D. Wilson, senior pastor, Park Springs Bible Church, Arlington.

(Mallory Caraway now present)

The speaker recognized Representative Zedler who led the house in the pledges of allegiance to the United States and Texas flags.

### CAPITOL PHYSICIAN

The speaker recognized Representative Hill who presented Drs. Shashi Mittal, Jessica Pierce, and Valerie Peterson of Garland as the "Doctors for the Day."

The house welcomed Drs. Mittal, Pierce, and Peterson and thanked them for their participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

**RULES SUSPENDED**

On motion of Representative Zedler and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

(Castro, Darby, and Olivo now present)

**HR 2523 - ADOPTED  
(by Bolton)**

Representative Bolton moved to suspend all necessary rules to take up and consider at this time **HR 2523**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2523**, Expressing appreciation from the freshman members of the Texas House to "Mr.SpeakerMembers".

**HR 2523** was read and was adopted.

**RESOLUTIONS ADOPTED**

Representative Murphy moved to suspend all necessary rules in order to take up and consider at this time **HR 2267, HR 2268, HR 2270, HR 2271, HR 2274 - HR 2277, HR 2405, HR 2411, HR 2413 - HR 2415, HR 2417 - HR 2421, HR 2441, HR 2447, HR 2457, HR 2458, HR 2465 - HR 2467, HR 2478, and HR 2489**.

The motion prevailed.

The following resolutions were laid before the house:

**HR 2267** (by Hopson), In memory of U.S. Marine Corporal Jacob H. Neal of San Marcos.

**HR 2268** (by Hopson), In memory of U.S. Army Specialist Dominic J. Hinton of Jacksonville.

**HR 2270** (by Bolton), In memory of U.S. Army Master Sergeant Robert M. Horrigan of Austin.

**HR 2271** (by Geren), In memory of U.S. Army Captain Blake Harrison Russell of Fort Worth.

**HR 2274** (by Phillips), In memory of U.S. Army Staff Sergeant Michael A. Shank of Bonham.

**HR 2275** (by Phillips), In memory of U.S. Army Sergeant James P. Muldoon of Bells.

**HR 2276** (by Goolsby), In memory of U.S. Army Colonel Theodore S. Westhusing of Dallas.

**HR 2277** (by Goolsby), In memory of U.S. Army Specialist Aaron L. Preston of Dallas.

**HR 2405** (by Gonzalez Toureilles), In memory of U.S. Army Staff Sergeant Shane Robert Becker.

**HR 2411** (by Hilderbran), In memory of Captain Shane Mahaffee.

**HR 2413** (by Macias), In memory of U.S. Marine Lance Corporal Luke B. Holler of Bulverde.

**HR 2414** (by Macias), In memory of First Lieutenant Phillip Isaac Neel of Fredericksburg.

**HR 2415** (by Eiland), In memory of U.S. Army Specialist Eddie D. Tamez of Galveston.

**HR 2417** (by Krusee), In memory of U.S. Marine Sergeant George M. Ulloa, Jr., of Austin.

**HR 2418** (by Krusee), In memory of U.S. Marine Corporal Michael C. Ledsome of Austin.

**HR 2419** (by Krusee), In memory of U.S. Marine Reserve Lance Corporal Roger D. Castleberry, Jr., of Austin.

**HR 2420** (by Straus), In memory of U.S. Army Staff Sergeant Christopher R. Morningstar of San Antonio.

**HR 2421** (by Kuempel), In memory of U.S. Army Corporal Jason B. Daniel of Fort Worth.

**HR 2441** (by Deshotel, et al.), In memory of U.S. Marine Staff Sergeant Benjamin D. Williams of Orange.

**HR 2447** (by Eiland), In memory of U.S. Army Specialist Eddie Tamez of Galveston.

**HR 2457** (by West), In memory of U.S. Army Corporal Ray M. Bevel of Andrews.

**HR 2458** (by West), In memory of U.S. Army Private First Class Damian J. Garza of Odessa.

**HR 2465** (by P. King), In memory of U.S. Army Private First Class Paul Balint, Jr., of Willow Park.

**HR 2466** (by P. King), In memory of U.S. Army Captain Anthony R. Garcia of Fort Worth.

**HR 2467** (by P. King), In memory of U.S. Army Staff Sergeant Eric Caban of Fort Worth.

**HR 2478** (by Kolkhorst), In memory of U.S. Army Staff Sergeant Christopher L. Everett of Huntsville.

**HR 2489** (by Hamilton), In memory of U.S. Army Specialist Daniel W. Winegeart of Kountze.

The resolutions were unanimously adopted by a rising vote.

On motion of Representative Murphy, the names of all the members of the house were added to **HR 2267, HR 2268, HR 2270, HR 2271, HR 2274 - HR 2277, HR 2405, HR 2411, HR 2413 - HR 2415, HR 2417 - HR 2421, HR 2441, HR 2447, HR 2457, HR 2458, HR 2465 - HR 2467, HR 2478, and HR 2489** as signers thereof.

**HR 2278 - ADOPTED**

**(by Naishtat, Strama, Dukes, D. Howard, Bolton, et al.)**

Representative Murphy moved to suspend all necessary rules to take up and consider at this time **HR 2278**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2278**, Commemorating the 2007 Memorial Day observance being sponsored by the Travis County Council of the Veterans of Foreign Wars.

**HR 2278** was adopted.

**SB 792 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative W. Smith, the house granted the request of the senate for the appointment of a conference committee on **SB 792**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 792**: W. Smith, chair; Kolkhorst, Harless, Phillips, and Pickett.

**HB 1009 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

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

Representative Escobar moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1009**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1009**: Escobar, chair; Goolsby, Martinez, Oliveira, and Rose.

**HB 463 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 463**, A bill to be entitled An Act relating to the regulation of air conditioning and refrigeration contracting; providing an administrative penalty.

Representative Flores moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 463**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 463**: Flores, chair; Bailey, Hamilton, Geren, and Thompson.

### **HB 1471 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1471**, A bill to be entitled An Act relating to resource sharing among certain political subdivisions, including regional planning commissions, during a disaster.

Representative Hancock moved to concur in the senate amendments to **HB 1471**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1585): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycoc; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Davis, Y.; Deshotel; Garcia; Hilderbran; Hill; King, S.; Laubenberg; McClendon; Merritt; Moreno; Paxton; Peña; Pierson.

### STATEMENTS OF VOTE

When Record No. 1585 was taken, I was in the house but away from my desk. I would have voted yes.

Garcia

When Record No. 1585 was taken, my vote failed to register. I would have voted yes.

S. King

#### Senate Committee Substitute

**CSHB 1471**, A bill to be entitled An Act relating to resource sharing among certain political subdivisions, including regional planning commissions, during a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 ARTICLE 1. CERTAIN DISASTER RESPONSE PROCEDURES FOR  
 POLITICAL SUBDIVISIONS

SECTION 1.01. Section 418.004, Government Code, is amended by adding Subdivisions (10) through (14) to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

SECTION 1.02. Subchapter E, Chapter 418, Government Code, is amended by adding Section 418.1015 to read as follows:

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision.

(b) An emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. An emergency management director may exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) An emergency management director may designate a person to serve as emergency management coordinator. The emergency management coordinator shall serve as an assistant to the emergency management director for emergency management purposes.

SECTION 1.03. Subsection (c), Section 418.107, Government Code, is amended to read as follows:

(c) A local government entity [~~political subdivision or regional planning commission~~] may render mutual aid to other local government entities [~~political subdivisions or regional planning commissions~~] under mutual aid agreements or the system.

SECTION 1.04. The heading to Section 418.109, Government Code, is amended to read as follows:

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE.

SECTION 1.05. Subsection (d), Section 418.109, Government Code, is amended to read as follows:

(d) A local government entity or [~~municipality, county, emergency services district, fire protection agency, regional planning commission,~~] organized volunteer group[~~, or other emergency services entity~~] may provide mutual aid assistance on request from another local government entity or [~~municipality, county, emergency services district, fire protection agency, regional planning commission,~~] organized volunteer group[~~, or other emergency services entity~~]. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity [~~and consistent with any mutual aid plans developed by the emergency management council~~].

SECTION 1.06. Section 418.110, Government Code, is amended to read as follows:

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE EMERGENCIES. (a) The division, in consultation with state fire protection agencies and the Texas Commission on Fire Protection, may [~~shall~~] develop a statewide mutual aid program for fire emergencies.

(b) A program developed under this section:

(1) does not alter the legal obligations of a political subdivision participating in the system; and

(2) must be consistent with the state emergency management plan.

SECTION 1.07. Chapter 418, Government Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a

written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

Sec. 418.112. ADMINISTRATION BY DIVISION. The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

Sec. 418.113. DISASTER DISTRICTS. (a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The public safety director of the Department of Public Safety of the State of Texas shall appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee. The chair shall:

(1) inform the state Director of Homeland Security on all matters relating to disasters and emergencies as requested by the state Director of Homeland Security; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and administrative support as required.

Sec. 418.114. PROCEDURES FOR MUTUAL AID. (a) The political subdivisions in each state planning region established by the governor under Chapter 391, Local Government Code, shall agree on procedures that specify the manner in which mutual aid will be provided in response to a request from:

(1) a political subdivision in the region;

(2) a political subdivision in another region; or

(3) this state.

(b) A copy of the procedures must be provided to the division and the disaster district committee chair.



Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE. (a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing not later than the 30th day after the date the request was made.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE. (a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Sec. 418.1152. SUPERVISION AND CONTROL. When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity;  
and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Sec. 418.1153. DURATION OF AID. The provision of mutual aid assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting local government entity.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made by the division, the division shall make the claim for the eligible costs of the responding local government entity on the division's grant application and shall disburse the

federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) If a local government entity requests mutual aid assistance from another local government entity under the system, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

SECTION 1.08. Subdivision (9), Section 418.004, and Subsections (a), (b), and (c), Section 418.109, Government Code, are repealed.

SECTION 1.09. This Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Harper-Brown.

(Moreno and Paxton now present)

### **SB 1520 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Paxton, the house granted the request of the senate for the appointment of a conference committee on **SB 1520**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1520**: Paxton, chair; Anchia, McCall, Orr, and Solomons.

**SB 1031 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Eissler, the house granted the request of the senate for the appointment of a conference committee on **SB 1031**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1031**: Eissler, chair; Delisi, Hochberg, Patrick, and Zedler. (New conferees were appointed later today, on the part of the house, on **SB 1031**.)

**SB 1993 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Flynn, the house granted the request of the senate for the appointment of a conference committee on **SB 1993**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1993**: Flynn, chair; Hopson, Berman, B. Brown, and Hughes.

(Laubenberg now present)

(Smithee in the chair)

**SB 1886 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE INSTRUCTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a conference committee on **SB 1886**.

(Hilderbran and McClendon now present)

Representative Martinez Fischer moved to instruct the conference committee on **SB 1886** to retain the substance of the Martinez Fischer amendment in the text of the conference committee report on **SB 1886**.

The motion to instruct conferees prevailed. (The vote was reconsidered later today, and the motion to instruct conferees on **SB 1886** prevailed by Record 1586.)

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1886**: Keffer, chair; F. Brown, Martinez Fischer, Otto, and Ritter.

**SB 993 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative McReynolds, the house granted the request of the senate for the appointment of a conference committee on **SB 993**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 993**: McReynolds, chair; Delisi, D. Howard, S. King, and Villarreal.

(Speaker in the chair)

**SB 1031 - HOUSE DISCHARGES CONFEREES  
HOUSE APPOINTS NEW CONFEREES**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1031**: Eissler, chair; Branch, Hochberg, Patrick, and Zedler.

**MESSAGES FROM THE SENATE**

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

**SB 1886 - MOTION TO RECONSIDER  
REQUEST OF THE SENATE GRANTED  
CONFERENCE COMMITTEE INSTRUCTED**

Representative Hodge moved to reconsider the vote by which the house granted the request of the senate for the appointment of a conference committee on **SB 1886**.

The motion to reconsider prevailed.

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a conference committee on **SB 1886**.

**Motion to Instruct - Vote Reconsidered**

Representative Hodge moved to reconsider the vote by which the motion to instruct the conferees to **SB 1886** prevailed.

The motion to reconsider prevailed.

Representative Martinez Fischer moved to instruct the conference committee on **SB 1886** to retain the substance of the Martinez Fischer amendment in the text of the conference committee report on **SB 1886**.

A record vote was requested.

The motion to instruct conferees prevailed by (Record 1586): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Krusee; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Miles; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Puente; Quintanilla; Riddle; Ritter;

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

Present, not voting — Mr. Speaker(C).

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Callegari; Elkins; Gattis; Geren; Jones; Kuempel; Latham; Menendez; Merritt; Miller; Pickett; Raymond.

#### STATEMENTS OF VOTE

When Record No. 1586 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 1586 was taken, I was in the house but away from my desk. I would have voted yes.

Miller

#### SB 1886 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1886**: Keffer, chair; F. Brown, Martinez Fischer, Otto, and Ritter.

#### SB 344 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative J. Davis, the house granted the request of the senate for the appointment of a conference committee on **SB 344**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 344**: J. Davis, chair; Eissler, Hopson, Parker, and Rose.

#### UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

#### CSSB 3 ON SECOND READING (Puente - House Sponsor)

**CSSB 3**, A bill to be entitled An Act relating to the development, management, and preservation of the water resources of the state; providing penalties.

**CSSB 3** was read second time on May 21, and eight amendments were offered and disposed of before that day's adjournment.

#### Amendment No. 9

Representative Frost offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 1

Amend **CSSB 3** (House Committee Substitute Version) as follows:

(1) Delete beginning at line 1, page 54, through line 22, page 56, and insert the following:

SUBCHAPTER L. SURFACE WATER FEES.

Sec. 11.601. SURCHARGE ON SURFACE WATER IMPOUNDED IN A RESERVOIR. (a) The holder of a permit to impound surface water in a reservoir subject to Section 16.143, Water Code shall submit to the commission on an annual basis a surcharge fee equal to the ad valorem tax rate of each political subdivision that assessed ad valorem taxes on property within the reservoir site multiplied by each acre-foot of surface water the permit authorizes be impounded.

(b) Not later than 90 days after the surcharge is submitted under Subsection (a), the commission shall appropriate the surcharge to the political subdivisions that assessed ad valorem taxes on the property located within the reservoir site based upon the proportion of the total ad valorem tax revenue collected by the political subdivisions before the property was acquired to construct the reservoir.

(c) The commission may assess the permit holder a fee in an amount necessary to administer this section.

Sec. 11.602. ROYALTY FEE ON SURFACE WATER IMPOUNDED IN A RESERVOIR. (a) The holder of a permit to impound surface water in a reservoir subject to Section 16.143, Water Code shall submit on an annual basis to the commission a royalty fee equal to 10% of the total net revenue earned by the permit holder for the sale or lease of the water authorized to be impounded under the permit.

(b) Not later than 90 days after the royalty fee is submitted under Subsection (a), the fee shall be appropriated by the commission to the property owners listed in Section 16.143(a)(3) based upon the number of acres the property owner had purchased or taken for the construction of the reservoir.

(c) The commission may assess the permit holder a fee in an amount necessary to administer this section.

SECTION 2A.02. Subchapter E, Chapter 16, Water Code is amended by adding Sections 16.143 through 16.147 to read as follows:

Sec. 16.143. INTENT TO CONSTRUCT A RESERVOIR. (a) No later than two years after a proposed reservoir site is approved in the state water plan, or designated by the legislature under Sec. 16.051(f) of this chapter, an agency, political subdivision, person, or entity must submit to the board:

(1) a letter of intent to construct the proposed or designated reservoir;

(2) a metes and bounds description of the area that is included in the reservoir site;

(3) a list of all the property owners with an estate within the area of the proposed reservoir;

(4) a drought contingency plan and water conservation plan based on specific targets and goals using appropriate best management practices that will be implemented by each retail public water utility that provides potable water service to a population of 3,300 or more that may receive water from the proposed reservoir; and

(5) evidence of the ability to finance the purchase of development rights from the property owners with an estate within the area of the proposed reservoir under Section 16.144 of this chapter.

(b) If the board does not receive the items required to be submitted under Subsection (a) within two years of the approval of the reservoir site in the state water plan, the board shall remove the reservoir site from the state water plan.

(c) If the board does not receive the items required to be submitted under Subsection (a) within two years of the designation of the site under Sec. 16.051(f) of this chapter, the designation of the site is repealed, and Sec. 16.051(f) of this chapter no longer applies to the site.

(d) The board shall provide notice to each municipality and county commissioners court within the area of the proposed reservoir of the items submitted under Subsection (a).

(e) The board shall promulgate any rules necessary to implement this section.

Sec. 16.144. PURCHASE OF DEVELOPMENT RIGHTS FOR RESERVOIR SITE. (a) Within four years of submitting the items required under Section 16.143(a), an agency, political subdivision, person, or entity that submitted the items required under Section 16.143(a) shall make a bona fide good faith effort to negotiate a purchase of development rights agreement with every property owner with an estate within the area of the proposed reservoir. Eminent domain may not be used to purchase development rights under this section.

(b) The purchase of developments rights agreement under Subsection (a) shall:

(1) allow the property owner to continue with the existing use of the property;

(2) allow improvements that will not change the primary existing use of the property; and

(3) for property in agricultural use, be held and administered by an agricultural land trust originally chartered in the state and organized solely to protect property for agricultural use.

(c) The agency, political subdivision, person, or entity required to purchase development rights under this section shall provide the agricultural land trust holding the agreement under Subsection (b) (3) with the funds to necessary to administer the agreement.

(d) No later than thirty days after the purchase of development rights was to be completed under Subsection (a), the agency, political subdivision, person, or entity that is required to purchase development rights under Subsection (a) shall submit a list to the board of the development rights purchased, and the property owners that refused to sell the development rights of their estate. If a property owner of an estate within the reservoir site refused to sell their development rights, the agency, political subdivision, person, or entity shall provide the board with proof that a bona fide good faith effort was made to voluntarily purchase the development rights.



(e) If the commissioners court in the county where the land is located finds after conducting a hearing (that shall be held by the commissioners court on petition of any owner of an interest in the property filed with the commissioners court at any time after the fourth anniversary of the date on which the filing with the board required by Section 16.143(a) is made) at which the landowner is entitled to appear and present evidence, that an agency, political subdivision, person, or entity required to purchase development rights under Subsection (a) did not make a bona fide good faith effort to purchase the development rights of every property owner with an estate within the area of the proposed reservoir:

(1) the board shall remove the proposed reservoir from the approved state water plan; and

(2) if the reservoir site was designated under Section 16.051 (f), the designation of the site is repealed, and Sec. 16.051(f) of this chapter no longer applies to the site.

(f) If the agency, political subdivision, person, or entity that was required to purchase development rights under this section ceases the process of constructing the reservoir, the reservoir no longer is designated as a unique reservoir site under Section 16.144 of this chapter, or the reservoir site is removed from the state water plan under Section 16.144 of this chapter the purchase of development rights agreement required under this section is void and the property owner has no obligation to comply with its provisions.

(g) "Purchase of Development Rights Agreement" means purchasing a nonpossessory interest of a holder in property that imposes limitations or affirmative obligations designed to retain its existing use.

(h) "Agricultural value" and "Fair market value" have the same meaning under Section 183.056, Natural Resources Code. The minimum amount that may be paid to purchase development rights under this section is the difference between the agricultural value and the fair market value of the property.

(i) The agency, political subdivision, person, or entity required to purchase development rights under Subsection (a) shall pay the reasonable attorneys and expert fees incurred by the property owner in connection with any purchase of development rights and any hearing required pursuant to this section.

Sec. 16.145. POWER OF EMINENT DOMAIN; LEASE-BACK OPTION.

(a) The use of eminent domain to acquire property for a reservoir is subject to Section 21.0122, Property Code.

(b) A property owner of an estate that was acquired, voluntarily or with eminent domain, for a reservoir shall be offered a reasonable lease agreement that will allow the property owner to utilize the property for its existing use until physical construction of the reservoir commences.

Sec. 16.146. ENVIRONMENTAL MITIGATION. (a) If authorized by the applicable regulatory authority, the agency, political subdivision, person, or entity constructing a reservoir shall enter into a purchase of development rights agreement instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction or operation of any part of the reservoir or its related facilities.

(b) Development rights purchased on agricultural property under this section shall be held and administered by an agricultural land trust originally chartered in the state and organized solely to protect property for agricultural use.

Sec. 16.147. ELIGIBILITY TO PARTICIPATE IN GOVERNMENT PROGRAMS. Property located within the area of a reservoir site designated under 16.051 shall be eligible for any public program which does not change the primary existing use of the property. State agencies and political subdivisions may not consider the inclusion of the property within a designated unique reservoir site when determining the property's eligibility to participate in a public program whose term is not longer than the period before physical construction of the reservoir will begin.

SECTION 2A.03. Chapter 21, Property Code is amended by adding a new Section 21.0122 to read as follows:

Sec. 21.0122. CONDEMNATION TO ACQUIRE PROPERTY FOR A RESERVOIR AND RELATED FACILITIES. (a) In addition to the contents prescribed by Section 21.012(b), a condemnation petition filed for the purpose of acquiring property for a reservoir, including related facilities necessary to manage, store, divert, or transport water impounded by the reservoir, must state that the facts to be proven are:

(1) that each retail public water utility that provides potable water service to a population of 3,300 or more that may receive water from the proposed reservoir prepared a drought contingency plan;

(2) that each retail public water utility that provides potable water service to a population of 3,300 or more that may receive water from the proposed reservoir developed and implemented a water conservation plan based on specific targets and goals using appropriate best management practices that will result in the highest practicable levels of water conservation and efficiency achievable in the utility's jurisdiction;

(3) that the condemnor made a bona fide good faith effort to obtain practicable alternative water supplies to the reservoir;

(4) that the condemnor made a bona fide good faith effort to acquire the property by voluntary purchase or lease; and

(5) that the reservoir is included in the approved state water plan.

(b) A court shall deny the right to condemn unless the political subdivision proves to the court that the political subdivision has met the requirements of Subsection (a).

SECTION 2A.04. Chapter 21, Property Code is amended by adding Section 21.0422 to read as follows:

Sec. 21.0422. ASSESSMENT OF DAMAGES: PROPERTY CONDEMNED FOR A RESERVOIR AND RELATED FACILITIES. (a) In a condemnation proceeding initiated to acquire property under Section 21.0122, the special commissioners or court shall admit and consider evidence relating to each injury and loss, if any, to the property owner that a reasonably prudent person would consider in a negotiated transaction that is not subject to this chapter.

(b) If the property to be condemned under Section 21.0122 is agricultural property subject to a purchase of development rights agreement acquired under Section 16.145, Water Code, the minimum damages awarded shall be the difference between the agricultural value and fair market of the property when the petition to condemn the property was submitted to the court.

SECTION 2A.05. Chapter 21, Property Code is amended by adding Section 21.0471 to read as follows:

Sec. 21.0471. ASSESSMENT OF FEES: CONDEMNATION OF PROPERTY FOR A RESERVOIR. If a court hearing a suit under Section 21.0122 finds that the damages awarded by the special commissioners or the court exceeds the damages a condemnor offered to the property owner before the proceeding began, the court shall order the condemnor to pay any reasonable attorney and expert fees incurred by the owner.

Amendment No. 9 was withdrawn.

(Goolsby in the chair)

#### **Amendment No. 10**

Representative Villarreal offered the following amendment to **CSSB 3**:

Floor Packet Page No. 11

Amend **CSSB 3** (House Committee Printing) as follows:

(1) In SECTION 1.12 of the bill, in the recital to the section (page 22, lines 21 and 22), strike "Subsection (b), Section 11.134, Water Code, is amended" and substitute "Section 11.134, Water Code, is amended by amending Subsection (b) and adding Subsection (d)".

(2) In SECTION 1.12 of the bill, following amended Section 11.134(b), Water Code (page 23, between lines 19 and 20), insert the following:

(d) Until the commission establishes an environmental flow set-aside under Section 11.1471(a)(2) for the applicable river basin and bay system, the commission may not issue:

(1) a permit for a new appropriation or an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted; or

(2) an amendment to an existing water right to allow the holder of the water right to reuse water that has been taken or diverted and used before the holder conducts the water back to the watercourse or stream from which it was taken or diverted.

Amendment No. 10 was withdrawn.

(Kolkhorst now present)

#### **Amendment No. 11**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 13

Amend **CSSB 3** (house committee printing) as follows:

(1) In the recital to SECTION 2.07 of the bill (page 43, line 20), strike "and (k)" and substitute "(k), and (l)".

(2) In SECTION 2.07 of the bill, following proposed Section 16.051(k), Water Code (page 44, between lines 13 and 14), insert the following:

(l) The board may not list a reservoir project as a recommended project in the state water plan unless the regional water plan that recommended the construction of the reservoir contains evidence that, if mitigation of the past, present, or future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities is required, the portion of the property that is to be used to mitigate those effects that is located in that region is at least equal to the portion of the water in the reservoir that is to be allocated to that region.

Representative Puente moved to table Amendment No. 11.

The motion to table was withdrawn.

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

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 43).

#### **CSSB 3 - (consideration continued)**

Amendment No. 11 was withdrawn.

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

Representative Phillips offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 14

Amend **CSSB 3** (House Committee Printing) as follows:

(1) In the recital to SECTION 2.07 of the bill (page 43, line 20), strike "adding" and substitute "amending Subsection (g) and adding".

(2) In SECTION 2.07 of the bill, between the recital to the section and proposed Section 16.051(i), Water Code (page 43, between lines 20 and 21), insert the following:

(g) The legislature may designate a site of unique value for the construction of a reservoir. If the designation is approved by the commissioners court of each county in which the reservoir is located, a ~~A~~ state agency or political subdivision of the state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir on a site designated by the legislature under this subsection.

Amendment No. 12 was withdrawn.

#### **Amendment No. 13**

Representative Phillips offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 15

Amend **CSSB 3** (House Committee Printing) as follows:

(1) In the recital to SECTION 2.07 of the bill (page 43, line 20), strike "and (k)" and substitute "(k), and (l)".

(2) In SECTION 2.07 of the bill, strike proposed Section 16.051(i), Water Code (page 43, lines 21 through 27), and substitute the following:

(i) A person may not bring a cause of action under Subsection (h) for a violation of Subsection (g) if the state agency or political subdivision that violated Subsection (g) acquired the fee title or easement for the purpose of:

(1) constructing or expanding public utility infrastructure;

(2) allowing an owner of property in the reservoir site to improve or develop the property; or

(3) allowing an owner or lessee of the mineral estate in property in the reservoir site to explore for, produce, or transport the minerals.

(3) In SECTION 2.07 of the bill, following proposed Section 16.051(k), Water Code (page 44, between lines 13 and 14), insert the following:

(1) The designation under Subsection (g) of a site of unique value for the construction of a reservoir does not affect the requirements of this chapter or Chapter 11 regarding the permitting of or construction of a reservoir on the site.

Amendment No. 13 was adopted.

#### **Amendment No. 14**

Representative Phillips offered the following amendment to **CSSB 3**:

Floor Packet Page No. 16

Amend **CSSB 3** (House Committee Printing) by striking proposed Section 16.051(i), Water Code (page 43, lines 21 through 27), and substituting the following:

(i) The designation under Subsection (g) of a site of unique value for the construction of a reservoir does not affect:

(1) the right of a state agency or political subdivision to acquire the fee title or an easement in property in the reservoir site for the construction or expansion of public utility infrastructure;

(2) the right of an owner of property in the reservoir site to improve or develop the property; or

(3) the right of an owner or lessee of the mineral estate in property in the reservoir site to explore for, produce, or transport the minerals.

Amendment No. 14 was adopted.

(Speaker in the chair)

#### **Amendment No. 15**

Representative Phillips offered the following amendment to **CSSB 3**:

Floor Packet Page No. 17

Amend **CSSB 3** (House Committee Printing) in SECTION 2.07 of the bill, by striking proposed Section 16.051(i), Water Code (page 43, lines 21 through 27), and substituting the following:

(i) A person may not bring a cause of action under Subsection (h) for a violation of Subsection (g) if the state agency or political subdivision that violated Subsection (g) acquired the fee title or easement for the purpose of:

- (1) constructing or expanding public utility infrastructure;
- (2) allowing an owner of property in the reservoir site to improve or develop the property; or
- (3) allowing an owner or lessee of the mineral estate in property in the reservoir site to explore for, produce, or transport the minerals.

Amendment No. 15 was adopted.

#### **Amendment No. 16**

Representative Phillips offered the following amendment to **CSSB 3**:

Floor Packet Page No. 18

Amend **CSSB 3** (House Committee Printing) as follows:

(1) In the recital to SECTION 2.07 of the bill (page 43, line 20), strike "and (k)" and substitute "(k), and (1)".

(2) In SECTION 2.07 of the bill, following proposed Section 16.051(k), Water Code (page 44, between lines 13 and 14), insert the following:

(1) The designation under Subsection (g) of a site of unique value for the construction of a reservoir does not affect the requirements of this chapter or Chapter 11 regarding the permitting of or construction of a reservoir on the site.

Amendment No. 16 was adopted.

#### **Amendment No. 17**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 19

Amend **CSSB 3** (house committee printing) as follows:

(1) In SECTION 2.08 of the bill, in the recital to the section (page 44, line 15), strike "Subdivisions (10)" and substitute "Subdivisions (4-a), (10),".

(2) In SECTION 2.08 of the bill, between the recital to the section and proposed Section 16.053(h)(10), Water Code (page 44, between lines 15 and 16), insert the following:

(4-a) For purposes of this subsection, an interregional conflict includes an inconsistency between the regional water plans proposed by two or more regional water planning groups regarding:

(A) the construction of a water project in a particular regional water planning area; or

(B) the use of a source of water supply in a particular regional water planning area.

Amendment No. 17 was adopted.

#### **Amendment No. 18**

Representative Hartnett offered the following amendment to **CSSB 3**:

Floor Packet Page No. 22

Amend **CSSB 3** (house committee printing) by striking ARTICLE 2A of the bill (page 53, line 25, through page 56, line 22) and renumbering subsequent ARTICLES and sections accordingly.

Amendment No. 18 was withdrawn.

**Amendment No. 19**

Representative Hilderbran offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 23

Amend **CSSB 3** (House Committee Printing) as follows:

1) On page 53, line 26 by inserting a new SECTION 2A.01 to read as follows:

SECTION 2A.01 Section 11.035, Chapter 11, Water Code is amended to read as follows:

11.035. CONDEMNATION OF PRIVATE PROPERTY. (a) An appropriator may obtain rights-of-way over private land and may obtain the land necessary for pumping plants, intakes, headgates, and storage reservoirs by condemnation.

(b) The party obtaining private property by condemnation shall cause damages to be assessed and paid for as provided by the statutes of this state relating to eminent domain.

(c) [~~If a~~] The party exercising the power granted by this section [~~is not a corporation, district, city, or town, he~~] shall apply to the commission for the condemnation.

(d) The executive director shall have the proposed condemnation investigated. After the investigation, the commission may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e) If after a hearing the commission determines that the condemnation is necessary, the executive director may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f) The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the commission. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the commission.

(g) If, after the costs of the condemnation proceedings have been paid, a party seeks to take the benefits of the condemnation proceedings, he shall apply to the commission for the benefits. The commission may grant the application and fix the fees and charges to be paid by the applicant. ; and

2) Renumber subsequent SECTIONS accordingly.

Amendment No. 19 was withdrawn.

**Amendment No. 20**

Representative Phillips offered the following amendment to **CSSB 3**:

Floor Packet Page No. 25

Amend **CSSB 3** (House committee printing) as follows:

(1) In the recital to SECTION 2A.02 of the bill (page 54, line 14), strike "16.146" and substitute "16.147".

(2) In SECTION 2A.02 of the bill, following proposed Section 16.146, Water Code (page 56, between lines 22 and 23), insert the following:

Sec. 16.147. ENVIRONMENTAL MITIGATION. (a) If a person constructing a reservoir is required to mitigate the past, present, or future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities, the person shall, if authorized by the applicable regulatory authority, attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner of real property to maintain, control, hold, restore, enhance, develop, or redevelop the property instead of acquiring or managing property for that purpose.

(b) An owner of real property may reject an offer made under Subsection (a).

(c) Development rights purchased under this section shall be held and administered by a land trust selected by the property owner from a complete list, provided by Texas Parks and Wildlife Commission, of landtrusts, including agricultural landtrusts, operating in this state.

(d) If practicable, the mitigation of a past, present, or future adverse environmental effect arising from construction or operation of any part of the reservoir or its related facilities shall occur on property within the area of the holder of the permit to impound surface water in the reservoir.

Amendment No. 20 was adopted.

### **Amendment No. 21**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 26

Amend **CSSB 3** (house committee printing) as follows:

(1) In SECTION 2A.01 of the bill, in the recital to the section (page 53, line 27), strike "Subchapter L" and substitute "Subchapters L and M".

(2) In SECTION 2A.01 of the bill, after added Section 11.601, Water Code (page 54, between lines 12 and 13), insert the following:

SUBCHAPTER M. ROYALTY FEE ON SALE OR LEASE OF IMPOUNDED SURFACE WATER

Sec. 11.651. ACQUISITION OF PROPERTY IN RESERVOIR SITE IN EXCHANGE FOR ROYALTY FEE. The holder of a permit to impound surface water in a reservoir may, with the agreement of the owner of real property in the site of the reservoir, acquire the property in exchange for a royalty fee as provided by this subchapter.

Sec. 11.652. PROVISION OF INFORMATION AND PAYMENT OF ROYALTY FEE TO COMMISSION. The holder of a permit to impound surface water in a reservoir annually shall:



(1) notify the commission of the name and address of each person whose property the permit holder acquired to construct the reservoir under an agreement under Section 11.651 and the number of acres of real property acquired from the person under the agreement; and

(2) pay to the commission a royalty fee in an amount equal to 10 percent of the total revenue received by the permit holder for the wholesale or retail sale or lease of the water authorized to be impounded under the permit multiplied by a fraction the numerator of which is the total number of acres of real property acquired from all persons who entered into agreements under Section 11.651 and the denominator of which is the total number of acres of real property in the reservoir site acquired from all property owners voluntarily, including under an agreement under Section 11.651, or through the exercise of the power of eminent domain.

Sec. 11.653. ALLOCATION OF ROYALTY FEE BY COMMISSION. Not later than the 90th day after the date the royalty fee is submitted under Section 11.652(2), the commission shall allocate the fee to each person included in the notification under Section 11.652(1) in the proportion that the number of acres of real property acquired from the person under an agreement under Section 11.651 bears to the total number of acres of real property acquired from all persons under agreements under Section 11.651.

Sec. 11.654. ASSESSMENT OF FEE ON PERMIT HOLDER. The commission may assess a holder of a permit to impound surface water in a reservoir a fee in an amount necessary to administer this subchapter.

(3) In SECTION 2A.02 of the bill, strike added Section 16.145(a), Water Code (page 55, line 18, through page 56, line 6), and substitute the following:

(a) A former owner of real property that was acquired, voluntarily or through the exercise of the power of eminent domain, for a reservoir is entitled to lease the property from the person who acquired the property under terms that allow the former owner to continue to use the property for its existing use until physical construction of the reservoir begins.

(4) In SECTION 2A.02 of the bill, added Section 16.145(b), Water Code (page 56, line 8), between "for" and "the property's", insert "not more than".

(5) In SECTION 2A.02 of the bill, strike added Section 16.146(a), Water Code (page 56, lines 10 through 20), and substitute the following:

(a) If a person constructing a reservoir is required to mitigate the past, present, or future adverse environmental effects arising from the construction or operation of the reservoir or its related facilities, the person shall, if authorized by the applicable regulatory authority, attempt to mitigate those effects by offering to contract with and pay an amount of money to an owner of real property to maintain, control, hold, restore, enhance, develop, or redevelop the property instead of acquiring or managing property for that purpose.

Amendment No. 21 was withdrawn.

### **Amendment No. 22**

Representative R. Cook offered the following amendment to **CSSB 3**:

Floor Packet Page No. 29

Amend **CSSB 3** (House Committee Printing) as follows:

1) On page 54, line 13 insert a new SECTION 2A.02 to read as follows:

SECTION 2A.02. Section 16.051, Water Code, is amended by adding Subsection (i) to read as follows:

(i) An entity may not bring a cause of action under Subsection (h) for a violation of a Subsection (g) if the political subdivision that violated that subsection acquired the fee title or easement for the purpose of:

(1) providing retail public utility service to property in the reservoir site;

or

(2) allowing an owner of property in the reservoir site to improve or develop the property.; and

2) Renumber subsequent SECTIONS accordingly.

Amendment No. 22 was withdrawn.

### **Amendment No. 23**

Representative R. Cook offered the following amendment to **CSSB 3**:

Floor Packet Page No. 30

Amend **CSSB 3** (house committee printing) as follows:

(1) In the recital to SECTION 2A.02 of the bill, between "Sections" and "16.143" (page 54, line 14), insert "16.1361 and".

(2) In SECTION 2A.02 of the bill, between the recital to the section and proposed Section 16.143, Water Code (page 54, between lines 15 and 16), insert the following:

Sec. 16.1361. ACQUISITION OF PROPERTY IN RESERVOIR SITE IN EXCHANGE FOR PARTICIPATION PAYMENT. (a) In this section, "participation payment" means an intangible legal right to receive a percentage of one or more identified fees related to the surface water impounded by a reservoir.

(b) In addition to paying a single fixed payment for an interest in real property or a real property right, an entity that acquires property to construct a reservoir may, with the owner's consent, pay the owner a participation payment.

Amendment No. 23 was adopted.

### **Amendment No. 24**

Representative Phillips offered the following amendment to **CSSB 3**:

Floor Packet Page No. 31

Amend **CSSB 3** (House committee printing) as follows:

(1) In the recital to SECTION 2A.02 of the bill (page 54, line 14), strike "16.146" and substitute "16.147".

(2) In SECTION 2A.02 of the bill, following proposed Section 16.146, Water Code (page 56, between lines 22 and 23), insert the following:

Sec. 16.147. RIGHT TO CONTINUE USING PROPERTY FOLLOWING ACQUISITION. A person whose real property was acquired for a reservoir voluntarily or through the exercise of the power of eminent domain is entitled to continue to use the property for its existing use until physical construction of the reservoir commences.

Amendment No. 24 was withdrawn.

**Amendment No. 25**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 36

Amend **CSSB 3** by striking ARTICLE 3 of the bill (House Committee Printing page 56, line 23, through page 63, line 17) and renumbering the subsequent ARTICLES of the bill accordingly.

Amendment No. 25 was withdrawn.

**Amendment No. 26**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 38

Amend **CSSB 3** (house committee printing) as follows:

(1) In SECTION 3.02 of the bill (page 57, line 17) strike "The" and substitute "(a) Subject to Subsection (b) of this section, the".

(2) In SECTION 3.02 of the bill, immediately following Subdivision (15) of the section (page 59, between lines 13 and 14), insert the following:

(b) The designation of a unique reservoir site under Subsection (a) of this section takes effect only if the Texas Commission on Environmental Quality issues a written finding that each water user group for which that reservoir has been identified as a water management strategy in a regional water plan approved by the Texas Water Development Board under Section 16.053, Water Code:

(1) has prepared a drought contingency plan; and

(2) has developed and implemented a water conservation plan that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the water user group.

Amendment No. 26 was adopted.

**Amendment No. 27**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 39

Amend **CSSB 3** (house committee printing) as follows:

(1) In SECTION 3.02 of the bill (page 57, line 17) strike "The" and substitute "(a) Subject to Subsection (b) of this section, the".

(2) In SECTION 3.02 of the bill, immediately following Subdivision (15) of the section (page 59, between lines 13 and 14), insert the following:

(b) If the construction of a reservoir at a site designated under Subsection (a) of this section was not recommended in the regional water plan for the regional water planning area in which the site is located, the designation of that site under Subsection (a) of this section takes effect only if the Texas Water Development Board finds through the use of empirical data that the region that recommended the construction of the reservoir has a water usage rate that is less than 200 gallons per capita per day.

A record vote was requested.

Amendment No. 27 was adopted by (Record 1587): 92 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, R.; Corte; Creighton; Darby; Davis, J.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Gonzales; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Hardcastle; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jones; Keffer; Kolkhorst; Kuempel; Leibowitz; Lucio; Macias; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Moreno; Murphy; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Otto; Parker; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Strama; Swinford; Van Arsdale; Veasey; Villarreal; Vo; Woolley; Zerwas.

Nays — Alonzo; Anchia; Bohac; Branch; Crabb; Crownover; Davis, Y.; England; Geren; Giddings; Goolsby; Hancock; Harless; Harper-Brown; Hartnett; Howard, C.; Jackson; King, P.; King, T.; Laubenberg; Mallory Caraway; Miller; O'Day; Orr; Patrick; Paxton; Puente; Riddle; Smith, W.; Solomons; Talton; Truitt; Turner; Vaught.

Present, not voting — Mr. Speaker(C).

Absent — Bailey; Cook, B.; Driver; Eiland; Gallego; Heflin; Hernandez; Hill; Hochberg; King, S.; Krusee; Latham; Madden; Martinez; McCall; Morrison; Mowery; Pitts; Straus; Taylor; Thompson; West; Zedler.

### STATEMENTS OF VOTE

When Record No. 1587 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

When Record No. 1587 was taken, my vote failed to register. I would have voted yes.

S. King

I was shown voting no on Record No. 1587. I intended to vote yes.

O'Day

I was shown voting yes on Record No. 1587. I intended to vote no.

Parker

I was shown voting no on Record No. 1587. I intended to vote yes.

Puente

I was shown voting yes on Record No. 1587. I intended to vote no.

T. Smith

When Record No. 1587 was taken, I was in the house but away from my desk. I would have voted no.

Zedler

### **Amendment No. 28**

Representative Phillips offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 40

Amend **CSSB 3** (house committee printing) as follows:

(1) In SECTION 3.02 of the bill (page 57, line 17) strike "The" and substitute "(a) Subject to Subsection (b) of this section, the".

(2) In SECTION 3.02 of the bill, immediately following Subdivision (15) of the section (page 59, between lines 13 and 14), insert the following:

(b) The designation of a unique reservoir site under Subsection (a)(1) or (2) of this section takes effect only if the designation is approved by the commissioners court of Fannin County.

Amendment No. 28 was adopted.

### **Amendment No. 29**

Representative Dunnam offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 45

Amend **CSSB 3** on page 58, lines 4 to 5, by striking Subdivision (4) and renumbering subsequent subdivisions accordingly.

Amendment No. 29 was withdrawn.

(Crownover in the chair)

### **Amendment No. 30**

Representative Geren offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 44

Amend **CSSB 3** (House Committee Printing) by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. CHANGING THE NAME OF THE LAKE FASTRILL RESERVOIR. The Texas Water Development Board shall amend the state water plan and all other appropriate documents referencing the reservoir known as Lake Fastrill by renaming that reservoir Lake Tuffy.

Amendment No. 30 was withdrawn.

**Amendment No. 31**

Representative Isett offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 46

Amend **CSSB 3** on page 58, line 24–27 by striking Sec. 3.02 (f) and renumber the subsequent sections appropriately.

Amendment No. 31 was adopted.

**Amendment No. 32**

Representative Merritt offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 47

Amend **CSSB 3** (House Committee Printing) as follows:

(1) In SECTION 3.02 of the bill, at the end of Subdivision (14) of the section (page 59, line 9), strike "and".

(2) In SECTION 3.02 of the bill, in Subdivision (15) of the section (page 59, line 13), between "Brownsville" and the period, insert the following:  
; and

(16) Prairie Creek reservoir, to be located on Prairie Creek, a tributary of the Sabine River, in Gregg and Smith Counties, west of the city of Longview

Amendment No. 32 was adopted.

**Amendment No. 33**

Representative Dunnam offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 45

Amend **CSSB 3** on page 58, lines 4 to 5, by striking Subdivision (4) and renumbering subsequent subdivisions accordingly.

Amendment No. 33 was adopted.

**Amendment No. 34**

Representative Frost offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 48

Amend **CSSB 3** (house committee printing) by striking SECTION 3.03 and substituting the following:

"SECTION 3.03. DESIGNATION OF SITES OF UNIQUE ECOLOGICAL VALUE. (a) The legislature, as authorized by Subsection (f), Section 16.051, Water Code, designates those river or stream segment sites recommended in the 2007 state water plan as being of unique ecological value.

(b) The legislature, as authorized by Subsection (f), Section 16.051, Water Code, designates the following river or stream segment sites:

- (1) Big Pine Creek located in Red River County;
- (2) Sulphur River Bottom West/Cuckoo Pond and White Oak Creek located in Red River, Titus, Morris, Bowie, and Cass Counties;
- (3) Middle Sabine Bottom located in Wood and Smith Counties;
- (4) Lower Sabine Bottom located in Harrison and Panola Counties;
- (5) Black Cypress located in Cass and Marion Counties;
- (6) Caddo Lake located in Marion and Harrison Counties;
- (7) Dolen-Davis Hill/Tanner Bayou located in Liberty County;
- (8) Demijohn Lake/Devers Canal located in Liberty County;
- (9) Middle Neches River located in Trinity, Angelina, Polk, Cherokee, and Houston Counties;
- (11) Angelina/Neches Confluence located in Tyler and Jasper Counties;
- (12) Striker Creek located in Rusk County; and
- (13) Mud Creek located in Cherokee and Rusk Counties."

Amendment No. 34 was withdrawn.

#### **Amendment No. 35**

Representative Hopson offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 51

Amend **CSSB 3** (house committee printing) by striking sections SECTION 3.04 and SECTION 3.05 and substituting the following:

"SECTION 3.04. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) This section applies to:

(1) a proposed reservoir to be located on the Neches River in Anderson and Cherokee Counties, downstream from Lake Palestine; that is to be located in the Region I Regional Water Planning Area; and

(2) a proposed reservoir to be located on the Sulphur River upstream from its confluence with White Oak Creek; with a dam that will be located in Titus and Red River Counties and the reservoir would also impound water in Franklin County; that is to be located in the Region D Regional Water Planning Area.

(b) The right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir must be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) If one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, that entity or those entities must pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities

located in the regional water planning area in which the reservoir is to be located begins diverting water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 3.05. STUDY COMMISSION ON REGION C WATER SUPPLY. (a) The Study Commission on Region C Water Supply is established. The study commission consists of six members as follows:

(1) two members appointed by the Region C Regional Water Planning Group; and

(2) two members appointed by the Region D Regional Water Planning Group.

(3) two members appointed by the Region I Regional Water Planning Group.

(b) A member of the study commission may be, but is not required to be, a voting member of the regional water planning group that appointed the member.

(c) The members of the study commission shall select a presiding officer from among the members.

(d) Members of the study commission are not entitled to compensation for service on the study commission but may be reimbursed for travel expenses incurred while conducting the business of the study commission, as provided for in the General Appropriations Act.

(e) The study commission shall:

(1) review the water supply alternatives available to the Region C Regional Water Planning Area, including obtaining additional water supply from Wright Patman Lake, Toledo Bend Reservoir, Lake Texoma, Lake o' the Pines, other existing and proposed reservoirs, and groundwater resources;

(2) in connection with the review under Subdivision (1) of this subsection, analyze the socioeconomic effect on the area where the water supply is located that would result from the use of the water to meet the water needs of the Region C Regional Water Planning Area, including:

(A) the effects on landowners, agricultural and natural resources, businesses, industries, and taxing entities of different water management strategies; and

(B) in connection with the use by the Region C Regional Water Planning Area of water from Wright Patman Lake, the effect on water availability in that lake and the effect on industries relying on that water availability;

(3) determine whether water demand in the Region C Regional Water Planning Area may be reduced through additional conservation and reuse measures so as to postpone the need for additional water supplies;

(4) evaluate measures that would need to be taken to comply with the mitigation requirements of the United States Army Corps of Engineers in connection with any proposed new reservoirs, including identifying potential mitigation sites;

(5) consider whether the mitigation burden described by Subdivision (4) of this subsection may be shared by the Regions C, D, and I Regional Water Planning Areas in proportion to the allocation to each region of water in any proposed reservoir;



(6) review innovative methods of compensation to affected property owners, including royalties for water stored on acquired properties and annual payments to landowners for properties acquired for the construction of a reservoir to satisfy future water management strategies;

(7) evaluate the minimum number of surface acres required for the construction of proposed reservoirs in order to develop adequate water supply; and

(8) identify the locations of proposed reservoir sites, and proposed mitigation as applicable as selected in accordance with existing state and federal law in the Regions C, D, and I Regional Water Planning Areas using satellite imagery with sufficient resolution to permit land ownership to be determined.

(f) The study commission may not be assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of a proposed reservoir in Regions D or I.

(g) The Texas Water Development Board, on request of the study commission, may provide staff support or other assistance necessary to enable the study commission to carry out its duties. The Texas Water Development Board shall provide funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.

(h) Not later than December 1, 2010, the study commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives that includes any:

(1) studies completed by the study commission;

(2) legislation proposed by the study commission;

(3) a recommendation as to whether Marvin Nichols should remain a designated reservoir site;

(4) a recommendation as to whether any reservoir to be located on the Neches River in Anderson and Cherokee Counties, downstream from Lake Palestine should remain a designated reservoir site; and

(5) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section expires December 31, 2011.

Amendment No. 35 was withdrawn.

### **Amendment No. 36**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 57

Amend **CSSB 3** (House Committee Printing) in SECTION 3.04(a) of the bill (page 59, line 22) by striking "Subdivision (3), Section 3.02 of this Act," and substituting "Section 3.02 of this Act".

Amendment No. 36 was withdrawn.

**Amendment No. 37**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 59

Amend **CSSB 3** (House Committee Printing) in SECTION 3.05 of the bill, in Subsection (e)(1) of the SECTION (page 61, lines 7 and 8), by striking "and other existing and proposed reservoirs" and substituting "other existing and proposed reservoirs, and groundwater".

Amendment No. 37 was adopted.

**Amendment No. 38**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 60

Amend **CSSB 3** (House Committee Printing) in SECTION 3.05 of the bill, in Subsection (e)(8) of the SECTION (page 62, lines 14 and 15), between "reservoir sites" and "in the Regions C and D", by inserting "and proposed mitigation sites, as applicable, as selected in accordance with existing state and federal law,".

Amendment No. 38 was adopted.

**Amendment No. 39**

Representative R. Cook offered the following amendment to **CSSB 3**:

Floor Packet Page No. 61

Amend **CSSB 3** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 3 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 3.\_\_\_\_. The designation of a unique reservoir site under Section 3.02 of this Act expires on August 31, 2013, unless on or before that date a proposed project sponsor of the reservoir project votes affirmatively to make expenditures necessary to file an application for a permit required to construct the reservoir under state or federal law.

Amendment No. 39 was adopted.

**Amendment No. 40**

Representative Frost offered the following amendment to **CSSB 3**:

Floor Packet Page No. 58

Amend **CSSB 3** (House Committee Printing) in SECTION 3.04(a) of the bill (page 59, lines 22 and 23) by striking "Subdivision (3), Section 3.02 of this Act, that is to be located in the Region D Regional Water Planning Area" and substituting the following:

Section 3.02 of this Act that is to be located on the Sulphur River upstream from its confluence with White Oak Creek, the dam for which will be located in Titus and Red River Counties, and that will also impound water in Franklin County

Amendment No. 40 was adopted.

**Amendment No. 41**

Representative Paxton offered the following amendment to **CSSB 3**:

Floor Packet Page No. 62

Amend **CSSB 3** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION \_\_\_\_\_. Chapter 5, Water Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. STANDARDS FOR IRRIGATION SYSTEM EQUIPMENT

Sec. 5.901. DEFINITIONS. In this subchapter:

(1) "Evapotranspiration" means the loss of water to evaporation and plant transpiration.

(2) "Evapotranspiration-based irrigation control" means an automatic irrigation control product that uses evapotranspiration data based on climatic conditions and other data to make daily adjustments to irrigation applications so as to conserve water by applying irrigation only in an amount necessary to sustain the healthy growth of plants in a landscaped area.

(3) "Irrigation application" means the duration, frequency, and time of irrigation.

(4) "Irrigation runoff" means surface runoff of water generated when the irrigation application rate exceeds the soil infiltration rate and moisture saturation level.

(5) "Irrigation system" has the meaning assigned by Section 1903.001, Occupations Code.

(6) "Smart irrigation controller" means an automatic irrigation control product that uses actual soil moisture sensing, an evapotranspiration-based irrigation control, or other technology to make periodic adjustments to irrigation applications so as to conserve water by applying irrigation only in an amount necessary to sustain the healthy growth of plants in a landscaped area.

Sec. 5.902. MODEL IRRIGATION SYSTEM EQUIPMENT ORDINANCE. The commission shall develop a model ordinance for use by each political subdivision of this state that requires new irrigation systems to have smart irrigation controls based on climatic conditions, specific terrains and soil types, and other environmental conditions. The ordinance must include:

(1) a requirement that a new irrigation system located in the political subdivision have a smart irrigation controller with the capability of automatically controlling irrigation runoff based on the irrigation application rate, soil type, terrain of the landscaped area, or any other factor considered relevant by the commission;

(2) the minimum requirements that must be met to comply with this section for controllers based on various technologies, including:

(A) the manner in which and the frequency with which controllers based on various technologies must collect data;

(B) the manner in which the political subdivision may verify the compliance of controllers based on various technologies; and

(C) whether an independent rain and freeze shut-off device is required based on local climate conditions.

(3) a requirement that the political subdivision withhold a certificate of occupancy for a residential or commercial structure until the political subdivision determines that the irrigation system used by the structure complies with the ordinance;

(4) a requirement that, before the effective date of a contract binding a purchaser to purchase residential or commercial property that has an irrigation system, the purchaser or seller, or both, must ensure that the irrigation system complies with the ordinance;

(5) a requirement that a smart irrigation controller be installed at the time of the repair or alteration of an existing irrigation system if:

(A) the repair or alteration requires the replacement of the controller; or

(B) the irrigation system supplies water to a landscaped area that is to be increased by more than 20 percent;

(6) references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment; and

(7) climate information for developing irrigation applications.

Sec. 5.903. CERTAIN IRRIGATION SYSTEM EQUIPMENT REQUIRED. (a) After January 1, 2011, an irrigation controller may not be sold or installed in this state unless the irrigation controller is a smart irrigation controller.

(b) The commission shall require each new or existing irrigation system to have a smart irrigation controller that meets the standards for smart irrigation controller capabilities prescribed by Section 5.902(1), Water Code.

SECTION \_\_\_\_. Section 1903.053, Occupations Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Except as provided by Subsection (e), after June 1, 2009, any installation of a new irrigation system or repair or alteration of an existing system must meet the standard for smart irrigation controller capabilities prescribed by Section 5.902(1), Water Code.

(e) Subsection (d) applies to the repair or alteration of an existing irrigation system only if:

(1) the repair or alteration requires the replacement of the controller; or

(2) the irrigation system supplies water to a landscaped area that is to be increased by more than 20 percent.

SECTION \_\_\_\_. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt rules necessary to implement Subchapter S, Chapter 5, Water Code, and Sections 1903.053(d) and (e), Occupations Code, as added by this Act. In developing the rules necessary to implement those provisions, the commission shall consult with the Irrigator Advisory Council.

Representative Miller moved to table Amendment No. 41.

A record vote was requested.

The motion to table prevailed by (Record 1588): 85 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Darby; Davis, J.; Delisi; Dukes; Dutton; Eissler; Elkins; Escobar; Farrar; Flores; Flynn; Gallego; Garcia; Gattis; Geren; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hopson; Howard, C.; Howard, D.; Isett; Jackson; Jones; King, T.; Kolkhorst; Kuempel; Leibowitz; Martinez; McClendon; Merritt; Miles; Miller; Mowery; Murphy; Naishtat; Noriega; Orr; Ortiz; Otto; Patrick; Phillips; Pitts; Quintanilla; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Vo; West; Woolley.

Nays — Alonzo; Anchia; Bailey; Bohac; Burnam; Castro; Chavez; Coleman; Cook, R.; Deshotel; Dunnam; Eiland; England; Farabee; Farias; Frost; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Harper-Brown; Hartnett; Hodge; Homer; Hughes; King, P.; Laubenberg; Lucio; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McReynolds; Menendez; Morrison; O'Day; Oliveira; Olivo; Parker; Paxton; Peña; Pickett; Pierson; Puente; Raymond; Rodriguez; Straus; Swinford; Talton; Veasey; Villarreal; Zedler; Zerwas.

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

Absent — Cohen; Davis, Y.; Driver; Goolsby; Keffer; King, S.; Krusee; Latham; Moreno.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 1588. I intended to vote yes.

England

When Record No. 1588 was taken, my vote failed to register. I would have voted yes.

S. King

### Amendment No. 42

Representative Callegari offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 73

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Sections 11.085(b), (g), (j), (l), and (u), Water Code, are amended to read as follows:

(b) The application must include:

- (1) the contract price or cost per unit of the water to be transferred;
- (2) a statement of each general category of proposed use of the water to be transferred and a detailed description of the proposed uses and users under each category;

(3) the cost of diverting, conveying, distributing, and supplying the water to, and treating the water for, the proposed users; and

(4) the projected effect on user rates and fees for each class of customers of the applicant [~~ratepayers~~].

(g) The applicant shall cause the notice of application for an interbasin transfer to be published once [~~a week for two consecutive weeks~~] in one or more newspapers having general circulation in each county located in whole or in part in the basin of origin [~~or the receiving basin. The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches~~]. The notice of application and public meetings shall be combined in the mailed and published notices.

(j) In addition to other requirements of this code relating to the review of and action on an application for a new water right or amended permit, certified filing, or certificate of adjudication, the commission may [~~shall~~]:

(1) request review and comment on an application for an interbasin transfer from each county judge of a county located in whole or in part in the basin of origin. A county judge should make comment only after seeking advice from the county commissioners court; and

(2) give consideration to the comments of each county judge of a county located in whole or in part in the basin of origin prior to taking action on an application for an interbasin transfer.

(1) The commission may grant, in whole or in part, an application for an interbasin transfer only to the extent that:

(1) the detriments to the basin of origin during the proposed transfer period are less than the benefits to the receiving basin during the proposed transfer period; and

(2) in accordance with Sections 11.1271 and 11.1272 and commission rules, the applicant for the interbasin transfer has prepared a drought contingency plan and has developed and implemented a water conservation plan [~~that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the applicant~~].

(u) An appropriator of water for municipal purposes in the basin of origin may, at the appropriator's option, be a party in any hearings under this section if the appropriator is a person who may be affected by the proposed transfer.

### **Amendment No. 43**

Representative Puente offered the following amendment to Amendment No. 42:

Amend Floor Amendment No. 42 by Callegari to **CSSB 3** (page 73 of the pre-filed amendments packet) on page 2 of the amendment (page 74 of the pre-filed amendments packet), amended Subsection (1)(2), Section 11.085, Water Code, by striking "~~that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the applicant~~" and substituting "that will result in the highest practicable levels of water conservation and efficiency achievable within the jurisdiction of the applicant".

Amendment No. 43 was adopted.

Representative R. Cook moved to table Amendment No. 42, as amended.

A record vote was requested.

The motion to table prevailed by (Record 1589): 102 Yeas, 30 Nays, 2 Present, not voting.

Yeas — Allen; Aycocock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Castro; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Darby; Davis, J.; Delisi; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Gonzales; Gonzalez Toureilles; Haggerty; Hamilton; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hill; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jones; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Macias; Madden; Mallory Caraway; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miles; Morrison; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Swinford; Talton; Thompson; Van Arsdale; Vaught; Veasey; Vo; West; Zedler; Zerwas.

Nays — Alonzo; Anderson; Branch; Callegari; Corte; Creighton; Davis, Y.; Dukes; Flores; Geren; Giddings; Goolsby; Guillen; Hancock; Harper-Brown; Hartnett; Hilderbran; Hodge; Jackson; Lucio; Martinez; McClendon; Miller; Moreno; Murphy; Puente; Riddle; Smith, T.; Truitt; Turner.

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

Absent — Anchia; Bailey; Chavez; Chisum; Christian; Keffer; King, T.; Latham; Mowery; Paxton; Phillips; Strama; Straus; Taylor; Villarreal; Woolley.

**STATEMENTS OF VOTE**

When Record No. 1589 was taken, I was in the house but away from my desk. I would have voted no.

Anchia

I was shown voting yes on Record No. 1589. I intended to vote no.

England

When Record No. 1589 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

(Speaker in the chair)

**Amendment No. 44**

Representative Callegari offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 75

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 11.085 (g) Water Code, is amended to read as follows:

(g) The applicant shall cause the notice of application for an interbasin transfer to be published once [~~a week for two consecutive weeks~~] in one or more newspapers having general circulation in each county located in whole or in part in the basin of origin [~~or the receiving basin. The published notice may not be smaller than 96.8 square centimeters or 15 square inches with the shortest dimension at least 7.6 centimeters or three inches~~]. The notice of application and public meetings shall be combined in the mailed and published notices.

Amendment No. 44 was withdrawn.

#### **Amendment No. 45**

Representative Guillen offered the following amendment to **CSSB 3**:  
Floor Packet Page No. S-1

Amend **CSSB 3** (House committee printing) as follows:

(1) In Article 2 of the bill, add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the article accordingly:

SECTION 2. \_\_\_\_\_. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.147 to read as follows:

Sec. 13.147. CONSOLIDATED BILLING AND COLLECTION CONTRACTS. (a) A retail public utility providing water service may contract with a retail public utility providing sewer service to bill and collect the sewer service provider's fees and payments as part of a consolidated process with the billing and collection of the water service provider's fees and payments. The water service provider may provide that service only for customers who are served by both providers in an area covered by both providers' certificates of public convenience and necessity. If the water service provider refuses to enter into a contract under this section or if the water service provider and sewer service provider cannot agree on the terms of a contract, the sewer service provider may petition the commission to issue an order requiring the water service provider to provide that service.

(b) A contract or order under this section must provide procedures and deadlines for submitting billing and customer information to the water service provider and for the delivery of collected fees and payments to the sewer service provider.

(c) A contract or order under this section may require or permit a water service provider that provides consolidated billing and collection of fees and payments to:

(1) terminate the water services of a person whose sewage services account is in arrears for nonpayment; and

(2) charge a customer a reconnection fee if the customer's water service is terminated for nonpayment of the customer's sewage services account.



(d) A water service provider that provides consolidated billing and collection of fees and payments may impose on each sewer service provider customer a reasonable fee to recover costs associated with providing consolidated billing and collection of fees and payments for sewage services.

(2) Add the following appropriately numbered Articles to the bill and renumber subsequent Articles of the bill accordingly:

ARTICLE \_\_\_\_ REGULATING CERTAIN SUBDIVISIONS

SECTION \_\_\_\_01. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j) [~~Subsection (e)~~], an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; ~~or~~

~~[(4) the municipal authority responsible for approving plats issues a certificate stating that:~~

~~[(A) the land:~~

~~[(i) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:~~

~~[(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2);~~

~~[(ii) is located in a subdivision in which the entity has previously provided service;~~

~~[(iii) is located outside the limits of the municipality;~~

~~[(iv) is located in a county to which Subchapter B, Chapter 232, applies; and~~

~~[(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:~~

~~[(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or~~

~~[(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:~~

~~[(i) water service is available within 750 feet of the subdivided land; or~~

~~[(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1); or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) [~~Subsection (e)(4)(A)~~] only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the entity a certificate described by Subsection (d) [~~(e)(4)(A)~~].

(f) [~~(e)~~] A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) [~~Subsection (e)(4)(A)~~] only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing [~~either~~]:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer [~~to the person requesting service~~] before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d) [~~and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable~~]; [~~or~~

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that [~~the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that~~] construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code. [~~May 1, 1997, or on or before September 1, 2005, as applicable.~~

[(f) A person requesting service may obtain a certificate under Subsection (e)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.]

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider or developer for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Developer" has the meaning assigned by Section 232.021.

(2) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(3) ~~(k)~~ "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities pursuant to Chapter 366, Health and Safety Code.

SECTION \_\_\_\_\_.02. Section 232.021, Local Government Code, is amended by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a) to read as follows:

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or developer or a group of subdividers or developers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(2-a) "Develop" means a structural improvement or man-made change to a lot intended for residential use undertaken to improve, enhance, or otherwise make suitable real property for purposes of sale, resale, or lease.

(2-b) "Developer" means a person who owns any interest in real property and directly or indirectly develops real property in the ordinary course of business or as part of a common promotional plan.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION \_\_\_\_ .03. Section 232.024(b), Local Government Code, is amended to read as follows:

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting ~~[as required by this subsection. The restrictive covenant shall prohibit]~~ the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of ~~[qualifies for insurance under]~~ the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code ~~[Act of 1968 (42 U.S.C. Sections 4001 through 4127)].~~

SECTION \_\_\_\_ .04. Section 232.028(b), Local Government Code, is amended to read as follows:

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

SECTION \_\_\_\_\_.05. Section 232.029, Local Government Code, is amended by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (k) and (l) to read as follows:

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer [~~to the person requesting service~~] by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is located in a subdivision in which the utility has previously provided service; and~~]

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[=

~~(i) on or before May 1, 1997; or~~

~~(ii)~~ on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling; [~~if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) [~~(2)~~] the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) [~~(e)(1)~~].

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing [~~either~~]:

(1) ~~documentation containing:~~

~~[(A)] a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);~~

(2) ~~to the person requesting service:~~

~~[(i) before September 1, 1995; or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~[(B)] a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~[-

~~[(i) on or before May 1, 1997; or~~

~~[(ii) on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);~~

(3) ~~[- if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or~~

~~[(2)] a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after~~[-

~~[(A) the property was sold or conveyed to that person:~~

~~[(i) before] September 1, 1995, [-] or~~

~~[(ii) before] September 1, 1999, as applicable under Subsection~~

~~(c); and~~

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code [~~if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~[(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:~~

~~[(i) on or before May 1, 1997; or~~

~~[(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42].~~

(i) The prohibition established by this section shall not prohibit a water, sewer, ~~an~~ electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot ~~being~~ sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider or developer prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot ~~[which is located within a subdivision where the utility has previously established service]~~ and was subdivided by a plat approved prior to September 1, 1989.

(k) Except as provided by Subsection (l), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(l) A utility may not serve any subdivided land with water utility connection or service under Subsection (k) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION \_\_\_\_\_.06. Sections 232.031(a) and (b), Local Government Code, are amended to read as follows:

(a) Except as provided by Subsection (d), a subdivider or developer may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider or developer shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

SECTION \_\_\_\_\_.07. Sections 232.035(a) and (b), Local Government Code, are amended to read as follows:

(a) A subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.



(b) Notwithstanding any other remedy at law or equity, a subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or developer or an agent of the subdivider or developer has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

SECTION \_\_\_\_\_.08. Section 232.036(a), Local Government Code, is amended to read as follows:

(a) A subdivider or developer commits an offense if the subdivider or developer knowingly fails to file a plat or replat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

SECTION \_\_\_\_\_.09. Section 232.038(a), Local Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider or developer, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider or developer to return the purchase price of the property; and

(2) recover from the subdivider or developer:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

SECTION \_\_\_\_\_.10. Sections 232.040(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or developer or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or developer or agent of a subdivider or developer may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider or developer who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply to ~~if~~ a seller other than a subdivider, developer, or agent of a subdivider or developer ~~[resides on the lot]~~.

SECTION \_\_\_\_ .11. Section 232.029(f), Local Government Code, is repealed.

#### ARTICLE \_\_\_\_ . ZONING AROUND FALCON LAKE

SECTION \_\_\_\_ .01. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

##### SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is composed of:

(1) four residents of Zapata County, with one resident from each of the county commissioners precincts, appointed by that precinct's commissioner; and

(2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1 of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the commission shall, or on the lake planning commission's own initiative, the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioners court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioners court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

- (1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) restrain, correct, or abate the violation;
- (3) prevent the occupancy of the building, structure, or land; or
- (4) prevent any illegal act, conduct, business, or use on or about the premises.

ARTICLE \_\_\_\_ . DUVAL COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_ .01. Section 8808.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8808.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009 ~~2007~~:

- (1) the district is dissolved on September 1, 2009 ~~2007~~, except that:
  - (A) any debts incurred shall be paid;
  - (B) any assets that remain after the payment of debts shall be transferred to Duval County; and
  - (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and
- (2) this chapter expires on September 1, 2012 ~~2010~~.

SECTION \_\_\_\_ .02. Section 8808.023, Special District Local Laws Code, is amended by adding Subsection (d) to read as follows:

(d) Duval County may pay for any portion of the costs incident to the district's confirmation election.

SECTION \_\_\_\_ .03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE \_\_\_\_ . STARR COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_ .01. Subchapter A, Chapter 8803, Special District Local Laws Code, is amended by adding Section 8803.004 to read as follows:

Sec. 8803.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009:

- (1) the district is dissolved on September 1, 2009, except that:
  - (A) any debts incurred shall be paid;
  - (B) any assets that remain after the payment of debts shall be transferred to Starr County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

SECTION \_\_\_\_ .02. Chapter 8803, Special District Local Laws Code, is amended by adding Subchapter A-1 to read as follows:

**SUBCHAPTER A-1. TEMPORARY PROVISIONS**

Sec. 8803.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this subchapter, five temporary directors shall be appointed as follows:

(1) the Starr County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precinct in which the temporary director resides; and

(2) the county judge of Starr County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8803.024; or

(2) the date this chapter expires under Section 8803.004.

Sec. 8803.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Starr County Courthouse.

Sec. 8803.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

(d) Starr County may pay for any portion of the costs incident to the district's confirmation election.

Sec. 8803.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8803.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8803.025.

(b) The initial directors for county precincts 2 and 3 serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8803.025, and the initial directors for county precincts 1 and 4 serve a term

expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8803.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8803.024(b), serve a term expiring June 1 following that election.

Sec. 8803.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

SECTION \_\_\_\_\_.03. Sections 5, 6, 7, 8, 9, and 11, Chapter 451, Acts of the 79th Legislature, Regular Session, 2005, are repealed.

SECTION \_\_\_\_\_.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

#### ARTICLE \_\_\_\_\_. WATER DEVELOPMENT BOARD

SECTION \_\_\_\_\_.01. Section 16.344, Water Code, is amended by adding Subsections (d), (e), (f), (g), (h), and (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d)-(f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

#### **Amendment No. 46**

Representative Guillen offered the following amendment to Amendment No. 45:

Amend Amendment No. 45 by Guillen to **CSSB 3** by striking the proposed Article titled "ZONING AROUND FALCON LAKE" that adds Subchapter L to Chapter 231, Local Government Code.

Amendment No. 46 was adopted.

#### **Amendment No. 47**

Representative Callegari offered the following amendment to Amendment No. 45:

Amend Amendment No. 45 by Guillen to **CSSB 3** (House Committee Printing) by adding the following:

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered section to the bill and renumbering subsequent sections accordingly:

Section \_\_\_\_\_. Subchapter F, Chapter 13, Water Code, is amended by adding Section 13.188 to read as follows:

Sec. 13.188. ADJUSTMENT FOR CHANGE IN ENERGY COSTS. (a) Notwithstanding any other provision in this chapter, the commission by rule shall adopt a procedure allowing a utility to file with the commission an application to timely adjust the utility's rates to reflect an increase or decrease in documented energy costs in a pass through clause. The commission, by rule, shall require the pass through of documented decreases in energy costs within a reasonable time.

The pass through, whether a decrease or increase, shall be implemented on or no later than an annual basis, unless the Commission determines a special circumstance applies.

(b) Notwithstanding any other provision to the contrary, this adjustment is an uncontested matter not subject to a contested case hearing. However, the Executive Director shall hold a non-contested public meeting if:

(1) on the request of a member of the legislature who represents the area served by the water and sewer utility;

(2) if the Executive Director determines that there is substantial public interest in the matter.

(c) A proceeding under this section is not a rate case and Section 13.187 does not apply.

(d) An adjustment for energy costs that results in an increase in rate charges by a water and sewer utility may not take effect if the utility is served by an electric cooperative that is affiliated with the water and sewer utility.

Amendment No. 47 was adopted.

#### **Amendment No. 48**

Representative Talton offered the following amendment to Amendment No. 45:

Amend Floor Amendment No. 45 to **CSSB 3** (House committee printing) as follows:

1. Add the following appropriately numbered Article to the Amendment and renumber subsequent Articles of the bill accordingly.

#### ARTICLE \_\_\_\_ . RATE CLASSES FOR BILLING

SECTION \_\_\_\_ .01. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2122 to read as follows:

Sec. 49.2122. ESTABLISHMENT OF CUSTOMER CLASSES. (a) Notwithstanding any other law, a district may establish different charges, fees, rentals, or deposits among classes of customers that are based on any factor the district considers appropriate, including:

(1) the similarity of the type of customer to other customers in the class, including:

(A) residential;

(B) commercial;

(C) industrial;

(D) apartment;

(E) rental housing;

(F) irrigation;

(G) homeowner associations;

(H) builder;

(I) out-of-district;

(J) nonprofit organization; and

(K) any other type of customer as determined by the district;

(2) the type of services provided to the customer class;



(3) the cost of facilities, operations, and administrative services to provide service to a particular class of customer, including additional costs to the district for security, recreational facilities, or fire protection paid from other revenues; and

(4) the total revenues, including ad valorem tax revenues and connection fees, received by the district from a class of customers relative to the cost of service to the class of customers.

(b) A district is presumed to have weighed and considered appropriate factors and to have properly established charges, fees, rentals, and deposits absent a showing that the district acted arbitrarily and capriciously.

Amendment No. 48 was adopted.

### **Amendment No. 49**

Representative Miller offered the following amendment to Amendment No. 45:

Amend Amendment No. 45 by Guillen to **CSSB 3** on page 25 of the amendment, between lines 4 and 5, by inserting the following:

ARTICLE \_\_. **TABLEROCK GROUNDWATER CONSERVATION DISTRICT**  
SECTION \_\_.01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8823 to read as follows:

CHAPTER 8823. TABLEROCK GROUNDWATER  
CONSERVATION DISTRICT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8823.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Tablerock Groundwater Conservation District.

Sec. 8823.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Coryell County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8823.003. CONFIRMATION ELECTION REQUIRED. (a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Coryell County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

(b) This section expires September 1, 2012.

Sec. 8823.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Coryell County, Texas.

Sec. 8823.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8823.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8823.007-8823.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8823.021. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) Not later than the 45th day after the effective date of this chapter, five temporary directors shall be appointed as follows:

(1) the Coryell County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Coryell County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8823.024; or

(2) the date this chapter expires under Section 8823.003.

Sec. 8823.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Coryell County Courthouse.

Sec. 8823.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the Tablerock Groundwater Conservation District and the imposition of a maintenance tax at a rate not to exceed two cents on each \$100 of assessed valuation of taxable property in the district."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may not impose a maintenance tax unless a majority of the votes cast at the election are in favor of the imposition of the maintenance tax.

Sec. 8823.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8823.023, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve until the election of directors under Section 8823.025, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve until the next regularly scheduled election of directors under Section 8823.053.

Sec. 8823.025. INITIAL ELECTION OF DIRECTORS. On the uniform election date in November of the first even-numbered year after the year in which the creation of the district is confirmed at an election held under Section 8823.023, the district shall hold an election of two directors to replace the initial directors who, under Section 8823.024(b), serve until that election.

Sec. 8823.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8823.027-8823.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8823.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8823.052. METHOD OF ELECTING DIRECTORS. One director is elected from each county commissioners precinct in Coryell County and one director is elected at large.

Sec. 8823.053. ELECTION DATE. The district shall hold an election in the district to elect directors on the uniform election date in November of each even-numbered year.

Sec. 8823.054. QUALIFICATIONS FOR ELECTION. (a) To be qualified for election as a director, a person must reside in the district.

(b) To be qualified for election as a director from a precinct, a person must reside in that precinct.

[Sections 8823.055-8823.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8823.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8823.102. PERMIT CONSIDERATION. Before granting or denying a permit under Section 36.113, Water Code, the district must consider whether the proposed use of water unreasonably affects surrounding landowners.

Sec. 8823.103. PERMITS FOR CERTAIN ACTIVITIES; APPLICABLE RULES. (a) The district may require a permit for any activity that extracts groundwater or allows more than 25,000 gallons of groundwater a day to escape.

(b) If a permit is required under Subsection (a), the permit holder is subject to rules adopted by the district to:

(1) conserve, preserve, protect, and recharge the groundwater or a groundwater reservoir or its subdivisions to control subsidence, prevent degradation of groundwater quality, and prevent waste of groundwater; and

(2) carry out any other power or duty under Chapter 36, Water Code.

Sec. 8823.104. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8823.105. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8823.106. IMPACT OF TRANSFER. (a) If the district finds that a transfer of groundwater out of the district negatively impacts any of the factors described by Section 36.122(f), Water Code, the district may impose additional requirements or limitations on the permit that are designed to minimize those impacts.

(b) Sections 36.122(c), (e), (i), and (j), Water Code, do not apply to a requirement or limitation imposed under this section.

Sec. 8823.107. ADOPTION OF RULES AND ISSUANCE OF PERMITS. Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8823.108. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES. (a) The district and another governmental entity, including a river authority located in the district, may contract for the performance by that entity of a district function.

(b) The district may accept a loan from Coryell County to pay for any initial costs of the district, including costs related to a confirmation election.

Sec. 8823.109. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8823.110. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to Coryell County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8823.111-8823.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8823.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) impose an ad valorem tax at a rate that:

(A) is approved by a majority of district voters voting at an election held for that purpose; and

(B) does not exceed two cents on each \$100 of assessed valuation of taxable property in the district;

(2) assess fees for services or for water withdrawn from nonexempt wells; or

(3) solicit and accept grants from any private or public source.

[Sections 8823.152-8823.200 reserved for expansion]

#### SUBCHAPTER E. DISSOLUTION

Sec. 8823.201. ELECTION FOR DISSOLUTION. (a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for Coryell County.

(c) If the district is dissolved under this section, the board shall:

(1) notify the Texas Commission on Environmental Quality and the secretary of state of the dissolution; and

(2) transfer title to any assets of the district to Coryell County.

SECTION \_\_\_\_\_.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

Amendment No. 49 was adopted.

Amendment No. 45, as amended, was adopted.

### **Amendment No. 50**

Representative Callegari offered the following amendment to **CSSB 3**:

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Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 13.246(a-1), Water Code, is amended to read as follows:

(a-1) Except as otherwise provided by this subsection, in addition to the notice required by Subsection (a), the commission shall require notice to be mailed to each owner of a tract of land that is at least 25 [~~50~~] acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:

- (1) Section 13.248 or 13.255; or
- (2) Chapter 65.

Amendment No. 50 was adopted.

### **CSSB 3 - POINT OF ORDER**

Representative Frost raised a point of order against further consideration of **CSSB 3** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

(Phillips in the chair)

Representative Puente moved to postpone consideration of **CSSB 3** until 3:30 p.m. today.

The motion prevailed.

**POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

**CSSB 785 ON SECOND READING  
(Morrison - House Sponsor)**

**CSSB 785**, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

**CSSB 785** was read second time on May 21 and was postponed until 9:30 a.m. today.

Representative Morrison moved to postpone consideration of **CSSB 785** until 5 p.m. today.

The motion prevailed.

**CSSB 101 ON SECOND READING  
(Morrison, Branch, Woolley, Eissler, and Goolsby - House Sponsors)**

**CSSB 101**, A bill to be entitled An Act relating to the automatic admission of undergraduate students to general academic teaching institutions.

**CSSB 101** was read second time on May 21 and was postponed until 10 a.m. today.

**CSSB 101 - POINT OF ORDER**

Representative Castro raised a point of order against further consideration of **CSSB 101** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the bill analysis is incorrect.

The chair overruled the point of order.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

**CSSB 101 - (consideration continued)****Amendment No. 1**

Representative Villarreal offered the following amendment to **CSSB 101**:

Amend **CSSB 101** by striking the enacting clause (house committee report page 1, line 4).

**CSSB 101 - POINT OF ORDER**

Representative Castro raised a point of order against further consideration of **CSSB 101** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative C. Howard requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, 3 p.m. today, in 3W.9.

Permission to meet was granted.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR  
BILLS ADDED**

On motion of Representative C. Howard and by unanimous consent, the Committee on Local and Consent Calendars was granted permission to set an addendum to the local, consent, and resolutions calendar set for tomorrow.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, 3 p.m. today, 3W.9, for a formal meeting, to consider an addendum.

**CSSB 101 - (consideration continued)**

**CSSB 101 - POINT OF ORDER DISPOSITION**

The chair overruled the point of order.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representative Alonzo offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 6), strike "adding Subsections (c) and (d)" and substitute "adding Subsections (c), (d), and (e)".

(2) In SECTION 1 of the bill, in amended Section 51.803, Education Code (page 3, between lines 17 and 18), following added Subsection (d), insert a new Subsection (e) to read as follows:

(e) A general academic teaching institution that offers admission to applicants under Subsection (c) or (d) shall demonstrate by direct action a commitment to:

(1) providing opportunities for postsecondary education for members of all groups, including underrepresented groups such as racial or ethnic minority groups; and

(2) ensuring racial and ethnic diversity in the institution's faculty and administrative staff.

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Alonzo offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) as follows:

(1) In added Subsection (c), Section 51.803, Education Code (page 2, line 2), between "(c)" and "general academic teaching institution", strike "A" and substitute "Beginning with admissions for the 2011-2012 academic year, a".

(2) Strike SECTION 3 of the bill (page 4, lines 4 through 9) and renumber subsequent SECTIONS of the bill appropriately.

Amendment No. 3 was withdrawn.



**Amendment No. 4**

Representative Branch offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) in SECTION 1 of the bill as follows:

(1) In added Subsection (c), Section 51.803, Education Code (page 2, line 20), strike "accepted admission offers" and substitute "been offered admission".

(2) In added Subsection (d), Section 51.803, Education Code (page 3, line 10), strike "accepted admission offers" and substitute "been offered admission".

Amendment No. 4 was withdrawn.

**Amendment No. 5**

Representative Giddings offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 6), strike "adding Subsections (c) and (d)" and substitute "adding Subsections (c), (d), and (e)".

(2) In SECTION 1 of the bill, in amended Section 51.803, Education Code (page 3, between lines 17 and 18), following added Subsection (d), insert a new Subsection (e) to read as follows:

(e) This subsection applies only to an applicant who qualifies for automatic admission to a general academic teaching institution under Subsection (a) and who has earned a score of at least 1500 out of 1600 or the equivalent on the SAT assessment, disregarding the writing section, or 33 out of 36 or the equivalent on the ACT assessment. Notwithstanding Subsection (c), a general academic teaching institution shall offer admission to each applicant described by this subsection, and the applicant may not be counted in determining whether the number of applicants who qualify for admission under Subsection (a) and who accept admission offers under Subsection (c) exceeds the percentage limitation prescribed by Subsection (c) for the admission of first-time resident undergraduate students by the institution.

Amendment No. 5 was adopted.

**Amendment No. 6**

Representative Dunnam offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) in SECTION 1 of the bill, in added Subsection (c), Section 51.803, Education Code (page 2, line 3), by striking "50 percent" and substituting "66.67 percent".

Amendment No. 6 was adopted. (C. Howard, Solomons, Truitt, and Woolley recorded voting no.)

**Amendment No. 7**

Representative Latham offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) as follows:

(1) In added Subsection (c), Section 51.803, Education Code (page 2, line 2), between "(c)" and "general academic teaching institution", strike "A" and substitute "Beginning with admissions for the 2009-2010 academic year, a".

(2) Strike SECTION 3 of the bill (page 4, lines 4 through 9) and renumber subsequent SECTIONS of the bill appropriately.

Amendment No. 7 was adopted.

### **Amendment No. 8**

Representative Phillips offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) as follows:

(1) In SECTION 1 of the bill, immediately following added Subsection (d), Section 51.803, Education Code (page 3, between lines 17 and 18), insert the following:

(e) This section expires August 31, 2015.

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

SECTION \_\_\_\_. Effective September 1, 2015, Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8035 to read as follows:

Sec. 51.8035. AUTOMATIC ADMISSION: ALL INSTITUTIONS.

(a) Each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense. To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution and, if the applicant graduated from a high school operated by the United States Department of Defense, must be a Texas resident under Section 54.052 or be entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(b) After admitting an applicant under this section, the institution shall review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

(c) A reference in law to former Section 51.803, Education Code, is a reference to this section unless the context clearly indicates otherwise.

Amendment No. 8 was adopted.

### **Amendment No. 9**

Representative Bonnen offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8035 to read as follows:

Sec. 51.8035. AUTOMATIC ADMISSION OF APPLICANTS COMPLETING CORE CURRICULUM AT ANOTHER INSTITUTION. (a) In this section:

(1) "Core curriculum" means the core curriculum adopted by an institution of higher education under Section 61.822.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(b) A general academic teaching institution shall admit an applicant for admission to the institution as a transfer undergraduate student who:

(1) graduated from high school not earlier than the fourth school year before the academic year for which the applicant seeks admission and qualified for automatic admission to a general academic teaching institution under Section 51.803 at the time of graduation;

(2) first enrolled in an institution of higher education not earlier than the second academic year before the academic year for which the applicant seeks admission;

(3) completed the core curriculum at an institution of higher education, other than the institution to which the applicant seeks admission, with a cumulative grade point average of at least 3.25 on a four-point scale or the equivalent; and

(4) submits an application for admission as a transfer student before the expiration of any application filing deadline established by the institution.

(c) For purposes of this section, transfer semester credit hours from a different institution of higher education and semester credit hours earned by examination shall be included in determining whether the person completed the core curriculum at an institution of higher education.

Amendment No. 9 was adopted.

### **Amendment No. 10**

Representative Branch offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) in SECTION 1 of the bill as follows:

(1) In added Subsection (c), Section 51.803, Education Code (page 2, line 20), strike "accepted admission offers" and substitute "been offered admission".

(2) In added Subsection (d), Section 51.803, Education Code (page 3, line 10), strike "accepted admission offers" and substitute "been offered admission".

(Goolsby in the chair)

Amendment No. 10 was adopted.

### **Amendment No. 11**

Representative Gallego offered the following amendment to **CSSB 101**:

Amend **CSSB 101** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.202 to read as follows:

Sec. 54.202. TOP 10 PERCENT HIGH SCHOOL GRADUATES. (a) This section applies to a person who was admitted and enrolled under the automatic admission provisions of Section 51.803(c) or (d).

(b) Each general academic teaching institution shall exempt a person to whom this section applies from the payment of tuition and special course fees, lab fees, and student teaching fees.

(c) The exemption from tuition under Subsection (b) does not apply to designated tuition charged under Section 54.0513.

(d) In order to continue to receive an exemption under this section after the person has received an exemption under this section for two or more academic years or the equivalent, a person must:

(1) enroll for a full course load for an undergraduate student, as determined by the Texas Higher Education Coordinating Board, in an undergraduate degree or certificate program at a general academic teaching institution; and

(2) have a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent on all coursework previously attempted at institutions of higher education, if the person is enrolled in any academic year after the person's second academic year.

(e) The legislature shall account in the General Appropriations Act for the exemptions authorized by Subsection (b) in a way that provides a corresponding increase in the general revenue funds appropriated to the institution.

(f) The legislature may appropriate money to the Texas Higher Education Coordinating Board to be used to reimburse general academic teaching institutions for reducing as provided by this subsection the amount of designated tuition charged under Section 54.0513 to persons receiving exemptions from tuition and fees under Subsection (b). Based on the amount of appropriations under this subsection available for each academic year, the coordinating board shall estimate the amount by which the designated tuition charged under Section 54.0513 to each person who receives an exemption from tuition and fees under Subsection (b) in that academic year may be reduced from the amount that the applicable institution would otherwise charge the person. The coordinating board shall distribute the amount of appropriations under this subsection available for

the academic year to general academic teaching institutions in proportion to the number of semester credit hours for which the coordinating board estimates students will receive exemptions under Subsection (b) in that academic year at each institution. Each general academic teaching institution that receives money under this section shall reduce the amount of designated tuition charged to each student who receives an exemption under Subsection (b) by the amount determined by the coordinating board for that academic year.

(Hilderbran in the chair)

A record vote was requested.

Amendment No. 11 failed of adoption by (Record 1590): 68 Yeas, 78 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smithee; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

Nays — Anderson; Aycock; Bailey; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, B.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Eissler; Elkins; England; Flynn; Garcia; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hill; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; McCall; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Patrick; Paxton; Phillips; Riddle; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler; Zerwas.

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

Absent — Parker; Pitts.

#### STATEMENT OF VOTE

When Record No. 1590 was taken, I was in the house but away from my desk. I would have voted no.

Parker

(Speaker in the chair)

#### Amendment No. 12

Representative Smithee offered the following amendment to **CSSB 101**:

Amend **CSSB 101** as follows:

On page 4, line 6, delete "2008-2009," and substitute "2009-2110."

Amendment No. 12 was withdrawn.

A record vote was requested.

**CSSB 101**, as amended, was passed to third reading by (Record 1591): 80 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cohen; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Driver; Dunnam; Eiland; Eissler; Elkins; Farabee; Flynn; Garcia; Gattis; Geren; Goolsby; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Howard, C.; Howard, D.; Isett; Jackson; King, P.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Morrison; Mowery; Murphy; Naishtat; O'Day; Parker; Patrick; Paxton; Phillips; Pierson; Riddle; Ritter; Rose; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Vaught; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Cook, B.; Davis, Y.; Deshotel; Dukes; Dutton; England; Escobar; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Hughes; Keffer; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Noriega; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Smithee; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent — Jones; King, S.; McCall.

### STATEMENTS OF VOTE

When Record No. 1591 was taken, my vote failed to register. I would have voted no.

S. King

When Record No. 1591 was taken, I was in the house but away from my desk. I would have voted yes.

McCall

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 1**:

Kolkhorst on motion of Geren.

### SB 1983 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative P. King, the house granted the request of the senate for the appointment of a conference committee on **SB 1983**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1983**: P. King, chair; Darby, Hughes, Pierson, and Taylor.

**SB 763 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative P. King, the house granted the request of the senate for the appointment of a conference committee on **SB 763**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 763**: P. King, chair; Hartnett, Phillips, Macias, and O'Day.

**SB 1562 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative P. King, the house granted the request of the senate for the appointment of a conference committee on **SB 1562**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1562**: P. King, chair; Mallory Caraway, Hughes, Harper-Brown, and Parker.

**HB 120 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative F. Brown called up with senate amendments for consideration at this time,

**HB 120**, A bill to be entitled An Act relating to state funding and tuition charged for courses provided during off-peak hours at certain public institutions of higher education.

Representative F. Brown moved to concur in the senate amendments to **HB 120**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 1592): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr;

Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Flores; Harper-Brown; Isett; McCall; McClendon; Talton.

### STATEMENTS OF VOTE

When Record No. 1592 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 1592 was taken, I was in the house but away from my desk. I would have voted yes.

Isett

### Senate Committee Substitute

**CSHB 120**, A bill to be entitled An Act relating to state funding and designated tuition charged for courses provided during off-peak hours at certain public institutions of higher education.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0592 to read as follows:

Sec. 61.0592. FUNDING FOR COURSES PROVIDED DURING OFF-PEAK HOURS AT CERTAIN INSTITUTIONS. (a) The purposes of this section are:

(1) to ensure that student demand for courses is met; and  
(2) to encourage the efficient use of existing instructional facilities while reducing the need for new instructional facilities.

(b) This section applies only to funding for a course provided by:

(1) The University of Texas at Austin;

(2) Texas A&M University; or

(3) Texas Tech University.

(c) To carry out the purposes of this section, for each institution of higher education listed under Subsection (b), the board shall include in the formulas established under Section 61.059 funding in amounts sufficient to cover the institution's revenue loss resulting from any reduction in tuition rates under Section 54.061.

(d) In addition to the funding included under Subsection (c), in the formulas established under Section 61.059, as an incentive for the institutions to reduce tuition rates under Section 54.061, the board may include additional funding that represents a portion of the savings to the state resulting from the institution's efficient use of resources.

SECTION 2. Subchapter B, Chapter 54, Education Code, is amended by adding Section 54.061 to read as follows:



Sec. 54.061. REDUCED DESIGNATED TUITION RATES FOR COURSES PROVIDED DURING OFF-PEAK HOURS AT CERTAIN INSTITUTIONS. (a) This section applies only to a course offered by an institution of higher education:

(1) beginning at 6 p.m. or later during a weekday;

(2) on weekends; or

(3) at other times when the institution's instructional facilities would otherwise be underutilized, as determined by the governing board of the institution.

(b) In accordance with coordinating board rules and for the purposes stated in Section 61.0592, the governing board of an institution of higher education to which Section 61.0592 applies may establish tuition rates under Section 54.0513 for a course described by Subsection (a) that are not more than 25 percent lower than the rates that would otherwise apply to the course under that section.

(c) This section applies only if the legislature specifically appropriates money to institutions to which Section 61.0592 applies for the state fiscal biennium ending August 31, 2009, to cover the tuition revenue lost to the institutions by the application of this section.

SECTION 3. As soon as practicable after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules under which public institutions of higher education may establish lower tuition rates in accordance with Section 54.061, Education Code, as added by this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

#### **CSSB 3 ON SECOND READING (Puente - House Sponsor)**

**CSSB 3**, A bill to be entitled An Act relating to the development, management, and preservation of the water resources of the state; providing penalties.

**CSSB 3** was read second time earlier today, amendments were offered and disposed of, and **CSSB 3** was postponed until this time.

#### **CSSB 3 - POINT OF ORDER**

Representative Frost raised a point of order against further consideration of **CSSB 3** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

#### **Amendment No. 51**

On behalf of Representative Gallego, Representative Puente offered the following amendment to **CSSB 3**:

Floor Packet Page No. 82

Amend **CSSB 3** (house committee printing), in ARTICLE 2 of the bill, by adding the following appropriately numbered SECTIONS to the ARTICLE and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2.     . Section 16.017, Water Code, is amended to read as follows:

Sec. 16.017. **TOPOGRAPHIC AND GEOLOGIC MAPPING.** (a) The executive administrator shall carry out the program for topographic and geologic mapping of the state.

(b) The executive administrator shall operate as part of the Texas Natural Resources Information System a strategic mapping program to acquire, store, and distribute digital, geospatial information.

SECTION 2.     . Subchapter B, Chapter 16, Water Code, is amended by adding Sections 16.023 and 16.024 to read as follows:

Sec. 16.023. **STRATEGIC MAPPING ACCOUNT.** (a) The strategic mapping account is an account in the general revenue fund. The account consists of:

(1) money directly appropriated to the board;  
(2) money transferred by the board from other funds available to the board;

(3) money from gifts or grants from the United States government, state, regional, or local governments, educational institutions, private sources, or other sources;

(4) proceeds from the sale of maps, data, publications, and other items;  
and

(5) interest earned on the investment of money in the account and depository interest allocable to the account.

(b) The account may be appropriated only to the board to:

(1) develop, administer, and implement the strategic mapping program;  
(2) provide grants to political subdivisions for projects related to the development, use, and dissemination of digital, geospatial information; and

(3) administer, implement, and operate other programs of the Texas Natural Resources Information System, including:

(A) the operation of a Texas-Mexico border region information center for the purpose of implementing Section 16.021 (e)(5);

(B) the acquisition, storage, and distribution of historical maps, photographs, and paper map products;

(C) the maintenance and enhancement of information technology;  
and

(D) the production, storage, and distribution of other digital base maps, as determined by the executive administrator or a state agency that is a member of the Texas Geographic Information Council.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund as provided by law for the investment of money under Section 404.024, Government Code.

Sec. 16.024. FINANCIAL ASSISTANCE FOR DIGITAL, GEOSPATIAL INFORMATION PROJECTS. (a) A political subdivision seeking a grant under Section 16.023 must file an application with the board.

(b) An application must be filed in the manner and form required by board rules.

(c) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has used other available resources to finance the development, use, and dissemination of digital, geospatial information;

(2) the willingness and ability of the political subdivision to develop, use, and disseminate digital, geospatial information; and

(3) the benefits that will be gained by making the grant.

(d) The board may approve a grant to a political subdivision only if the board finds that:

(1) the grant will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further the state's ability to gather, develop, use, and disseminate digital, geospatial information.

Amendment No. 51 was adopted.

### **Amendment No. 52**

Representative Guillen offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 85

Amend **CSSB 3** as follows:

On page 49, between lines 16 and 17, insert the following new section and renumber remaining sections accordingly.

SECTION \_\_\_\_\_. Section 16.344, Water Code, is amended by adding new Subsections (d), (e), (f), (g) and (h) to read as follows:

(d) Notwithstanding Subsection 16.343(g) or Subsection 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board prior to January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or waste water services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than 90 days;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) after 30 days to consult with the attorney general, secretary of state, and commission, the board has not received an objection to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider that eligibility of areas that were the subject of a facility plan in the initial application, and which may be determined to be eligible based on criteria effective September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed 90 days, and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided in Subsections (d) through (f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) Subsections (d), (e), (f), (g) and (h) expire September 1, 2009.

SECTION \_\_\_\_\_. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007. The board may not accept or grant applications for temporary funding under Subsection (d), Section 16.344, Water Code, created by this Act, less than 90 days prior to the expiration of this Act.

Amendment No. 52 was withdrawn.

### **Amendment No. 53**

Representative R. Cook offered the following amendment to **CSSB 3**:

Floor Packet Page No. 91

Amend **CSSB 3** (House committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 2. \_\_\_\_\_. Subchapter A, Chapter 36, Water Code, is amended by adding Section 36.003 to read as follows:

Sec. 36.003. APPLICABILITY OF GROUNDWATER REGULATIONS. Any person, political subdivision, or other legal entity, who produces groundwater inside the boundaries of a district is subject to groundwater regulation under this chapter, except as exempted under this chapter.

SECTION 2. \_\_\_\_\_. Section 36.102(a), Water Code, is amended to read as follows:

(a) A district may enforce this chapter and its rules by bringing an action for an injunction, mandatory injunction, civil penalty, or other appropriate remedy in a court of competent jurisdiction against any person, political subdivision, or other legal entity, subject to groundwater regulation under this chapter, except as exempted under this chapter.

Amendment No. 53 was withdrawn.

#### **Amendment No. 54**

Representative Hilderbran offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 92

Amend **CSSB 3** (House committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that ARTICLE accordingly:

SECTION 2. \_\_\_\_\_. Section 36.113(d), Water Code, is amended to read as follows:

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) if the well will be located in the Hill Country Priority Groundwater Management Area, the proposed use of water from the well is wholly or partly to provide water to a pond, lake, or reservoir to enhance the appearance of the landscape;

(6) the applicant has agreed to avoid waste and achieve water conservation; and

(7) ~~(6)~~ the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

SECTION 2. \_\_\_\_\_. Section 36.117(d), Water Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), a district may require a well to be permitted by the district and to comply with all district rules if:

(1) the withdrawals from a well in the Hill Country Priority Groundwater Management Area and exempted under Subsection (b)(1) are no longer used solely for domestic use or to provide water for livestock or poultry;

(2) the purpose of a well exempted under Subsection (b)(2) is no longer solely to supply water for a rig that is actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas;  
or

(3) [~~(2)~~] the withdrawals from a well exempted under Subsection (b)(3) are no longer necessary for mining activities or are greater than the amount necessary for mining activities specified in the permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code.

### **Amendment No. 55**

Representative Hilderbran offered the following amendment to Amendment No. 54:

Amend Amendment No. 54 by Hilderbran to **CSSB 3** (pages 92 and 93, prefiled amendments packet) as follows:

(1) On page 92, line 18, between "located in" and "the", insert "a priority groundwater management area, including".

(2) On page 92, line 19, between "Management Area" and the comma, insert ",or in a county contiguous to the priority groundwater management area".

(3) On page 93, immediately following line 16, insert the following appropriately numbered sections:

SECTION 2.\_\_\_\_. Sections 36.122(d) and (i), Water Code, are amended to read as follows:

(d) The district may impose a reasonable fee for processing an application under this section. [~~The fee may not exceed fees that the district imposes for processing other applications under Section 36.113.~~] An application filed to comply with this section shall be considered and processed under the same procedures as other applications for permits under Section 36.113 and shall be combined with applications filed to obtain a permit for in-district water use under Section 36.113 from the same applicant.

(i) The period specified by Subsection (h)(2) shall be[~~+~~

~~(+) at least three years [if construction of a conveyance system has not been initiated prior to the issuance of the permit; or~~

~~(2) at least 30 years if construction of a conveyance system has been initiated prior to the issuance of the permit].~~

SECTION 2.\_\_\_\_. Section 36.122(c), Water Code, is repealed.

Amendment No. 55 was adopted.

Amendment No. 54, as amended, was adopted.

### **Amendment No. 56**

Representative Orr offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 94

Amend **CSSB 3** (House Committee Printing) in ARTICLE 2 of the bill by adding the following appropriately numbered section and renumbering the sections of the article accordingly:

SECTION 2.\_\_\_\_. Section 36.117, Water Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The exemption under Subsection (b)(2) does not apply to a water well located in a county having any area in the Barnett Shale field of the Fort Worth Basin.

**Amendment No. 57**

Representative Orr offered the following amendment to Amendment No. 56:

Amend Amendment No. 56 by Orr to **CSSB 3** (prefiled amendment packet page 94) by striking page 1, lines 6-8 and substituting:

(b-1) A water well exempt from permitting under Subsection (b)(2) is not exempt from other district rules.

Amendment No. 57 was adopted.

Amendment No. 56, as amended, was adopted.

**Amendment No. 58**

Representative Orr offered the following amendment to **CSSB 3**:

Floor Packet Page No. 95

Amend **CSSB 3** by adding the following appropriately numbered section to Article 2 of the bill and renumbering subsequent sections of the article accordingly:

SECTION 2.\_\_\_\_. Section 36.117(e), Water Code, is amended to read as follows:

(e) An entity actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas, or an entity holding a permit issued by the Railroad Commission of Texas under Chapter 134, Natural Resources Code, that authorizes the drilling of a water well shall report monthly to the district:

- (1) the total amount of water withdrawn during the month;
- (2) the quantity of water necessary for mining activities; and
- (3) the quantity of water withdrawn for other purposes.

**Amendment No. 59**

Representatives Orr, Puente, and Miller offered the following amendment to Amendment No. 58:

Amend Floor Amendment No. 58 by Orr to **CSSB 3** (Floor Amendment Packet, page 95) by striking lines 4 through 17 of the amendment and substituting the following:

SECTION 2.\_\_\_\_. Section 36.111, Water Code, is amended to read as follows:

Sec. 36.111. RECORDS AND REPORTS. (a) The district may ~~shall~~ require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater.

(b) In implementing Subsection (a), a district may adopt rules that require an owner or operator of a water well that is required to be registered with or permitted by the district, except for the owner or operator of a well that is exempt from permit requirements under Section 36.117(b)(1), to report groundwater withdrawals using reasonable and appropriate reporting methods and frequency.

Amendment No. 59 was adopted.

Amendment No. 58, as amended, was adopted.

**Amendment No. 60**

Representative Gonzales offered the following amendment to **CSSB 3**:  
 Floor Packet Page No. 99

Amend **CSSB 3** by adding the following appropriately numbered section to ARTICLE 2 of the bill and renumbering the sections of the article accordingly:

SECTION 2. \_\_\_\_\_. (a) Chapter 49, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EFFECT OF SUBDIVISION OF NONAGRICULTURAL  
 LAND ON WATER RIGHTS

Sec. 49.501. DEFINITION. In this subchapter, "municipal water supplier" means a municipality or a water supply corporation.

Sec. 49.502. APPLICABILITY. This subchapter applies only to a district, other than a drainage district, located wholly or partly in a county:

- (1) that borders the Gulf of Mexico and the United Mexican States; or
- (2) that is adjacent to a county described by Subdivision (1).

Sec. 49.503. PETITION BY MUNICIPAL WATER SUPPLIER TO CONVERT WATER USE AFTER SUBDIVISION. (a) This section applies only to land:

- (1) that is:

(A) subdivided into town lots or blocks or small parcels of the same general nature as town lots or blocks;

(B) designed, intended, or suitable for residential or other nonagricultural purposes, including streets, alleys, parkways, parks, detention or retention ponds, and railroad property and rights-of-way; or

(C) in a subdivision created to meet the requirements of a governmental entity authorized to require a recorded plat of subdivided lands;

(2) that is in a subdivision for which a plat or map has been filed and recorded in the office of the county clerk of each county in which the subdivision is wholly or partly located; and

(3) that is or was assessed as flat rate irrigable property in the municipal water supplier's certificated service area or its corporate area.

(b) A municipal water supplier that serves land described by Subsection (a) may petition the district in accordance with this section to convert the proportionate irrigation water right to the Rio Grande from irrigation use to municipal use with municipal priority of allocation under commission rules, for the use and benefit of the municipal supplier.

(c) The municipal water supplier must file the petition with the district not later than January 1 after the expiration of two years after the date the plat or map was recorded under Subsection (a). The district shall consider the petition not later than January 31 of the year following the year in which the petition was filed.

(d) The petition must identify by subdivision name or other sufficient description the land that the municipal water supplier supplies or has the right to supply potable water.



(e) This section applies only to one subdivision of the land recorded under Subsection (a). This section does not apply to any further subdivision of the same property.

Sec. 49.504. EFFECT OF MUNICIPAL WATER SUPPLIER'S FAILURE TO FILE A PETITION. (a) If a municipal water supplier does not file a petition under Section 49.503, the district may retain the water rights for use by the district or may declare the water as excess and contract for the sale or use of the water as determined by the district.

(b) Before a district may contract for the sale or use of water for more than one year with a purchaser located outside of a county described by Section 49.502, the district must, for 90 days:

(1) make the water available under the same terms to all municipal water suppliers located in those counties; and

(2) advertise the offer to sell or contract for the use of the water by posting notice on:

(A) any website of the Rio Grande Watermaster's Office;

(B) any website of the Rio Grande Regional Water Authority; and

(C) the official posting place for the district's board meetings at the district's office.

(c) If, after the 90th day after the last date on which the district posted notice, a municipal water supplier in a county described by Section 49.502 has not contracted with the district for the sale or use of the water, the district may contract with any other person for the sale or use of the water under the terms of the offer advertised under Subsection (b).

Sec. 49.505. CALCULATION OF PROPORTIONATE WATER RIGHTS. A district that receives a petition under Section 49.503 shall compute the proportionate amount of water rights to the Rio Grande. The proportionate amount of water rights is equal to the amount of irrigable acres of land in the subdivision multiplied by the lesser of:

(1) 1.25 acre-feet per irrigable acre; or

(2) the sum of all irrigation water rights owned by the district on September 1, 2007, as if the water rights had been converted to municipal use under applicable commission rules, divided by the total amount of irrigable acres of land in the district on September 1, 2007.

Sec. 49.506. PROVISION OR CONVERSION OF PROPORTIONATE WATER RIGHTS BY DISTRICT. (a) Not later than the second anniversary of the date the municipal water supplier files a petition under Section 49.503:

(1) a district shall provide the municipal water supplier with the proportionate water rights described by Section 49.505 from the district's existing water rights; or

(2) a district shall, if the district does not have sufficient existing water rights:

(A) apply for appropriate amendments to the district's water rights under commission rules to convert the proportionate water rights from irrigation use to municipal use with municipal priority of allocation; and

(B) provide to the municipal water supplier the converted rights described by Section 49.505.

(b) The district may continue to use the irrigation use water for district purposes until:

(1) the commission approves the amendment to the district's water rights; or

(2) the water is otherwise provided to the municipal water supplier.

(c) A district that applies for appropriate amendments under Subsection (a)(2) shall provide the municipal water supplier with an estimate of the district's reasonable costs for the administrative proceedings. The district is not required to begin the proceedings until the municipal water supplier deposits the amount of the estimate with the district. The municipal water supplier shall pay the district any reasonable costs that exceed the estimate. The district shall refund the balance of the deposit if the actual cost is less than the estimate.

Sec. 49.507. CONTRACT TO PURCHASE PROPORTIONATE WATER RIGHTS; WATER RIGHTS SALE CONTRACT. (a) A municipal water supplier may contract to purchase the proportionate water rights described by Section 49.505.

(b) The purchase price may not exceed 68 percent of the current market value, as determined under Section 49.509, for the year that the municipal water supplier petitions the district.

(c) The contract must be in writing in a document entitled "Water Rights Sales Contract."

(d) The contract must include the purchase price for the water rights or, if the consideration for the sale is not monetary, the terms of the sale.

(e) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

(f) The municipal water supplier shall pay the purchase price when the proportionate amount of water rights is made available to the municipal water supplier.

Sec. 49.508. CONTRACT TO USE PROPORTIONATE WATER RIGHTS; WATER SUPPLY CONTRACT. (a) A municipal water supplier may contract to use water associated with the proportionate water rights described by Section 49.505.

(b) The contract must be for at least 40 years.

(c) The price for the contractual right to use the municipal use water is based on an amount for one acre-foot of municipal use water with a municipal use priority of allocation and may not exceed the sum of:

(1) an amount equal to the district's annual flat rate charge per assessed acre; and

(2) the equivalent of the charge for four irrigations per flat rate acre of irrigable property in the district.

(d) The parties to the contract shall agree on the terms of payment of the contract price.

(e) The board periodically shall determine the flat rate charge and irrigation per acre charge described by Subsection (c).

(f) The contract must be in writing in a document entitled "Water Supply Contract." The contract may contain any terms to which the parties agree.

(g) The municipal water supplier shall file the contract with the Rio Grande watermaster not later than the 10th day after the date the contract is executed.

Sec. 49.509. DUTY OF RIO GRANDE REGIONAL WATER AUTHORITY TO CALCULATE CURRENT MARKET VALUE. (a) The Rio Grand Regional Water Authority annually at its January meeting shall calculate the current market value by using the average price per acre-foot of municipal use water after conversion from irrigation use water to municipal use water with a municipal priority of allocation under commission rules of the last three purchases involving:

(1) a municipal water supplier;

(2) a party other than a municipal water supplier; and

(3) at least 100 acre-feet of municipal use water, with municipal priority of allocation.

(b) The Rio Grande Regional Water Authority shall use information from the water rights sales contracts reported to the Rio Grande Watermaster's Office to calculate the current market value.

(c) The Rio Grande Regional Water Authority shall make the calculation:

(1) without charging any of the parties involved; and

(2) using 100 percent of the value of monetary exchanges, not in-kind exchanges.

Sec. 49.510. ACCOUNTING FOR SALE OF WATER RIGHTS. A district shall maintain an accounting of money received from the sale of water rights under this subchapter.

Sec. 49.511. CAPITAL IMPROVEMENTS. A district shall designate at least 75 percent of the proceeds from the sale of water rights for capital improvements in the district.

Sec. 49.512. MAP OF SERVICE AREA. (a) In this section, "outer boundaries of a district" means district boundaries without considering any exclusion of land from inside the district.

(b) Each municipal water supplier that has a certificate of convenience and necessity service area in the outer boundaries of a district shall file a map of the service area with the district.

(c) The municipal water supplier shall update the map and forward the map to the district when changes are made.

(d) A district periodically shall provide to a municipal water supplier that serves territory in the district a copy of the district's map showing the outer boundaries of the district.

(e) A district may request from a municipal water supplier a map of the municipal suppliers's service area, and a municipal water supplier may request from the district a map of the district's outer boundaries. On request, the district and a municipal water supplier shall provide the map free of charge to each other at least one time each year. If the district or municipal water supplier receives more than one request a year for a map, the district or municipal water supplier may charge a reasonable fee for the map.

(b) The change in law made by this section applies only to a subdivision for which a plat or map has been recorded in the office of the county clerk of a county on or after the effective date of this Act. A subdivision for which a plat or map was recorded before the effective date of this Act is covered by the law in effect on the date the plat or map was recorded, and the former law is continued in effect for that purpose.

**Amendment No. 61**

Representative Flores offered the following amendment to Amendment No. 60:

Amend Amendment No. 60 by Gonzales to **CSSB 3** (page 99 of Prefiled Amendments packet) as follows:

(1) In the recital to the amendment (page 1, line 2) strike "section" and substitute "sections".

(2) At the end of the amendment (page 8, after line 14) add the following:

SECTION 2.\_\_\_\_. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0741 to read as follows:

Sec. 43.0741. ABOLITION OF CERTAIN WATER CONTROL AND IMPROVEMENT, WATER IMPROVEMENT, AND IRRIGATION DISTRICTS THAT DELIVER RAW WATER TO MUNICIPALITIES. (a) This section applies only to:

(1) a water control and improvement, water improvement, or irrigation district:

(A) at least 60 percent of the territory of which is located in a single municipality as a result of annexation or incorporation;

(B) that diverts raw water from the Rio Grande and in a 12-month period delivers at least 80 percent of that raw water to the municipality for municipal use; and

(C) that has no outstanding bonded indebtedness; and

(2) a municipality that receives raw water from a district described by Subdivision (1).

(b) A municipality may adopt an ordinance abolishing a district by a vote of at least two-thirds of the membership of the municipality's governing body if the governing body determines that:

(1) at least 80 percent of the raw water diverted by the district in any 12-month period was for municipal use by the municipality;

(2) the district has no outstanding bonded indebtedness;

(3) the services furnished and functions performed by the district can be furnished and performed by the municipality; and

(4) the abolition of the district is in the best interests of the residents and property of the municipality and the district.

(c) The voters of the municipality may protest the enactment or enforcement of the ordinance by filing a petition with the secretary of the municipality. The petition must be signed by a number of qualified voters of the

municipality that is equal to at least 10 percent of the number of voters who voted in the most recent election for municipal officers. The petition must be filed not later than the 30th day after the later of:

(1) the date the municipality finally approves the ordinance; or

(2) the date of publication of the ordinance, if the ordinance is published before it is scheduled to take effect.

(d) The secretary shall verify the signatures on a petition filed in accordance with Subsection (c) and present the verified petition to the governing body of the municipality at its next scheduled meeting.

(e) On receipt of a verified petition, the governing body of the municipality shall suspend the ordinance, and the municipality may not take an action under the ordinance.

(f) The governing body of the municipality shall reconsider the suspended ordinance at its next meeting. If the governing body does not repeal the ordinance, the governing body shall submit a proposition for or against the ordinance to the voters at the next municipal election or at a special election the governing body may order for that purpose. The ordinance does not take effect unless a majority of the voters voting in the election vote for the ordinance.

(g) The ordinance takes effect on:

(1) the expiration of the period for filing a petition under Subsection (c) if the voters of the municipality do not file a petition that meets the requirements of that subsection before the expiration of that period; or

(2) the approval of the ordinance at an election under Subsection (f).

(h) If the ordinance takes effect:

(1) the district is abolished;

(2) the property and other assets of the district vest in the municipality;

(3) the municipality becomes responsible for operating the district's facilities for the benefit of the district's existing customers and performing the services and functions that were performed by the district; and

(4) the municipality assumes all the debts, liabilities, and obligations of the district.

(i) A district that is abolished under this section shall provide its management and operational records to the municipality to ensure the orderly transfer of management and operational responsibility to the municipality.

(Hamilton in the chair)

Amendment No. 61 was adopted.

Amendment No. 60, as amended, was adopted.

### **Amendment No. 62**

Representative Callegari offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 109

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Chapter 64, Water Code, is repealed.

Amendment No. 62 was adopted.

**Amendment No. 63**

Representatives Branch, Patrick, Zedler, P. King, and Hamilton offered the following amendment to **CSSB 3**:

Floor Packet Page No. 110

Amend **CSSB 3** as follows:

(1) ADD a new SECTION to read as follows:

SECTION \_\_\_\_\_. Chapter 221, Water Code, is amended by adding Section 221.020 to read as follows:

Sec. 221.020. SALE OF LOTS SUBJECT TO RESIDENTIAL AND COMMERCIAL LEASES. (a) The legislature finds that to insure the authority has sufficient capital to manage and preserve its water resources, the authority should sell certain lands that are not used to develop and manage the water resources of the authority. In this section:

(1) "1980 FERC Order Amending License" means the modifying order issued by the Federal Energy Regulatory Commission in 1980 that removed from the project land the lots that were leased by the authority to residential and commercial leaseholders.

(2) "Buffer zone" means the strip of land abutting the lake as identified and defined in the FERC order.

(3) "Commercial leaseholder" means a person who, on or before the effective date of the Act enacting this section, leases a lot in the immediate vicinity of the lake from the authority to sublet for predominantly residential purposes, including a lot:

(A) subject to a lease that commenced on or before January 1, 1983;

(B) located on an island surrounded by water; and

(C) on which residential and other improvements have been constructed.

(4) "FERC order" means the order of the Federal Energy Regulatory Commission issuing a license to the authority for project number 1490-003-Texas.

(5) "Lake" means Possum Kingdom Lake.

(6) "Project land" means the land identified and defined by the FERC order. Except as provided by this section, project land does not include the lots offered for sale under this section to residential and commercial leaseholders.

(7) "Residential leaseholder" means a person who, on or before the effective date of the Act enacting this section, leases a lot in the immediate vicinity of the lake from the authority for residential purposes. The term does not include a person who temporarily leases project land.

(b) A leaseholder may purchase the leased lot as provided by this section.

(c) Not later than the 90th day after the effective date of the Act enacting this section, the authority shall provide to residential and commercial leaseholders a form for an application of intent to purchase the lot subject to the leaseholder's lease. A leaseholder who desires to purchase a lot must submit to the authority a completed application that includes the appraisal required under Subsection (d) and the survey required under Subsection (e). Until February 1, 2008, the

authority shall give preference in processing applications to any applicant who receives an ad valorem tax exemption under Section 11.13, Tax Code, for a structure on the applicant's lot. The authority shall accept and process applications in the order in which they are received.

(d) Before September 1, 2017, a lot sold under this section must be sold for not less than the fair market value of the unencumbered fee simple estate with an offset of 10 percent for the value of the leasehold interest. On or after September 1, 2017, a lot sold under this section must be sold for not less than the fair market value of the unencumbered fee simple estate. The purchaser shall select a disinterested appraiser certified under Chapter 1103, Occupations Code, to determine the fair market value as of January 1 of the year in which the application of intent to purchase is submitted to the authority. The appraiser shall complete the appraisal and send the completed appraisal to the prospective purchaser not later than the 60th day after the date of the appraiser's selection. If an appraisal is disputed, the General Land Office shall review the appraisal for compliance with the most recently published Uniform Standards of Professional Appraisal Practice and for mathematical accuracy. If the authority disputes the fair market value determined by the appraisal, the authority may employ another disinterested appraiser who satisfies the requirements of this subsection to conduct a second appraisal. The second appraisal must be completed and sent to the authority and to the prospective purchaser not later than the 60th day after the date the authority rejects the initial appraisal. If the purchaser rejects the value determined by the second appraiser, the two appraisers shall meet and attempt to reach an agreement on the fair market value not later than the 30th day after the date the purchaser receives the authority's appraisal. If the two appraisers fail to reach agreement on or before the 10th day after the date of the meeting, not later than the 20th day after the date of the meeting the authority shall request that the comptroller appoint a disinterested third appraiser who satisfies the requirements of this subsection to reconcile the two previous appraisals. The third appraiser's report must be completed on or before the 30th day after the date of the third appraiser's appointment, and the fair market value determined by the third appraiser is final and binding on all parties. The appraisal costs must be paid by the person who requests the appraisal, except that the purchaser and the authority shall each pay one-half of the cost of the third appraisal if a third appraisal is necessary. An appraisal may not include consideration of a freeze or other suspension of lease rate increases for the homestead of a person who is 65 years of age or older and may not take into account the value of any improvements constructed on the lot or over the water that are the property of the prospective purchaser. If the closing of the sale of the lot does not occur on or before the 60th day after the date on which the fair market value is agreed to or is determined by the third appraiser, the application of intent to purchase is terminated.

(e) A prospective purchaser of a lot is responsible for:

(1) a survey of the lot that:

(A) is prepared by a licensed state land surveyor or a registered professional land surveyor;

(B) is dated not earlier than the date one year before the effective date of the Act enacting this section, except that a survey dated before that date is considered acceptable if accompanied by an affidavit signed by the leaseholder stating facts that indicate that:

(i) improvements have not been made to the property that would change the submitted survey; and

(ii) the survey would be acceptable to a title company for purposes of issuing a policy of title insurance; and

(C) includes a depiction of the lot that shows the 1,000-foot contour line, project land as it crosses the property, property boundaries, structures on the property, and any roads that cross the property;

(2) all reasonable, normal, customary, and documented closing costs associated with the sale of the lot; and

(3) if applicable, reasonable and necessary costs incurred and documented by the authority for Federal Energy Regulatory Commission approval of the sale of the lot to be purchased under this section.

(f) A lease in effect on the date an application of intent to purchase a lot is submitted under Section (c) remains in effect until the sale of the lot is completed or terminated. A lease of the lot expires on the date the sale of the lot is completed.

(g) If a leaseholder decides not to purchase the lot, the leaseholder shall submit a purchase application form waiver and indicate on the form that the leaseholder wishes to continue leasing the lot and to affirm the understanding that the right of a prospective purchaser, transferee, heir, or devisee to purchase the lot must be exercised on transfer of the property to any party not subject to the lease existing on the date of the purchase application form waiver. If the leaseholder of record is a partnership, family trust, or other legal entity other than an individual, the right to purchase a lot must be exercised on a change in the majority ownership of the entity. The waiver shall be memorialized in a written affirmation signed by all parties to the existing lease, or any subsequent lease, and appended as an amendment to the lease. If a leaseholder submits a waiver under this subsection, on the sale of the lot, the fair market value of the lot must be determined as of January 1 of the year in which the property is sold or transferred.

(h) A lot sold under this section is subject to all existing restrictions, including any applicable easements, placed on the lot by the Federal Energy Regulatory Commission under the FERC order, if any, but does not include the terms of the existing lease except as provided by this section.

(i) A residential lot sold under this section may be used only for a single-family residential structure and related facilities and only for normal residential, noncommercial, recreational use and enjoyment.

(j) If applicable, a commercial leaseholder that purchases a lot and sublets the lot for residential use shall comply with Section 94.204, Property Code. A lot subject to a commercial lease that is purchased under this section must continue to be used for the purpose in effect at the time of the purchase unless the lot is subdivided for single-family residential use.



(k) The sale of a lot under this section does not include any buffer zone that abuts the lot and is part of the project land. Subject to approval by the Federal Energy Regulatory Commission, the authority shall grant a person who purchases a lot an easement for use of the buffer zone that abuts the lot. The authority shall retain ownership of the buffer zone and exercise control over the buffer zone consistent with the FERC order. An easement granted to a purchaser must be limited to uses permitted under the terms of the FERC order and the authority's shoreline management plan and must be consistent with the use allowed since the implementation of the buffer zone.

(l) Except as provided by this subsection, the owner of a lot sold under this section shall pay the authority any reasonable fees set by the authority for any services the authority provides. The board shall set the fees annually when it adopts the operating budget for the authority. The owner of a lot is not obligated to accept or pay for services from the authority that are provided by another public or private entity.

(m) If an existing road on land owned by the authority connects a county road to a lot sold under this section, the authority may not deny a person access to that road. The authority does not have a duty to maintain any road.

(n) A purchaser of a lot under this section shall comply with:

(1) the authority's "Shoreline Management Plan and Customer Guide," and any amendments to that document to the extent the plan applies to the buffer zone and any other land retained by the authority;

(2) the applicable rules, regulations, and orders of the Federal Energy Regulatory Commission;

(3) the authority's "Regulations for Governance for Brazos River Authority Lakes and Associated Land," as published on the authority's Internet website; and

(4) other rules and regulations adopted by the authority regarding conduct on and use of the lake or land owned by the authority.

(o) To maintain the quality of the lake's water and of the environment in the lake's vicinity, a person who purchases a lot under this section agrees to:

(1) obtain the written consent of the authority before altering the natural drainage of the terrain within the project land or buffer zone;

(2) comply with any local, state, or federal laws related to water quality or the environment, including laws governing toxic wastes and hazardous substances;

(3) pay the cost of obtaining any Federal Energy Regulatory Commission approvals required for improvements not present on the lot on the date sold that are the property of the purchaser and on project land; and

(4) connect to and use, at the lot owner's expense, any wastewater treatment system that becomes available to lot owners and lessees, not later than 24 months after the system becomes available.

(p) A leaseholder who purchases a lot under this section may not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifact, relic, remains, or object of

antiquity. If such an item is discovered on the lot, the lot owner shall immediately notify the authority and protect the site and the item from further disturbance until the authority gives written clearance to proceed.

(q) A leaseholder who purchases a lot under this section agrees that the water level in the lake varies and that the authority is not responsible for keeping the lake full.

(r) The authority reserves the right to modify Morris Sheppard (Possum Kingdom) Dam so that the water surface elevation of the lake is raised from 1,000 feet above mean sea level to 1,015 feet above mean sea level. The authority is not responsible or liable for any personal injury or damage to a lot or improvements on the lot caused by the resultant increase in the water level or caused by natural flooding.

(s) The authority reserves the right of ingress and egress for a person authorized by the authority, including an authority agent or employee, over and across a lot purchased under this section for all reasonable purposes of the authority, including the construction of any roads, drainage facilities, and power, water, gas, and other utility mains and lines that the authority considers necessary. The authority agrees to repair, or compensate the lot owner for, any damage it causes under this subsection and to compensate the lot owner for any property it takes under this subsection.

(t) The authority reserves its interest in all oil, gas, and other minerals in and under the real property sold under this section.

(u) The authority shall use a portion of the proceeds from the sale of a lot under this section to bring to fruition plans for the development and operation of a public use campground, including sites to accommodate large recreational vehicles, within a park in close proximity to the east side of the lake. The park must preserve the area's natural landscape, be named in honor of John Graves, and serve as a gateway to the John Graves Scenic Riverway section of the Brazos River downstream from the lake. The remainder of the proceeds may be used for any authority purpose.

(v) If the owner of a lot sold under this section does not comply with this section, the authority may seek any available legal remedy.

(w) The following laws do not apply to the sale of a lot under this section:

(1) Chapters 232 and 272, Local Government Code;

(2) Section 49.226, Water Code; and

(3) Section 221.013, Water Code.

(x) In the event of a dispute arising under this section between the authority and a person who purchases a lot under this section, the prevailing party is entitled to recover court costs and any reasonable attorney's fees.

(y) A provision that applies to the purchaser of a lot under this section applies to any subsequent owner of the lot.

SECTION \_\_\_\_\_. Section 221.020, Water Code, as added by this Act, prevails to the extent that it conflicts with any other state law.

**Amendment No. 64**

Representative Branch offered the following amendment to Amendment No. 63:

Amend Floor Amendment No. 63 by Branch as follows:

(1) On page 5, amend proposed Subsection (g) as follows:

Between "purchaser" and "transferee", strike the comma and insert "or".

Between "transferee" and "to purchase", strike "heir or devisee".

(2) On page 6, amend proposed Subsection (g) as follows:

Between "form waiver" and ":", insert "unless the transferee is an heir or devisee".

After "property is sold or transferred", insert "If a lien holder acquires a leasehold estate through foreclosure, deed in lieu of foreclosure, voluntary surrender through bankruptcy, involuntary surrender through bankruptcy, or any other transfer that relates to a lien holder's rights, the lien holder is exempt from this subsection for five years after the date of acquisition of the leasehold estate. Any subsequent transfer of the leasehold estate by the lien holder to another party is exempt from this subsection, and the transferred lease continues in effect for the remainder of its term."

(3) On page 9, strike proposed Subsection (u), and replace with new proposed Subsection (u) as follows:

(u) The authority may use the proceeds from the sale of lots under this section for any authority purpose.

(4) Add the following appropriately ordered Subsection:

( ) The prospective purchaser at closing shall pay any indebtedness secured by a lien on the property or execute a document provided by the lien holder that grants the lien holder a lien on the fee simple estate in the lot that has the same priority as the lien in the leasehold estate. The prospective purchaser may not grant a purchase money lien on the fee simple estate in the lot without the express written consent of the holder of the lien on the leasehold estate in the lot.

(4) Add a new SECTION \_\_\_\_ as follows:

SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b) of this section, Section 221.020, Water Code, as added by this Act, takes effect September 1, 2007.

(b) Section 221.020(g), Water Code, as added by this Act, takes effect September 1, 2011.

Amendment No. 64 was adopted.

**AMENDMENT NO. 63 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE GATTIS: Representative Branch, you understand that this was a bill that came through committee and never made it out of committee, you understand that? It came down through Natural Resources.

REPRESENTATIVE BRANCH: Yes.

GATTIS: Several of us had some major concerns with this bill, but my understanding is that BRA and the property owners around here kind of negotiated an agreement, or a stalemate, I guess may be the best way to put it,

and I think we're all okay with this, but I just want to get some intent to avoid some future problems in this issue. You're not aware of any law in the State of Texas that requires BRA to sell their property unless they want to, is that your understanding?

BRANCH: That's right. It was taken 65 years ago by eminent domain, and it was for use of the Brazos River and maintaining flood control, then the reservoir, as I understand, the dam will never be able to come 15 feet higher. So what turned out to be potentially excess flood control land, has now turned into 30-year lease property with mixed types of uses from trailers to nice homes.

GATTIS: And initially this was flood land, but because they couldn't raise the dam level, they lease this out for fishing shacks and those types of things, but now we have, on some of these leases, half-million dollar homes. Is that your understanding?

BRANCH: That's my understanding, that's right.

GATTIS: And there's no requirement that BRA sell this land to those people who have these homes on this leasehold estate, is that correct?

BRANCH: Not to my knowledge.

GATTIS: In fact, this bill that came through the legislature, that now you've added as an amendment, is what would allow BRA to sell this property, to sell these lease hold estates, sell the property actually to the people that have these homes, or these trailers, on this property. Is that your understanding?

BRANCH: That's right, and hopefully, the way I see it, it's a win-win, not only for the river authority, which affects, as you know, 65 counties and one of our major rivers, but also it will be good for the communities and the school districts, and the municipalities and the counties around Possum Kingdom Lake, and can attract more capital, more investment, and help out those communities.

GATTIS: One of the disagreements throughout this process has continually been, what is the price if BRA decides to sell this property? What would be the price? The current law is a little bit differing on what exactly that price would be. Some believe that you would have to consider the leasehold estate; BRA argues that you don't. That has been the contention that has walked us all the way through this process, but what we have before us: your amendment, and your amendment to the amendment, your amendment as amended, is the compromise that BRA has agreed to and these leasehold interests have agreed to, and said, "alright, we will agree, even though we don't have to, we will agree to this bill, we will agree to sell this property, but we will only agree to that if it's sold under the conditions, and under the price formula that is found in here," which is that they will sell it under the value of a leasehold-free, simple estate.

BRANCH: Fair market value, not considering the leasehold that's encumbering the property.

GATTIS: Right.

BRANCH: And then a 10 percent discount. The 10 percent discount is there because you're not considering the encumbered lease, and you're also taking into consideration all the investment that these land holders have put in, in terms of roads, improvements, and water facilities, etc. So that was the compromise.

GATTIS: So the compromise is an unencumbered, fee simple estate that's a fair market value of that, unencumbered.

BRANCH: Without improvements, right.

GATTIS: Less 10 percent, and that 10 percent is to take into consideration the fact that some of these leases have flipped multiple times. People have paid in excess of what the actual lease value is from BRA, the fact that they've improved some of these lands, the fact that they have roads in and out of there as well, and that 10 percent discount is meant to reflect those types of investments, and that is the agreement.

BRANCH: Right, and hopefully this will ward off litigation, and the mess that's been created out there by really unintended consequences of having 30-year leases and now people putting dwellings on these that have value in excess of that, and now we're in a situation where you can't attract serious capital investment because you have 30-year leases.

GATTIS: The whole intent of this bill is to avoid litigation, that this is the agreement, this is the law under which we're going to sell these, this is the equation under which we will sell them., Everybody is in agreement to that, so this should avoid litigation on this matter.

BRANCH: Exactly right, and it will also help those communities draw capital and economic development to that region of Texas. It is also to help people in your community by putting more cash, a huge infusion of cash, into the Brazos River, which will allow for more water development throughout Texas, which is what this bill is about.

### **REMARKS ORDERED PRINTED**

Representative Gattis moved to print remarks between Representative Branch and Representative Gattis.

The motion prevailed.

REPRESENTATIVE O'DAY: Representative Branch, what happens upon the time if someone does not want to purchase their property?

BRANCH: As you may know, Representative O'Day, originally the idea was that we'd continue these leases, perhaps with a new lease form. The proposal was, no, let's have people be able to buy the fee simple. There's been movement back and forth, and as I mentioned, perhaps you heard at the outset, that the amendment to the amendment, the compromise that's been worked out, will allow for transfer property to an heir or devisee, one. Two, the transfer to a lien holder, so if you have a foreclosure by a financial institution or a bankruptcy, etc., they don't have to buy the land, they can just take possession of the leasehold interest, and that the section doesn't take effect until 2011.

O'DAY: In this arrangement, didn't they clear to the purchasers or in the agreement that the BRA is going to raise leases on what's currently there if they do not purchase the land?

BRANCH: That's my understanding, yes. That was one of the reasons the whole issue came about and it was not only the lease rate but also the form of the lease.

O'DAY: Is there any force for the current lessees to have to sell the property or to purchase the property—is there a requirement for any of the lessees to have to purchase the property?

BRANCH: Not to my knowledge.

O'DAY: Okay, I didn't think so either.

### REMARKS ORDERED PRINTED

Representative O'Day moved to print remarks between Representative Branch and Representative O'Day.

The motion prevailed.

Amendment No. 63, as amended, was adopted.

#### Amendment No. 65

Representative Alonzo offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 120

Amend **CSSB 3** (house committee printing) in Article 2 of the bill by adding the following appropriately numbered SECTION to that article and renumbering the other SECTIONS of that article accordingly:

SECTION 2.\_\_\_\_. Chapter 68, Education Code, is amended by adding Subchapter B to read as follows:

#### SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 68.21. SUSTAINABLE WATER SUPPLY RESEARCH CENTER.

(a) In this section, "center" means the Sustainable Water Supply Research Center.

(b) The board may establish and operate the Sustainable Water Supply Research Center as part of The University of Texas at Arlington.

(c) If established, the center shall:

(1) conduct, sponsor, or direct multidisciplinary research directed toward:

(A) promoting water conservation through development of a sustainable water supply for this state; and

(B) mitigating the effect of diminishing water supplies on the economy and people of this state; and

(2) conduct a comprehensive, interdisciplinary instructional program in water conservation with emphasis on development of a sustainable water supply at the graduate level and offer undergraduate courses for students interested in water conservation and sustainable water supply development.

(d) The organization, control, and management of the center are vested in the board.

(e) The center may enter into an agreement or may cooperate with a public or private entity to perform the research functions of the center.

(f) The board may solicit, accept, and administer gifts and grants from any public or private source for the use and benefit of the center.

Amendment No. 65 was adopted. (The vote was reconsidered later today, and Amendment No. 65, as amended, was adopted.)

**Amendment No. 60 - Motion to Reconsider Vote**

Representative T. King moved to reconsider the vote by which Amendment No. 60, as amended, was adopted.

A record vote was requested.

The motion to reconsider was lost by (Record 1593): 61 Yeas, 79 Nays, 2 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Cook, R.; Crownover; Darby; Driver; Eissler; Elkins; Flynn; Gallego; Guillen; Hancock; Hardcastle; Harless; Harper-Brown; Herrero; Hilderbran; Homer; Hopson; Howard, C.; Hughes; Jackson; Jones; King, P.; King, S.; King, T.; Kuempel; Latham; Laubenberg; Macias; McCall; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Otto; Patrick; Paxton; Phillips; Pickett; Raymond; Smith, T.; Smith, W.; Swinford; Taylor; Truitt; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Corte; Crabb; Creighton; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farabee; Farias; Farrar; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hartnett; Heflin; Hernandez; Hill; Hochberg; Hodge; Howard, D.; Krusee; Lucio; Madden; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno; Naishtat; Noriega; Oliveira; Olivo; Orr; Ortiz; Parker; Peña; Pierson; Pitts; Puente; Quintanilla; Riddle; Ritter; Rodriguez; Rose; Smithee; Solomons; Strama; Straus; Talton; Thompson; Van Arsdale; Vaught; Veasey; Villarreal; Vo.

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

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Branch; Flores; Isett; Keffer; Leibowitz; Miles; Turner.

(Woolley in the chair)

**Amendment No. 66**

Representative Gallego offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 122

Amend **CSSB 3** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 365, Health and Safety Code, is amended by adding Section 365.035 to read as follows:

Sec. 365.035. PROHIBITION ON POSSESSING GLASS CONTAINERS WITHIN BOUNDARY OF STATE-OWNED RIVERBED; PENALTIES. (a) A person commits an offense if the person possesses a glass container within the boundaries of a state-owned riverbed. An offense under this section is a Class C misdemeanor unless it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this section, in which case the offense is a Class B misdemeanor.

(b) It is a defense to prosecution under Subsection (a) that the person who possessed the glass container:

(1) did not transport the glass container into the boundaries of the riverbed; or

(2) possessed the glass container only for the purpose of lawfully disposing of the glass container in a designated waste receptacle.

(c) It is an exception to the application of Subsection (a) that the person possessed the glass container only for the purpose of water sampling or conducting scientific research as authorized by:

(1) a governmental entity;

(2) a utility as defined by Section 11.004, Utilities Code; or

(3) a retail public utility as defined by Section 13.002, Water Code.

#### **Amendment No. 67**

Representative Gallego offered the following amendment to Amendment No. 66:

Amend Amendment No. 66 by Gallego to **CSSB 3**, (page 122, lines 21 through 29 of the prefiled amendments packet) by striking added Subsection (c), Section 365.035, Health and Safety Code, and substituting the following:

(c) It is an exception to the application of Subsection (a) that the person possessed the glass container only for the purpose of water sampling or conducting scientific research:

(1) as authorized by:

(A) a governmental entity;

(B) a utility as defined by Section 11.004, Utilities Code; or

(C) a retail public utility as defined by Section 13.002, Water Code;

or

(2) as necessary to comply with state or federal requirements.

Amendment No. 67 was adopted.

Amendment No. 66, as amended, was adopted.

#### **Amendment No. 68**

Representative Creighton offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 123

Amend **CSSB 3** (house committee printing) as follows:

(1) In ARTICLE 2 of the bill, add the following appropriately numbered SECTION and renumber subsequent SECTIONS of that ARTICLE accordingly:



SECTION 2. \_\_\_\_\_. The change in law made by this article to Section 16.315, Water Code, takes effect September 1, 2007, but only if Article 4 of this Act does not take effect.

(2) Between ARTICLES 3 and 4 of the bill (page 63, between lines 17 and 18), insert the following new ARTICLE and renumber the subsequent ARTICLES of the bill accordingly:

ARTICLE 4. TRANSFER OF RESPONSIBILITY FOR THE NATIONAL FLOOD INSURANCE PROGRAM FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY TO THE TEXAS WATER DEVELOPMENT BOARD AND ADMINISTRATION AND FUNDING OF THE PROGRAM

SECTION 4.01. Section 251.004, Insurance Code, is amended to read as follows:

Sec. 251.004. DEPOSIT OF MAINTENANCE TAXES. (a) Except as provided by Subsection (b), maintenance ~~[Maintenance]~~ taxes collected under this subtitle shall be deposited in the general revenue fund and reallocated to the Texas Department of Insurance operating account.

(b) Each state fiscal year, the comptroller shall reallocate to the floodplain management account established under Section 16.3161, Water Code, the first \$3.05 million of the maintenance taxes collected under Chapter 252 and deposited in the general revenue fund.

SECTION 4.02. Subsection (a), Section 5.013, Water Code, is amended to read as follows:

(a) The commission has general jurisdiction over:

(1) water and water rights including the issuance of water rights permits, water rights adjudication, cancellation of water rights, and enforcement of water rights;

(2) continuing supervision over districts created under Article III, Sections 52(b)(1) and (2), and Article XVI, Section 59, of the Texas Constitution;

(3) the state's water quality program including issuance of permits, enforcement of water quality rules, standards, orders, and permits, and water quality planning;

(4) the determination of the feasibility of certain federal projects;

(5) the adoption and enforcement of rules and performance of other acts relating to the safe construction, maintenance, and removal of dams;

(6) conduct of the state's hazardous spill prevention and control program;

(7) the administration of the state's program relating to inactive hazardous substance, pollutant, and contaminant disposal facilities;

(8) the administration of a portion of the state's injection well program;

(9) the administration of the state's programs involving underground water and water wells and drilled and mined shafts;

(10) the state's responsibilities relating to regional waste disposal;

(11) the responsibilities assigned to the commission by Chapters 361, 363, 382, and 401, Health and Safety Code;

(12) ~~[the administration of the national flood insurance program;~~

~~[(13)]~~ administration of the state's water rate program under Chapter 13 of this code; and

(13) ~~[(14)]~~ any other areas assigned to the commission by this code and other laws of this state.

SECTION 4.03. Subsection (a), Section 6.012, Water Code, is amended to read as follows:

(a) The board has general jurisdiction over:

- (1) the development of a statewide water plan;
- (2) the administration of the state's various water assistance and financing programs including those created by the constitution; ~~and~~
- (3) the administration of the National Flood Insurance Program; and
- (4) other areas specifically assigned to the board by this code or other law.

SECTION 4.04. Section 16.314, Water Code, is amended to read as follows:

Sec. 16.314. COOPERATION OF BOARD ~~[COMMISSION]~~. In recognition of the necessity for a coordinated effort at all levels of government, the board ~~[commission]~~ shall cooperate with the Federal Emergency Management Agency in the planning and carrying out of state participation in the National Flood Insurance Program; however, the responsibility for qualifying for the National Flood Insurance Program shall belong to any interested political subdivision, whether presently in existence or created in the future.

SECTION 4.05. Section 16.315, Water Code, is amended to read as follows:

Sec. 16.315. POLITICAL SUBDIVISIONS; COMPLIANCE WITH FEDERAL REQUIREMENTS. All political subdivisions are hereby authorized to take all necessary and reasonable actions that are not less stringent than ~~to~~ ~~comply with~~ the requirements and criteria of the National Flood Insurance Program, including but not limited to:

- (1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
- (2) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;
- (3) assisting in minimizing damage caused by floods;
- (4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (5) engaging in floodplain management, ~~and~~ adopting and enforcing permanent land use and control measures that are not less stringent than those ~~[consistent with the criteria]~~ established under the National Flood Insurance Act, and providing for the imposition of penalties on landowners who violate this subchapter or rules adopted or orders issued under this subchapter;

(6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director designates, of such property;

(7) consulting with, giving information to, and entering into agreements with the Federal Emergency Management Agency for the purpose of:

(A) identifying and publishing information with respect to all flood areas, including coastal areas; and

(B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;

(8) cooperating with the director's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(9) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;

(10) purchasing, leasing, and receiving property from the director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the board [~~commission~~];

(12) satisfying criteria adopted and promulgated by the board [~~commission~~] pursuant to the National Flood Insurance Program;

(13) adopting permanent land use and control measures with enforcement provisions that are not less stringent than [~~which are consistent with~~] the criteria for land management and use adopted by the director;

(14) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;

(15) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and

(16) collecting reasonable fees to cover the cost of administering a local floodplain management program.

SECTION 4.06. Section 16.316, Water Code, is amended to read as follows:

Sec. 16.316. COORDINATION OF LOCAL, STATE, AND FEDERAL PROGRAMS BY BOARD [~~COMMISSION~~]. (a) The board [~~commission~~] shall aid, advise, and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(b) Pursuant to the National Flood Insurance Program and state and local efforts complementing the program, the board [~~commission~~] shall aid, advise, and cooperate with political subdivisions, the Texas Department of Insurance, and the Federal Emergency Management Agency when aid, advice, and cooperation are requested or deemed advisable by the board [~~commission~~].

(c) The aforementioned aid may include but is not necessarily limited to:

(1) coordinating local, state, and federal programs relating to floods, flood losses, and floodplain management;

(2) evaluating the present structure of all federal, state, and political subdivision flood control programs within or adjacent to the state, including an assessment of the extent to which public and private floodplain management activities have been instituted;

(3) carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(4) evaluating all available engineering, hydrologic, and geologic data relevant to flood-prone areas and flood control in those areas; ~~and~~

(5) carrying out floodplain studies and mapping programs of floodplains, flood-prone areas, and flood-risk zones;

(6) encouraging the Federal Emergency Management Agency to evaluate flood-prone areas by river basin and river system;

(7) coordinating the use of federal, state, and local grant money;

(8) making floodplain maps and floodplain information accessible to the public, including in an electronic format through the board's Internet website; and

(9) maintaining at least one staff member in each of the board's field offices to encourage participation in the National Flood Insurance Program by performing education and outreach and coordinating the efforts of political subdivisions.

(d) On the basis of such studies and evaluations, the board [~~commission~~], to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all floodplain areas, including the state's coastal area, which have flood hazards, and where possible aid the federal government in identifying and establishing flood-risk zones in all such areas.

SECTION 4.07. Subchapter I, Chapter 16, Water Code, is amended by adding Section 16.3161 to read as follows:

Sec. 16.3161. FLOODPLAIN MANAGEMENT ACCOUNT. (a) The floodplain management account is a special fund in the state treasury outside the general revenue fund. The fund is composed of:

(1) money deposited to the credit of the account under Section 251.004, Insurance Code;

(2) money directly appropriated to the board; and

(3) money from gifts or grants from the United States government, local or regional governments, private sources, or other sources.

(b) The account shall be administered by the board in accordance with this section.

(c) The board may use the account to fund the performance of the board's functions under Section 16.316.

(d) The board may invest, reinvest, and direct the investment of any available money in the account as provided by law for the investment of money under Section 404.024, Government Code.

SECTION 4.08. Section 16.317, Water Code, is amended to read as follows:

Sec. 16.317. COOPERATION OF TEXAS DEPARTMENT OF INSURANCE. Pursuant to the National Flood Insurance Program, the Texas Department of Insurance shall aid, advise, and cooperate with political subdivisions, the board [~~commission~~], and the Federal Emergency Management Agency when such aid, advice, and cooperation are requested or deemed advisable by the Texas Department of Insurance.

SECTION 4.09. Section 16.318, Water Code, is amended to read as follows:

Sec. 16.318. RULES. Political subdivisions which qualify for the National Flood Insurance Program, the Texas Department of Insurance, and the board [~~commission~~] may adopt and promulgate reasonable rules which are necessary for the orderly effectuation of the respective authorizations herein.

SECTION 4.10. (a) Not later than January 1, 2008:

(1) all powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the Texas Commission on Environmental Quality that relate primarily to the administration of the National Flood Insurance Program are transferred to the Texas Water Development Board;

(2) all rules, policies, forms, procedures, and decisions of the Texas Commission on Environmental Quality that relate primarily to the administration of the National Flood Insurance Program are continued in effect as rules, policies, forms, procedures, and decisions of the Texas Water Development Board, until superseded by a rule or other appropriate action of the Texas Water Development Board; and

(3) any investigation, complaint, action, contested case, or other proceeding involving the Texas Commission on Environmental Quality that relates primarily to the administration of the National Flood Insurance Program is transferred without change in status to the Texas Water Development Board, and the Texas Water Development Board assumes, without a change in status, the position of the Texas Commission on Environmental Quality in any investigation, complaint, action, contested case, or other proceeding that relates primarily to the administration of the National Flood Insurance Program involving the Texas Commission on Environmental Quality.

(b) The transfer of the powers and duties of the Texas Commission on Environmental Quality that relate primarily to the administration of the National Flood Insurance Program to the Texas Water Development Board does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, a penalty, forfeiture, or

punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Texas Commission on Environmental Quality.

SECTION 4.11. This article takes effect September 1, 2007, but only if before that date the 80th Legislature appropriates at least \$6.1 million to the Texas Water Development Board for the state fiscal biennium beginning September 1, 2007, specifically for the purpose of administering the National Flood Insurance Program. If before that date the 80th Legislature does not appropriate at least that amount to the Texas Water Development Board for that state fiscal biennium specifically for that purpose, this article has no effect.

Amendment No. 68 was adopted.

### **Amendment No. 69**

Representative Guillen offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 133

Amend **CSSB 3** by inserting the following appropriately numbered Articles to the bill and renumbering subsequent Articles of the bill accordingly:

#### ARTICLE \_\_\_\_ REGULATING CERTAIN SUBDIVISIONS

SECTION \_\_\_\_ .01. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), (f), (h), and (i) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j) [~~Subsection (e)~~], an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989[~~or~~

~~[(4) the municipal authority responsible for approving plats issues a certificate stating that:~~

~~[(A) the land:~~

~~[(i) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:~~

~~[(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2);~~

~~[(ii) is located in a subdivision in which the entity has previously provided service;~~

~~[(iii) is located outside the limits of the municipality;~~

~~[(iv) is located in a county to which Subchapter B, Chapter 232, applies; and~~

~~[(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:~~

~~[(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or~~

~~[(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:~~

~~[(i) water service is available within 750 feet of the subdivided land; or~~

~~[(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1); or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) [Subsection (e)(4)(A)] only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the entity a certificate described by Subsection (d) [(e)(4)(A)].

(f) [(e)] A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) [Subsection (e)(4)(A)] only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing [either]:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer [to the person requesting service] before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d)[, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable]; [or

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that [the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that] construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and



(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code. [May 1, 1997, or on or before September 1, 2005, as applicable.]

[(f) A person requesting service may obtain a certificate under Subsection (e)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.]

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider or developer for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) In this section:

(1) "Developer" has the meaning assigned by Section 232.021.

(2) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(3) [↔] "Subdivider" has the meaning assigned by Section 232.021.

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities pursuant to Chapter 366, Health and Safety Code.

SECTION \_\_\_\_\_.02. Section 232.021, Local Government Code, is amended by amending Subdivision (2) and adding Subdivisions (2-a), (2-b), and (6-a) to read as follows:

(2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or developer or a group of subdividers or developers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

(2-a) "Develop" means a structural improvement or man-made change to a lot intended for residential use undertaken to improve, enhance, or otherwise make suitable real property for purposes of sale, resale, or lease.

(2-b) "Developer" means a person who owns any interest in real property and directly or indirectly develops real property in the ordinary course of business or as part of a common promotional plan.

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION \_\_\_\_\_.03. Section 232.024(b), Local Government Code, is amended to read as follows:

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting [as required by this subsection. The restrictive covenant shall prohibit] the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of [qualifies for insurance under] the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through 4127)].

SECTION \_\_\_\_\_.04. Section 232.028(b), Local Government Code, is amended to read as follows:

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

SECTION \_\_\_\_\_.05. Section 232.029, Local Government Code, is amended by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (k) and (l) to read as follows:

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections 232.028(b)(2) and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider or developer [~~to the person requesting service~~] by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A); [~~is located in a subdivision in which the utility has previously provided service; and~~]

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[=

[(i) on or before May 1, 1997; or

[(ii) on or before May 1, 2003; and

(D) has had adequate sewer services installed to service the lot or dwelling;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling~~[- if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42];~~ or

(3) ~~(2)~~ the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or developer or the subdivider's or developer's agent; and

(2) provides to the utility a certificate described by Subsection (c) ~~(e)(1)~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing either:

(1) ~~documentation containing:~~

~~(A)~~ a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider or developer before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);

(2) ~~to the person requesting service:~~

~~(i) before September 1, 1995; or~~

~~(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~(B)~~ a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun~~[-~~

~~(i) on or before May 1, 1997; or~~

~~(ii) on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);~~

(3) ~~[- if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or~~

~~(2)~~ a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after~~[-~~

~~(A) the property was sold or conveyed to that person:~~

~~(i) before] September 1, 1995, [-] or~~

~~(ii) before] September 1, 1999, as applicable under Subsection~~

(c); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code [if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

[(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

[(i) on or before May 1, 1997; or

[(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42].

(i) The prohibition established by this section shall not prohibit a water, sewer, ~~an~~ electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot ~~being~~ sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider or developer prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot ~~[which is located within a subdivision where the utility has previously established service]~~ and was subdivided by a plat approved prior to September 1, 1989.

(k) Except as provided by Subsection (l), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the political subdivisions with jurisdiction over the project or the approval of plats within the project area have approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(l) A utility may not serve any subdivided land with water utility connection or service under Subsection (k) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION \_\_\_\_ .06. Sections 232.031(a) and (b), Local Government Code, are amended to read as follows:

(a) Except as provided by Subsection (d), a subdivider or developer may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider or developer shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

SECTION \_\_\_\_\_.07. Sections 232.035(a) and (b), Local Government Code, are amended to read as follows:

(a) A subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or developer or an agent of a subdivider or developer may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or developer or an agent of the subdivider or developer has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

SECTION \_\_\_\_\_.08. Section 232.036(a), Local Government Code, is amended to read as follows:

(a) A subdivider or developer commits an offense if the subdivider or developer knowingly fails to file a plat or replat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

SECTION \_\_\_\_\_.09. Section 232.038(a), Local Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider or developer, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider or developer to return the purchase price of the property; and

(2) recover from the subdivider or developer:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

SECTION \_\_\_\_\_.10. Sections 232.040(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or developer or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or developer or agent of a subdivider or developer may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider or developer who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply to ~~if~~ a seller other than a subdivider, developer, or agent of a subdivider or developer ~~[resides on the lot]~~.

SECTION \_\_\_\_ .11. Section 232.029(f), Local Government Code, is repealed.

Amendment No. 69 was withdrawn.

### **Amendment No. 70**

Representative Guillen offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 149

Amend **CSSB 3** by inserting the following appropriately numbered Articles to the bill and renumbering subsequent Articles of the bill accordingly:

#### ARTICLE \_\_\_\_ . ZONING AROUND FALCON LAKE

SECTION \_\_\_\_ .01. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

#### SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state; and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

- (1) the project boundary line for Falcon Lake; and
- (2) the Rio Grande.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is composed of:

- (1) four residents of Zapata County, with one resident from each of the county commissioners precincts, appointed by that precinct's commissioner; and
- (2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two-year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1 of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Sec. 231.254. COMMISSION STUDY AND REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the commission shall, or on the lake planning commission's own initiative, the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioners court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioners court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioners court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the placement of water and sewage facilities, parks, and other public requirements.



Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

#### ARTICLE \_\_\_\_ . WATER DEVELOPMENT BOARD

SECTION \_\_\_\_ .01. Section 16.344, Water Code, is amended by adding Subsections (d), (e), (f), (g), (h), and (i) to read as follows:

(d) Notwithstanding Section 16.343(g) or Section 16.350(a), a political subdivision may temporarily continue to receive funds under Subchapter K, Chapter 17, if the political subdivision submits a request for temporary continuation of funding and the board determines that:

(1) the political subdivision's initial funding application and any amendments for a designated area were reviewed and approved by the board before January 1, 2007;

(2) withholding funds would result in an undue hardship for occupants of the property to be served by unreasonably delaying the provision of adequate water or wastewater services;

(3) withholding funds would result in inefficient use of local, state, or federal funds under the program;

(4) the political subdivision has committed to take the necessary and appropriate actions to correct any deficiencies in adoption or enforcement of the model rules within the time designated by the board, but not later than the 90th day after the date the board makes the determinations under this subsection;

(5) the political subdivision has sufficient safeguards in place to prevent the proliferation of colonias; and

(6) during the 30 days after the date the board receives a request under this subsection, the board, after consulting with the attorney general, secretary of state, and commission, has not received an objection from any of those entities to the request for temporary continuation of funding.

(e) In applying Subsection (d) to applications for increased financial assistance, the board shall only consider areas that were included in the initial application, except that the board may reconsider the eligibility of areas that were the subject of a facility plan in the initial application and that may be determined to be eligible based on criteria in effect September 1, 2005.

(f) The political subdivision shall take necessary and appropriate actions to correct any deficiencies in its adoption and enforcement of the model rules within the time period required by the board, not to exceed the 90-day period described by Subsection (d)(4), and provide evidence of compliance to the board. The board shall discontinue funding unless the board makes a determination based on the evidence provided that the political subdivision has demonstrated sufficient compliance to continue funding.

(g) Except as provided by Subsections (d)-(f), if the board determines that a county or city that is required to adopt and enforce the model rules is not enforcing the model rules, the board shall discontinue funding for all projects within the county or city that are funded under Subchapter K, Chapter 17.

(h) The board may not accept or grant applications for temporary funding under Subsection (d) after June 1, 2009.

(i) Subsections (d), (e), (f), (g), and (h) and this subsection expire September 1, 2009.

Amendment No. 70 was withdrawn.

### **Amendment No. 71**

Representative Gallego offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 155

Amend **CSSB 3** (House Committee Printing) in ARTICLE 2 of the bill by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of that article accordingly:

SECTION 2.\_\_\_\_. Subchapter D, Chapter 51, Natural Resources Code, is amended by adding Section 51.1215 to read as follows:

Sec. 51.1215. FEE ON GROUNDWATER EXPORTS; GROUNDWATER EXPORT MITIGATION ACCOUNT. (a) The commissioner shall impose a fee, in the amount determined by the commissioner for each gallon of groundwater exported, on the export of groundwater from public school land.

(b) The commissioner shall deposit the fee imposed under Subsection (a) to the credit of the groundwater export mitigation account. The groundwater export mitigation account is an account in the general revenue fund that may be appropriated only to the Texas Commission on Environmental Quality for the purposes of:

(1) mitigating damage to nearby landowners, municipalities, and other users of groundwater caused by the export of groundwater from public school land; and

(2) conducting independent scientific studies of water resources on state lands.

Representative Puente moved to table Amendment No. 71.

A record vote was requested.

The motion to table prevailed by (Record 1594): 85 Yeas, 49 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Delisi; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farabee; Flores; Flynn; Garcia; Gattis; Geren; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Howard, C.; Hughes; Isett; Jackson; Jones; King, P.; King, S.; Krusee; Kuempel; Laubenberg; Macias; Madden; McClendon; McReynolds; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Paxton; Peña; Phillips; Pitts; Puente; Riddle; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Villarreal; West; Woolley(C); Zedler; Zerwas.

Nays — Allen; Anchia; Aycock; Bolton; Burnam; Coleman; Cook, R.; Darby; Dunnam; Eiland; England; Escobar; Farias; Farrar; Frost; Gallego; Gonzales; Gonzalez Toureilles; Goolsby; Harless; Heflin; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Leibowitz; Mallory Caraway; Martinez; Martinez Fischer; McCall; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Pickett; Pierson; Quintanilla; Raymond; Ritter; Rodriguez; Thompson; Veasey; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Alonzo; Bailey; Creighton; Davis, Y.; Giddings; Hernandez; Hill; Keffer; King, T.; Latham; Lucio; Menendez; Merritt; Patrick.

### STATEMENTS OF VOTE

When Record No. 1594 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

I was shown voting yes on Record No. 1594. I intended to vote no.

S. King

**Amendment No. 72**

Representative Gallego offered the following amendment to **CSSB 3**:  
 Floor Packet Page No. 156

Amend **CSSB 3** (house committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of that article accordingly:

SECTION 2.\_\_\_\_. Subchapter A, Chapter 46, Parks and Wildlife Code, is amended by adding Section 46.0046 to read as follows:

Sec. 46.0046. OPTIONAL FEE FOR BENEFIT OF TEXAS WATER TRUST. (a) A person to whom a license or tag is issued under this chapter may pay an optional fee for the benefit of the Texas Water Trust established by Section 15.7031, Water Code, at the time the person pays the fees required before the license or tag is issued.

(b) The minimum amount for the optional fee is \$5. A person may pay more than the minimum amount.

(c) The department shall adopt a form for the fee that provides:

(1) spaces for a person to indicate the amount of the optional fee the person desires to pay, with spaces for the amounts of \$5, \$10, or "other amount"; and

(2) a short explanation of the purpose of the optional fee.

(d) The optional fee shall be deposited in the general revenue fund to the credit of the water bank account.

SECTION 2.\_\_\_\_. Section 15.703(a), Water Code, is amended to read as follows:

(a) The board may take all actions necessary to operate the water bank and to facilitate the transfer of water rights from the water bank for future beneficial use including but not limited to:

(1) negotiating a sale price and terms acceptable to the depositor and purchaser;

(2) maintaining a registry of water bank deposits and those water users in need of additional supplies;

(3) informing water users in need of additional supply of water rights available in the bank;

(4) encouraging water right holders to implement water conservation practices and deposit the right to use the conserved water into the bank;

(5) establishing requirements for deposit of a water right into the water bank including minimum terms for deposit;

(6) purchasing, holding, and transferring water or water rights in its own name;

(7) establishing regional water banks;

(8) acting as a clearinghouse for water marketing information including water availability, pricing of water transactions, environmental considerations, and potential buyers and sellers of water rights;

(9) preparing and publishing a manual on structuring water transactions;

(10) accepting, acquiring, and holding donations of water rights to meet instream, water quality, fish and wildlife habitat, or bay and estuary inflow needs;

(11) entering into contracts with persons to pay for feasibility studies or the preparation of plans and specifications relating to water conservation efforts or to estimate the amount of water that would be saved through conservation efforts; and

(12) other actions to facilitate water transactions.

SECTION 2. \_\_\_\_\_. Section 15.707, Water Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The water bank account is created as a special account in the water assistance fund and is composed of:

(1) money appropriated to the board for the program;

(2) fees collected by the board under this subchapter;

(3) money transferred to the account from the water assistance fund in Section 15.011(c) of this code;

(4) grants, contracts, gifts, or other such funds that the board may receive relating to this subchapter;

(5) money received from the transfer of water or water rights held in the board's name in the bank;

(6) optional fishing license and tag fees donated under Section 46.0046, Parks and Wildlife Code; and

(7) ~~(6)~~ interest earned on the investment of money in the account.

(c) The optional fishing license and tag fees donated to the account may be used only to acquire water rights from willing sellers to be held by the Texas Water Trust. In the event of a conflict between this section and an appropriations act, this section prevails.

(d) Section 403.095, Government Code, does not apply to the water bank account.

Amendment No. 72 was adopted.

**Amendment No. 73**

Representative Guillen offered the following amendment to **CSSB 3**:

Floor Packet Page No. 159

Amend **CSSB 3** (House Committee Printing) by adding the following appropriately numbered articles and renumbering subsequent articles accordingly:

ARTICLE \_\_\_\_\_. DUVAL COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_\_.01. Section 8808.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8808.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009 ~~2007~~:

(1) the district is dissolved on September 1, 2009 ~~2007~~, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Duval County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2012 [~~2010~~].

SECTION \_\_\_\_\_.02. Section 8808.023, Special District Local Laws Code, is amended by adding Subsection (d) to read as follows:

(d) Duval County may pay for any portion of the costs incident to the district's confirmation election.

SECTION \_\_\_\_\_.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

ARTICLE \_\_\_\_\_. STARR COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_\_.01. Subchapter A, Chapter 8803, Special District Local Laws Code, is amended by adding Section 8803.004 to read as follows:

Sec. 8803.004. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held before September 1, 2009:

(1) the district is dissolved on September 1, 2009, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Starr County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

SECTION \_\_\_\_\_.02. Chapter 8803, Special District Local Laws Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8803.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of this subchapter, five temporary directors shall be appointed as follows:

(1) the Starr County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precinct in which the temporary director resides; and

(2) the county judge of Starr County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board of directors of the district, the remaining temporary directors shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8803.024; or

(2) the date this chapter expires under Section 8803.004.

Sec. 8803.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Starr County Courthouse.

Sec. 8803.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to a confirmation election under this section.

(d) Starr County may pay for any portion of the costs incident to the district's confirmation election.

Sec. 8803.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8803.023, the temporary directors of the district become the initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8803.025.

(b) The initial directors for county precincts 2 and 3 serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8803.025, and the initial directors for county precincts 1 and 4 serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8803.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8803.024(b), serve a term expiring June 1 following that election.

Sec. 8803.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

SECTION \_\_\_\_.03. Sections 5, 6, 7, 8, 9, and 11, Chapter 451, Acts of the 79th Legislature, Regular Session, 2005, are repealed.

SECTION \_\_\_\_.04. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2007.

**Amendment No. 74**

Representative Talton offered the following amendment to Amendment No. 73:

Amend Floor Amendment No. 73 to **CSSB 3** as follows:

Insert the following Article and renumber the following Article and Sections:

ARTICLE \_\_\_\_ . ACTON MUNICIPAL UTILITY DISTRICT

SECTION 1. DEFINITION. In this Article, "district" means the Acton Municipal Utility District.

SECTION 2. VALIDATION. The following actions and annexations of the district are validated and confirmed as if the actions and annexations had been done as authorized by law:

(1) any resolution, order, or other act or attempted act of the board of directors of the district relating to an annexation by the district taken before the effective date of this Act; and

(2) any annexation by the district since its creation.

SECTION 3. VALIDATION OF BOUNDARIES. The following expanded boundaries of the district are validated and included within the legal boundaries of the district:

GARDENS OF DECORDOVA PARCEL ONE LEGAL DESCRIPTION:

All that certain land in Hood County, Texas known as the Gardens of DeCordova Parcel 1 and more particularly described as follows:

Parts of the WILLIAM BLAIR SURVEY, Abstract No. 45 and the W. H. CATHEY SURVEY, Abstract No. 98 situated in Hood County, Texas; embracing a portion of Tract One the 3-98811000 acres tract, and a portion of Tract Two the 7 acres tract, and all of Tract Three the 7-511100 acres described in the deed to Michael J. Brown and Jean Loydene Brown recorded in volume 1642, page 1 14 of the Real Records of Hood County, Texas and described by metes and bounds as follows:

Beginning at a 518" capped iron recovered for the northwest corner of said 3-98811000 acres tract in the south line of the 3-681100 acres tract described in the deed to Michael J. Brown and Jeane L. Brown recorded in volume 1648, page 585 of the said Real Records.

Thence south 75 degrees- 09 minutes- 10 seconds east 262-611100 feet to a 518" capped iron set at the beginning of a curve to the right having a radius of 238-001100 feet.

Thence northeasterly, along said curve to the right an arc length of 271-601100 feet, to a 518" capped iron set at its end and the beginning of a curve to the right having a radius of 305-001100 feet, the long chord of the said 271-601100 feet arc is north 41 degrees- 39 minutes- 08 seconds east 257-101100 feet.

Thence southeasterly, along said curve to the right an arc length of 466-851100 feet, to a 518" capped iron set at its end and the beginning of a curve to the left, having a radius of 113-001100 feet, the long chord of the said 466-851100 feet arc is south 61 degrees- 48 minutes- 58 seconds east 422-591100 feet.



Thence southeasterly, along said curve to the left an arc length of 140-571100 feet to a 518" capped iron set at its end, the long chord of the said 140-571100 feet arc bears south 53 degrees- 36 minutes- 23 seconds east 131-681100 feet.

Thence south 89 degrees 14 minutes- 23 seconds east 65-371100 feet to the east line of said Tract Two, and the west line of North Gate Road.

Thence south 00 degree- 45 minutes- 37 seconds west, along the said east line of Tract Two, and along the said west line of North Gate Road, 71-651100 feet to a 518" capped iron recovered for a common corner of the said Tract Two and Tract Three.

Thence south 00 degree- 05 minutes- 18 seconds west, along the east line of said Tract Three, and the said west line of North Gate Road, 391-241100 feet to a 518" capped iron recovered.

Thence south 00 degrees- 09 minutes- 45 seconds east, continuing along the east line of said Tract Three, and the said west line of North Gate Road, 168-501100 feet to a 518" capped iron recovered for the southeast corner of the said Tract Three, and the most easterly, northeast corner of Lot 1 of CHAMPION SUBDIVISION, a subdivision in Hood County, Texas according to the plat thereof recorded in Slide A- 364-A of the Plat Records of Hood County, Texas.

GARDENS OF DECORDOVA PARCEL TWO LEGAL DESCRIPTION:

All that certain land in Hood County, Texas known as the Gardens of DeCordova Parcel 2 and more particularly described as follows:

Parts of the WILLIAM BLAIR SURVEY, Abstract No. 45 and the W. H. CATHEY SURVEY, Abstract No. 98 situated in Hood County, Texas; embracing a part of Tract One the 3-98811000 acres tract, Tract Two the 7 acres tract described in the deed to Michael J. Brown and Jean Loydene Brown recorded in volume 1642, page 114 of the Real Records of Hood County, Texas and all of the 3-681100 acres tract described in the deed to Michael J. Brown and Jeane L. Brown recorded in volume 1648, page 585 of the said Real Records and described by metes and bounds as follows:

Beginning at a 5/8" capped iron recovered for the northwest corner of said Tract One the 3-98811000 acres tract in the south line of said 3-681100 acres tract.

Thence south 60 degrees-01 minute-30 seconds west, along the south line of said 3-681100 acres tract, 550-321100 feet to a 1/4" iron found for the southwest corner of said 3-681100 acres tract in the east line of Acton School Road.

Thence north 31 degrees-30 minutes-41 seconds west, along the west line of said 3-681100 acres tract for the east line of said Acton School Road, 30-35 1100 feet to a 1/2" capped iron found for the most westerly northwest corner of said 3-681100 acres tract and the southwest corner of the 5-791100 acres tract described in the deed to Daly R. Bales, Jr. recorded in volume 1602, page 691 of the said Real Records.

Thence north 60 degrees-09 minutes-58 seconds east, along the north line of said 3-681100 acres tract and the south line of said 5-791100 acres tract, 140-791100 feet to a 3/8" iron found for the southeast corner of said 5-791100 acres tract and the southwest corner of the 25 acres tract described in the deed to Sunnye Lee Keeley recorded in volume 1588, page 827 of the said Real Records.

Thence north 59 degrees-56 minutes-56 seconds east, continuing along the north line of said 3-681100 acres tract and the south line of said 25 acres tract, 790-61100 feet to a 3/4" smooth iron found for a re-entrant corner of said 3-681100 acres tract and the southeast corner of said 25 acres tract.

Thence north 33 degrees-19 minutes-20 seconds west, along the most northerly west line of said 3-6811 00 acres tract, 17-19 1100 feet to a 3/8" iron found for the most northerly northwest corner of said 3-681100 acres tract and being by deed call the northwest corner of the said W. H. CATHEY SURVEY and the southwest corner of the J. MINNETT SURVEY, Abstract No. 353 and being the southwest corner of the 20 acres tract described in the deed to Charles L. James recorded in volume 1021, page 86 of the said Real Records.

Thence north 58 degrees-45 minutes-04 seconds east, along the north line of said 3-681100 acres tract for the north line of said CATHEY SURVEY and the south line of said MINNETT SURVEY, 917-031100 feet to a 5/8" capped iron recovered.

Thence northeasterly and southeasterly, along the north line of said 3-681100 acres tract, the following:

north 84 degrees-50 minutes-34 seconds east 41-03 1100 feet to a 5/8" capped iron recovered; south 69 degrees-23 minutes-41 seconds east 21-02 1100 feet to a 5/8" capped iron recovered for the most easterly northeast corner of said 3-681100 acres tract for the west line of North Gate Road.

Thence southwesterly and southeasterly, along the east line of said 3-681100 acres tract to and along the east line of said Tract Two for the west line of said North Gate Road, the following:

south 15 degrees-52 minutes-04 seconds west 155-321100 feet to a 3/8" iron found; south 14 degrees-12 minutes-07 seconds west 552-991100 feet to a 3/8" iron found; south 00 degree- 45 minutes- 37 seconds west 171-551100 feet to a 5/8" capped iron set.

Thence north 89 degrees 14 minutes- 23 seconds west 65-37/100 feet to the beginning of a curve to the right having a radius of 113-001100 feet.

Thence northwesterly, along said curve to the right an arc length of 140-571100 feet to a 5/8" capped iron set at its end and the beginning of a curve to the left having a radius of 305-001100 feet, the long chord of the said 140-571100 feet arc is north 53 degrees- 36 minutes- 23 seconds west 131 -681100 feet.

Thence northwesterly, along said curve to the left an arc length of 466-851100 feet to a 5/8" capped iron set at its end and the beginning of a curve to the left having a radius of 238-001100 feet, the long chord of the said 466-851100 feet arc is north 61 degrees- 48 minutes- 58 seconds west 422-591100 feet.

Thence southwesterly, along said curve to the left an arc length of 271-601100 to a 5/8" capped iron set at its end, the long chord of said 271-601100 feet arc is south 41 degrees- 39 minutes- 08 seconds west 257-101100 feet.

Thence north 75 degrees- 09 minutes- 10 seconds west 262-611100 feet to the place of beginning and containing 8-87811000 acres.

**SECTION 4. FINDINGS RELATIVE TO BOUNDARIES.** The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

**SECTION 5. EFFECT ON LITIGATION.** This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

Amendment No. 74 was withdrawn.

Amendment No. 73 was withdrawn.

#### **Amendment No. 75**

Representative Dunnam offered the following amendment to **CSSB 3**:

Floor Packet Page No. 164

Amend **CSSB 3** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . MCLENNAN COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_ .01. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapter 8821 to read as follows:

CHAPTER 8821. MCLENNAN COUNTY GROUNDWATER CONSERVATION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8821.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the McLennan County Groundwater Conservation

District.

Sec. 8821.002. NATURE OF DISTRICT. The district is a groundwater conservation district in McLennan County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8821.003. CONFIRMATION ELECTION REQUIRED. (a) If the creation of the district is not confirmed at a confirmation election held before September 1, 2012:

(1) the district is dissolved on September 1, 2012, except that the district shall:

(A) pay any debts incurred;

(B) transfer to McLennan County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires on September 1, 2012.

(b) This section expires on September 1, 2012.

Sec. 8821.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of McLennan County, Texas.

Sec. 8821.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the legislative intent and purposes of Chapter 36, Water Code. A power granted by Chapter 36, Water Code, or this chapter shall be broadly interpreted to achieve that intent and those purposes.

Sec. 8821.006. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8821.007-8821.020 reserved for expansion]

SUBCHAPTER A-I. TEMPORARY PROVISIONS

Sec. 8821.021. APPOINTMENT OF TEMPORARY DIRECTORS.

(a) Not later than the 45th day after the effective date of this chapter, five temporary directors shall be appointed as follows:

(1) the McLennan County Commissioners Court shall appoint one temporary director from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of McLennan County shall appoint one temporary director who resides in the district to represent the district at large.

(b) If there is a vacancy on the temporary board, the authority who appointed the temporary director whose position is vacant shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the time the temporary directors become initial directors as provided by Section 8821.024; or

(2) the date this chapter expires under Section 8821.003.

Sec. 8821.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the McLennan County Courthouse.

Sec. 8821.023. CONFIRMATION ELECTION. (a) The temporary directors shall hold an election to confirm the creation of the district.

(b) Section 41.001(a), Election Code, does not apply to a confirmation election held as provided by this section.

(c) Except as provided by this section, a confirmation election must be conducted as provided by Sections 36.017(b), (c), and (e)-(i), Water Code, and the Election Code. Section 36.017(d), Water Code, does not apply to the confirmation election.

(d) The ballot for the election must be printed in accordance with the Election Code and provide for voting for or against the proposition: "The creation of the McLennan County Groundwater Conservation District."

(e) If a majority of the votes cast at the election are not in favor of the creation of the district, the temporary directors may call and hold a subsequent confirmation election. The subsequent election may not be held before the first anniversary of the date on which the previous election was held.

(f) The district may contract with the elections administrator of McLennan County to conduct an election under this section.

Sec. 8821.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8821.023, the temporary directors become the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve a term expiring on December 31 following the expiration of two years after the date of the confirmation election, and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve a term expiring on December 31 following the expiration of four years after the date of the confirmation election.

Sec. 8821.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2012.

[Sections 8821.026-8821.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8821.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring December 31 of each even-numbered year.

(c) A director may not serve more than three consecutive terms.

Sec. 8821.052. APPOINTMENT OF DIRECTORS. (a) The McLennan County Commissioners Court shall appoint one director from each of the four commissioners precincts and one director to represent the district at large.

(b) Except as provided by Subsection (c), to be eligible to serve as director at large, a person must be a registered voter in the district. To serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(c) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which appointed even though the change in boundaries places the person's residence outside the precinct for which the person was appointed.

[Sections 8821.053-8821.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8821.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state, including Chapter 36, Water Code, and Section 59, Article XVI, Texas Constitution, applicable to groundwater conservation districts.

Sec. 8821.102. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, if the well is not exempt under Section 36.117(b)(1), Water Code, to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8821.103. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section, the district may require any well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8821.104. ADOPTION OF RULES AND ISSUANCE OF PERMITS. Before the district adopts a management plan, the district may adopt rules and issue permits.

Sec. 8821.105. CONTRACTS WITH OTHER GOVERNMENTAL ENTITIES. The district and another governmental entity, including a river authority located in the district, may contract for the performance by that entity of a district function.

Sec. 8821.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 8821.107. DISTRICT TERRITORY REQUIREMENTS; DISSOLUTION OF DISTRICT. (a) On September 1, 2011, the district boundaries must include at least one county adjacent to McLennan County.

(b) As soon as practicable after September 1, 2011, the Texas Commission on Environmental Quality shall determine whether the district complies with Subsection (a).

(c) If the Texas Commission on Environmental Quality determines that the district does not comply with Subsection (a), the commission shall dissolve the district in accordance with Sections 36.304, 36.305, 36.307, 36.308, 36.309, and 36.310, Water Code, regardless of whether the district meets the criteria for dissolution under Section 36.304(a), Water Code.

(d) This section expires September 1, 2013.

[Sections 8821.108-8821.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8821.151. REVENUE. To pay the maintenance and operating costs of the district and to pay any bonds or notes issued by the district, the district may:

(1) assess fees for services or for water withdrawn from nonexempt wells; or

(2) solicit and accept grants from any private or public source.

Sec. 8821.152. FEES. The district may impose a user fee to pay for the creation and operation of the district, including permit hearings. The district may not impose a fee for agricultural use that is more than 20 percent of the rate for municipal use.

[Sections 8821.153-8821.200 reserved for expansion]

#### SUBCHAPTER E. DISSOLUTION

Sec. 8821.201. ELECTION FOR DISSOLUTION. (a) If the district has no outstanding bond or other long-term indebtedness, the district may be dissolved by a favorable vote of a majority of the registered voters of the district at an election held for that purpose.

(b) The board shall hold a dissolution election if the board receives a petition for dissolution signed by at least 50 percent of the registered voters in the district as computed by using the list of registered voters for McLennan County.

(c) If the district is dissolved under this section, the board shall:

(1) notify the Texas Commission on Environmental Quality and the secretary of state of the dissolution; and

(2) transfer title to any assets of the district to McLennan County.

SECTION \_\_\_\_\_.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

**Amendment No. 76**

Representative Anderson offered the following amendment to Amendment No. 75:

Amend Floor Amendment No. 75 by Dunnam to **CSSB 3** (page 164 of the prefiled amendments packet) by striking proposed Subsection (b), Section 8821.023, Special District Local Laws Code (page 3, lines 13 and 14, of the amendment) and renumbering subsequent subsections of that section accordingly.

Amendment No. 76 was adopted.

**Amendment No. 77**

Representative Talton offered the following amendment to Amendment No. 75:

Amend Floor Amendment No. 75 to **CSSB 3** as follows:  
Insert the following Article and renumber the following Article and Sections:

ARTICLE \_\_\_\_ . ACTON MUNICIPAL UTILITY DISTRICT  
SECTION 1. DEFINITION. In this Article, "district" means the Acton Municipal Utility District.

SECTION 2. VALIDATION. The following actions and annexations of the district are validated and confirmed as if the actions and annexations had been done as authorized by law:

(1) any resolution, order, or other act or attempted act of the board of directors of the district relating to an annexation by the district taken before the effective date of this Act; and

(2) any annexation by the district since its creation.

SECTION 3. VALIDATION OF BOUNDARIES. The following expanded boundaries of the district are validated and included within the legal boundaries of the district:

**GARDENS OF DECORDOVA PARCEL ONE LEGAL DESCRIPTION:**

All that certain land in Hood County, Texas known as the Gardens of DeCordova Parcel 1 and more particularly described as follows:

Parts of the WILLIAM BLAIR SURVEY, Abstract No. 45 and the W. H. CATHEY SURVEY, Abstract No. 98 situated in Hood County, Texas; embracing a portion of Tract One the 3-98811000 acres tract, and a portion of Tract Two the 7 acres tract, and all of Tract Three the 7-511100 acres described in the deed to Michael J. Brown and Jean Loydene Brown recorded in volume 1642, page 1 14 of the Real Records of Hood County, Texas and described by metes and bounds as follows:

Beginning at a 518" capped iron recovered for the northwest comer of said 3-98811000 acres tract in the south line of the 3-681100 acres tract described in the deed to Michael J. Brown and Jeane L. Brown recorded in volume 1648, page 585 of the said Real Records.

Thence south 75 degrees- 09 minutes- 10 seconds east 262-611100 feet to a 518" capped iron set at the beginning of a curve to the right having a radius of 238-001100 feet.



Thence northeasterly, along said curve to the right an arc length of 271-601100 feet, to a 518" capped iron set at its end and the beginning of a curve to the right having a radius of 305-001100 feet, the long chord of the said 271-601100 feet arc is north 41 degrees- 39 minutes- 08 seconds east 257-101100 feet.

Thence southeasterly, along said curve to the right an arc length of 466-851100 feet, to a 518" capped iron set at its end and the beginning of a curve to the left, having a radius of 113-001100 feet, the long chord of the said 466-851100 feet arc is south 61 degrees- 48 minutes- 58 seconds east 422-591100 feet.

Thence southeasterly, along said curve to the left an arc length of 140-571100 feet to a 518" capped iron set at its end, the long chord of the said 140-571100 feet arc bears south 53 degrees- 36 minutes- 23 seconds east 131-681100 feet.

Thence south 89 degrees 14 minutes- 23 seconds east 65-371100 feet to the east line of said Tract Two, and the west line of North Gate Road.

Thence south 00 degree- 45 minutes- 37 seconds west, along the said east line of Tract Two, and along the said west line of North Gate Road, 71-651100 feet to a 518" capped iron recovered for a common corner of the said Tract Two and Tract Three.

Thence south 00 degree- 05 minutes- 18 seconds west, along the east line of said Tract Three, and the said west line of North Gate Road, 391-241100 feet to a 518" capped iron recovered.

Thence south 00 degrees- 09 minutes- 45 seconds east, continuing along the east line of said Tract Three, and the said west line of North Gate Road, 168-501100 feet to a 518" capped iron recovered for the southeast corner of the said Tract Three, and the most easterly, northeast corner of Lot 1 of CHAMPION SUBDIVISION, a subdivision in Hood County, Texas according to the plat thereof recorded in Slide A- 364-A of the Plat Records of Hood County, Texas.

#### GARDENS OF DECORDOVA PARCEL TWO LEGAL DESCRIPTION:

All that certain land in Hood County, Texas known as the Gardens of DeCordova Parcel 2 and more particularly described as follows:

Parts of the WILLIAM BLAIR SURVEY, Abstract No. 45 and the W. H. CATHEY SURVEY, Abstract No. 98 situated in Hood County, Texas; embracing a part of Tract One the 3-98811000 acres tract, Tract Two the 7 acres tract described in the deed to Michael J. Brown and Jean Loydene Brown recorded in volume 1642, page 114 of the Real Records of Hood County, Texas and all of the 3-681100 acres tract described in the deed to Michael J. Brown and Jeane L. Brown recorded in volume 1648, page 585 of the said Real Records and described by metes and bounds as follows:

Beginning at a 5/8" capped iron recovered for the northwest corner of said Tract One the 3-98811000 acres tract in the south line of said 3-681100 acres tract.

Thence south 60 degrees-01 minute-30 seconds west, along the south line of said 3-681100 acres tract, 550-321100 feet to a 1/4" iron found for the southwest corner of said 3-681100 acres tract in the east line of Acton School Road.

Thence north 31 degrees-30 minutes-41 seconds west, along the west line of said 3-681100 acres tract for the east line of said Acton School Road, 30-35 1100 feet to a 1/2" capped iron found for the most westerly northwest corner of said

3-681100 acres tract and the southwest corner of the 5-791100 acres tract described in the deed to Daly R. Bales, Jr. recorded in volume 1602, page 691 of the said Real Records.

Thence north 60 degrees-09 minutes-58 seconds east, along the north line of said 3-681100 acres tract and the south line of said 5-791100 acres tract, 140-791100 feet to a 3/8" iron found for the southeast corner of said 5-791100 acres tract and the southwest corner of the 25 acres tract described in the deed to Sunnye Lee Keeley recorded in volume 1588, page 827 of the said Real Records.

Thence north 59 degrees-56 minutes-56 seconds east, continuing along the north line of said 3-681100 acres tract and the south line of said 25 acres tract, 790-61100 feet to a 3/4" smooth iron found for a re-entrant corner of said 3-681100 acres tract and the southeast corner of said 25 acres tract.

Thence north 33 degrees-19 minutes-20 seconds west, along the most northerly west line of said 3-6811 00 acres tract, 17-19 1100 feet to a 3/8" iron found for the most northerly northwest corner of said 3-681100 acres tract and being by deed call the northwest corner of the said W. H. CATHEY SURVEY and the southwest corner of the J. MINNETT SURVEY, Abstract No. 353 and being the southwest corner of the 20 acres tract described in the deed to Charles L. James recorded in volume 1021, page 86 of the said Real Records.

Thence north 58 degrees-45 minutes-04 seconds east, along the north line of said 3-681100 acres tract for the north line of said CATHEY SURVEY and the south line of said MINNETT SURVEY, 917-031100 feet to a 5/8" capped iron recovered.

Thence northeasterly and southeasterly, along the north line of said 3-681100 acres tract, the following:

north 84 degrees-50 minutes-34 seconds east 41-03 1100 feet to a 5/8" capped iron recovered; south 69 degrees-23 minutes-41 seconds east 21-02 1100 feet to a 5/8" capped iron recovered for the most easterly northeast corner of said 3-681100 acres tract for the west line of North Gate Road.

Thence southwesterly and southeasterly, along the east line of said 3-681100 acres tract to and along the east line of said Tract Two for the west line of said North Gate Road, the following:

south 15 degrees-52 minutes-04 seconds west 155-321100 feet to a 3/8" iron found; south 14 degrees-12 minutes-07 seconds west 552-991100 feet to a 3/8" iron found; south 00 degree- 45 minutes- 37 seconds west 171-551100 feet to a 5/8" capped iron set.

Thence north 89 degrees 14 minutes- 23 seconds west 65-37/100 feet to the beginning of a curve to the right having a radius of 113-001100 feet.

Thence northwesterly, along said curve to the right an arc length of 140-571100 feet to a 5/8" capped iron set at its end and the beginning of a curve to the left having a radius of 305-001100 feet, the long chord of the said 140-571100 feet arc is north 53 degrees- 36 minutes- 23 seconds west 131 -681100 feet.

Thence northwesterly, along said curve to the left an arc length of 466-851100 feet to a 5/8" capped iron set at its end and the beginning of a curve to the left having a radius of 238-001100 feet, the long chord of the said 466-851100 feet arc is north 61 degrees- 48 minutes- 58 seconds west 422-591100 feet.

Thence southwesterly, along said curve to the left an arc length of 271-601100 to a 5/8" capped iron set at its end, the long chord of said 271-601100 feet arc is south 41 degrees- 39 minutes- 08 seconds west 257-101100 feet.

Thence north 75 degrees- 09 minutes- 10 seconds west 262-611100 feet to the place of beginning and containing 8-87811000 acres.

SECTION 4. FINDINGS RELATIVE TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

SECTION 5. EFFECT ON LITIGATION. This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

Amendment No. 77 was adopted.

Amendment No. 75, as amended, was adopted.

### **Amendment No. 78**

Representative Gallego offered the following amendment to **CSSB 3**:

Floor Packet No. 172

Amend **CSSB 3** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE \_\_\_\_ . REGULATION OF WATER WELLS BY CERTAIN  
GROUNDWATER CONSERVATION DISTRICTS

SECTION \_\_\_\_ .01. Section 5, Chapter 453, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (c) to read as follows:

(c) Section 36.121, Water Code, does not apply to the district.

SECTION \_\_\_\_ .02. Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 5A to read as follows:

Sec. 5A. APPLICABILITY OF OTHER LAW ON RULEMAKING.

Section 36.121, Water Code, does not apply to the district.

SECTION \_\_\_\_ .03. Section 5, Chapter 1291, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Subsection (d) to read as follows:

(d) Section 36.121, Water Code, does not apply to the district.

Amendment No. 78 was adopted.

**Amendment No. 79**

Representative Morrison offered the following amendment to **CSSB 3**:  
 Floor Packet Page No. 202

Amend **CSSB 3** by adding the following as a new Article and numbering it and all sections appropriately:

ARTICLE \_\_\_\_ . EDWARDS AQUIFER AUTHORITY.

SECTION \_\_\_\_ . Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, [~~contract with a person who uses water from the aquifer for the authority or that person to~~] construct, operate, or [~~own, finance, and~~] maintain recharge [~~water supply~~] facilities except in the Uvalde Pool. [Management fees or special fees may not be used for purchasing or operating these facilities.] For the purpose of this subsection, "recharge [~~water supply~~] facility" means [includes] a dam, reservoir, [treatment facility, transmission facility,] or other method of recharge project and associated facilities, structures, or works but does not include a facility to recirculate water at Comal or San Marcos Springs

SECTION \_\_\_\_ . Subsections (a), (c), (e), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the extent of the hydro-geologic connection and interaction between surface water and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) [~~(6)~~] protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) [~~(7)~~] provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections [~~(d)~~] (f)[~~;~~] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000 [400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement, test, or exempt wells or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit [additional water as provided by Subsection (d) and then on an interruptible basis].

(f) If the level of the aquifer is equal to or greater than 660 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an interruptible basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may authorize withdrawal from the Uvalde pool, on an interruptible basis, of permitted amounts. [The authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.]

(h) To accomplish the purposes of this article, [by June 1, 1994,] the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased adjustments to [reductions in] the amount of water that may be used or withdrawn by existing users or categories of other users, including adjustments in accordance with the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION \_\_\_\_\_. Subsection (g), Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(g) The authority shall issue an initial regular permit without a term, and an initial regular permit remains in effect until the permit is abandoned or[?] cancelled[, or retired].

SECTION \_\_\_\_\_. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless:

(1) the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17;

(2) the flow at Comal Springs as determined by Section 1.26(c) of this article is greater than 350 cubic feet per second; and

(3) the flow at San Marcos Springs as determined by Section 1.26(c) of this article is greater than 200 cubic feet per second.

SECTION \_\_\_\_\_. Subsection (a), Section 1.22, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may acquire permitted rights to use water from the aquifer for the purposes of:

(1) holding those rights in trust for sale or transfer of the water or the rights to persons within the authority's jurisdiction who may use water from the aquifer;

(2) holding those rights in trust as a means of managing overall demand on the aquifer; or

(3) holding those rights for resale ~~[or retirement as a means of complying with pumping reduction requirements under this article; or~~

~~[(4) retiring those rights, including those rights already permitted].~~

SECTION \_\_\_\_\_. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received in the program document, as prescribed by Section 1.26A of this article, the [The] authority by rule shall adopt [prepare and coordinate implementation of] a [plan for] critical period management plan consistent with Sections 1.14(a), (f), and (h) of this article [on or before September 1, 1995]. The critical period management plan shall be adopted by the authority no later than six months after the authority's receipt of the program document. On adoption of the critical period management plan, the authority shall provide a written report to the governor, lieutenant governor, and speaker of the house of representatives describing the actions taken in response to each recommendation and, for each recommendation not implemented, the reason it was not implemented. The plan [mechanisms] must:

(1) distinguish between discretionary use and nondiscretionary use;

(2) require reductions of all discretionary use to the maximum extent feasible;

(3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; ~~and~~

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

(A) municipal, domestic, and livestock;

(B) industrial and crop irrigation;

(C) residential landscape irrigation;

(D) recreational and pleasure; and

(E) other uses that are authorized by law; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress.

(b) In this section, "MSL" means the elevation above mean sea level, measured in feet, of the surface of the water in a well, and "CFS" means cubic feet per second. Not later than January 1, 2008, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages in the amounts indicated in Tables 1 and 2 whether according to the index well levels or the Comal or San Marcos Springs flow as applicable, for a

total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 35 percent under Table 2:

TABLE 1  
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE SAN ANTONIO POOL

<u>Comal Springs</u>	<u>San Springs</u>	<u>Marcos Flow</u>	<u>Index J-17</u>	<u>Well Level</u>	<u>Critical Period Stage</u>	<u>Withdrawal Reduction-San Antonio Pool</u>
<u>Flow CFS</u>	<u>CFS</u>		<u>MSL</u>		<u>Stage</u>	<u>Pool</u>
<u>&lt;225</u>	<u>&lt;96</u>		<u>&lt;660</u>		<u>I</u>	<u>20%</u>
<u>&lt;200</u>	<u>&lt;80</u>		<u>&lt;650</u>		<u>II</u>	<u>30%</u>
<u>&lt;150</u>	<u>N/A</u>		<u>&lt;640</u>		<u>III</u>	<u>35%</u>
<u>&lt;100</u>	<u>N/A</u>		<u>&lt;630</u>		<u>IV</u>	<u>40%</u>

TABLE 2  
CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES  
FOR THE UVALDE POOL

<u>Withdrawal Reduction-Uvalde Pool</u>	<u>Index MSL</u>	<u>Well J-27 Level</u>	<u>Critical Period Stage</u>
<u>N/A</u>	<u>—</u>		<u>I</u>
<u>5%</u>	<u>&lt;850</u>		<u>II</u>
<u>20%</u>	<u>&lt;845</u>		<u>III</u>
<u>35%</u>	<u>&lt;842</u>		<u>IV</u>

(c) A change to a critical period stage with higher withdrawal reduction percentages is triggered if the 10-day average of daily springflows at the Comal Springs or the San Marcos Springs or the 10-day average of daily aquifer levels at the J-17 Index Well drops below the lowest number of any of the trigger levels indicated in Table 1. A change to a critical period stage with lower withdrawal reduction percentages is triggered only when the 10-day average of daily springflows at the Comal Springs and the San Marcos Springs and the 10-day average of daily aquifer levels at the J-17 Index Well are all above the same stage trigger level. The authority may adjust the withdrawal percentages for Stage IV in Tables 1 and 2 if necessary in order to comply with Subsection (d) or (e) of this section.

(d) Beginning September 1, 2007, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 340,000 acre-feet, under critical period Stage IV.

(e) After January 1, 2013, the authority may not require the volume of permitted withdrawals to be less than an annualized rate of 320,000 acre-feet, under critical period Stage IV unless, after review and consideration of the recommendations provided under Section 1.26A of this article, the authority determines that a different volume of withdrawals is consistent with Sections 1.14(a), (f), and (h) of this article in maintaining protection for listed, protected and endangered species associated with the aquifer to the extent required by federal law.

(f) Notwithstanding Subsections (d) and (e) of this section, the authority may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of Comal Springs or San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section. This subsection expires on the date that critical period management plan rules adopted by the authority based on the recommendations provided under Section 1.26A of this article take effect.

(g) Notwithstanding the existence of any stage of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to finish a crop already planted in the calendar year during which the critical period is in effect.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT THROUGH RECOVERY IMPLEMENTATION PROGRAM. (a) The authority, with the assistance of Texas A&M University, shall cooperatively develop a recovery implementation program through a facilitated, consensus-based process that involves input from the United States Fish and Wildlife Service, other appropriate federal agencies, and all interested stakeholders, including those listed under Subsection (e)(1) of this section. The recovery implementation program shall be developed for the species that are:

- (1) listed as threatened or endangered species under federal law; and
- (2) associated with the aquifer.

(b) The authority shall enter into a memorandum of agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders in order to develop, not later than December 31, 2007, a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section.

(c) The authority shall enter into an implementing agreement with the United States Fish and Wildlife Service, other appropriate federal agencies, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders to develop a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit as outlined in Subsection (d) of this section not later than December 31, 2009.

(d) The authority, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board, and other stakeholders shall jointly prepare a program document that may be in the form of a habitat conservation plan used in issuance of an incidental take permit with the United States secretary of the interior, through the United States Fish and Wildlife Service and other appropriate federal



agencies, under Section 4 or Section 6, Endangered Species Act of 1973 (16 U.S.C. Section 1533 or 1535), as applicable, based on the program developed under Subsection (a) of this section. The program document shall:

(1) provide recommendations for withdrawal adjustments based on a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells during critical periods to ensure that federally listed, threatened, and endangered species associated with the Edwards Aquifer will be protected at all times, including throughout a repeat of the drought of record;

(2) include provisions to pursue cooperative and grant funding to the extent available from all state, federal, and other sources for eligible programs included in the cooperative agreement under Subsection (c) of this section, including funding for a program director; and

(3) be approved and executed by each agency not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee; and

(J) Bexar County; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility other than the San Antonio Water System, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

(f) The steering committee shall work with Texas A&M University to:

(1) establish a regular meeting schedule and publish that schedule to encourage public participation; and

(2) not later than October 31, 2007, hire a program director to be housed at Texas A&M University.

(g) Texas A&M University may accept outside funding to pay the salary and expenses of the program director hired under this section and any expenses associated with the university's participation in the creation of the steering committee or subcommittees established by the steering committee.

(h) Where reasonably practicable or as required by law, any meeting of the steering committee, the Edwards Aquifer area expert science subcommittee, or another subcommittee established by the steering committee must be open to the public.

(i) The steering committee appointed under this section shall appoint an Edwards Aquifer area expert science subcommittee not later than December 31, 2007. The expert science subcommittee must be composed of an odd number of not fewer than seven or more than 15 members who have technical expertise regarding the Edwards Aquifer system, the threatened and endangered species that inhabit that system, springflows, or the development of withdrawal limitations. The Bureau of Economic Geology of The University of Texas at Austin and the River Systems Institute at Texas State University shall assist the expert science subcommittee. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science subcommittee.

(j) The Edwards Aquifer area expert science subcommittee shall, among other things, analyze species requirements in relation to spring discharge rates and aquifer levels as a function of recharge and withdrawal levels. Based on that analysis and the elements required to be considered by the authority under Section 1.14 of this article, the expert science subcommittee shall, through a collaborative process designed to achieve consensus, develop recommendations for withdrawal reduction levels and stages for critical period management including, if appropriate, establishing separate and possibly different withdrawal reduction levels and stages for critical period management for different pools of the aquifer needed to maintain target spring discharge and aquifer levels. The expert science subcommittee shall submit its recommendations to the steering committee and all other stakeholders involved in the recovery implementation program under this section.

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

(l) In developing its recommendations, the Edwards Aquifer area expert science subcommittee shall:

(1) consider all reasonably available science, including any Edwards Aquifer-specific studies, and base its recommendations solely on the best science available; and

(2) operate on a consensus basis to the maximum extent possible.

(m) After development of the cooperative agreement, the steering committee, with the assistance of the Edwards Aquifer area expert science subcommittee and with input from the other recovery implementation program stakeholders, shall prepare and submit recommendations to the authority. The recommendations must:

(1) include a review of the critical period management plan, to occur at least once every five years;

(2) include specific monitoring, studies, and activities that take into account changed conditions and information that more accurately reflects the importance of critical period management; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority and the strategies to achieve the program and cooperative agreement described by this section.

(n) In this subsection, "recharge facility" means a dam, reservoir, or other method of recharge project and associated facilities, structures, or works but does not include facilities designed to recirculate water at Comal or San Marcos Springs. The steering committee shall establish a recharge facility feasibility subcommittee to:

(1) assess the need for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(2) formulate plans to allow the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities;

(3) make recommendations to the steering committee as to how to calculate the amount of additional water that is made available for use from a recharge project including during times of critical period reductions;

(4) maximize available federal funding for the authority or any other entity to own, finance, design, construct, operate, or maintain recharge facilities; and

(5) evaluate the financing of recharge facilities, including the use of management fees or special fees to be used for purchasing or operating the facilities.

(o) The steering committee may establish other subcommittees as necessary, including a hydrology subcommittee, a community outreach and education subcommittee, and a water supply subcommittee.

(p) On execution of the memorandum of agreement described by Subsection (b) of this section, the steering committee described by Subsection (e) of this section may, by majority vote of its members, vote to add members to the steering committee, change the makeup of the committee, or dissolve the committee. If the steering committee is dissolved, the program director hired under Subsection (f) of this section shall assume the duties of the steering committee.

(q) The authority shall provide an annual report to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 of each year that details:

(1) the status of the recovery implementation program development process;

(2) the likelihood of completion of the recovery implementation program and the cooperative agreement described by Subsection (c) of this section;

(3) the extent to which the recommendations of the Edwards Aquifer area expert science subcommittee are being considered and implemented by the authority;

(4) any other actions that need to be taken in response to each recommendation;

(5) reasons explaining why any recommendation received has not been implemented; and

(6) any other issues the authority considers of value for the efficient and effective completion of the program and the cooperative agreement under this section.

SECTION \_\_\_\_\_. Subsections (b), (h), and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [~~52~~], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(h) Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements [~~Special fees collected under Subsection (e) or (d) of this section may not be used to finance a surface water supply reservoir project~~].

(i) The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary [~~but not to exceed five percent of the money collected under Subsection (d) of this section,~~] to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION \_\_\_\_\_. Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (c) and adding Subsections (d), (e), (f), and (g) to read as follows:

(c) Subject to the limitations provided by Subsections (d), (e), (f), and (g) of this section, a [~~A~~] permit holder may lease, sell, or otherwise transfer ownership of permitted water rights.

(d) The [~~but a~~] holder of an initial regular [~~a~~] permit for irrigation use may [~~not~~] lease, sell, or otherwise transfer ownership of not more than 50 percent of the irrigation rights initially permitted. Except as provided by Subsections (e), (f), and (g) of this section, the permit holder's [~~The user's~~] remaining irrigation water rights must be used in accordance with the original initial regular permit and must pass with transfer of the irrigated land. Irrigation rights initially permitted based on land irrigated from the applicant's well that were not owned by the applicant are appurtenant to land owned by the applicant and irrigated by the applicant's well.

(e) The place of use of the remaining irrigation water rights under Subsection (d) of this section may be temporarily transferred for irrigation purposes to another place of use owned or leased by the permit holder. If the irrigated land to which the water rights are appurtenant is sold or the ownership of the land is otherwise transferred, the transfer of the irrigation water rights is immediately voided by operation of law and the rights revert back by operation of law to the irrigated land.

(f) The place of use of the remaining irrigation water rights under Subsection (d) of this section may be temporarily transferred for irrigation purposes for a term not to exceed 10 years to another place of use owned or leased by a third party. If the irrigated land to which the water rights are appurtenant is sold or the ownership of the land is otherwise transferred, the person to whom the ownership of the land is transferred takes the land subject to that temporary transfer of irrigation water rights.

(g) If the irrigated land identified as the place of use in the initial regular permit originally issued for irrigation purposes is developed as evidenced by actual physical alteration of the land such that it is no longer reasonably capable of being irrigated, the permit holder may apply to the authority to convert the remaining irrigation water rights for any purpose or use under Subsection (c) of this section so as to be transferable.

SECTION \_\_\_\_\_. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, ~~build or~~ operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer, [and] the recharge project does not impair senior water rights or vested riparian rights, and the recharge project is not designed to recirculate water at Comal or San Marcos Springs.

SECTION \_\_\_\_\_. Subsections (b) and (d), Section 1.14, Section 1.21, and Subsections (a), (c), and (d), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION \_\_\_\_\_. (a) Before January 1, 2012, a suit may not be instituted in a state court contesting:

- (1) the validity or implementation of this Act; or
- (2) the groundwater withdrawal amounts recognized in Section 3 of this Act.

(b) If applicable, a party that files a suit in any court shall be automatically removed from the steering committee established under Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as added by this Act.

(c) A suit against the Edwards Aquifer Authority may not be instituted or maintained by a person who owns, holds, or uses a surface water right and claims injury or potential injury to that right for any reason, including any actions taken by the Edwards Aquifer Authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as amended. This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

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

SECTION \_\_\_\_\_. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

### **Amendment No. 80**

Representative Morrison offered the following amendment to Amendment No. 79:

Amend Amendment No. 79 as follows:

On Page 9, by striking Sec. 1.26A (e) and replacing it with the following:

(e) Texas A&M University shall assist in the creation of a steering committee to oversee and assist in the development of the cooperative agreement under Subsection (c) of this section. The steering committee must be created not later than September 30, 2007. The initial steering committee shall be composed of:

(1) a representative of each of the following entities, as appointed by the governing body of that entity:

(A) the Edwards Aquifer Authority;

(B) the Texas Commission on Environmental Quality;

(C) the Parks and Wildlife Department;

(D) the Department of Agriculture;

(E) the Texas Water Development Board;

(F) the San Antonio Water System;

(G) the Guadalupe-Blanco River Authority;

(H) the San Antonio River Authority;

(I) the South Central Texas Water Advisory Committee; and

(J) Bexar County;

(K) CPS Energy; and

(L) Bexar Metropolitan Water District or its successor; and

(2) nine other persons who respectively must be:

(A) a representative of a holder of an initial regular permit issued to a retail public utility located west of Bexar County, to be appointed by the authority;

(B) a representative of a holder of an initial regular permit issued by the authority for industrial purposes, to be appointed by the authority;

(C) a representative of a holder of an industrial surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(D) a representative of a holder of a municipal surface water right in the Guadalupe River Basin, to be appointed by the Texas Commission on Environmental Quality;

(E) a representative of a retail public utility in whose service area the Comal Springs or San Marcos Springs is located;

(F) a representative of a holder of an initial regular permit issued by the authority for irrigation, to be appointed by the commissioner of agriculture;

(G) a representative of an agricultural producer from the Edwards Aquifer region, to be appointed by the commissioner of agriculture;

(H) a representative of environmental interests from the Texas Living Waters Project, to be appointed by the governing body of that project; and

(I) a representative of recreational interests in the Guadalupe River Basin, to be appointed by the Parks and Wildlife Commission.

Amendment No. 80 was adopted.

**Amendment No. 81**

Representative Morrison offered the following amendment to Amendment No. 79:

Amend Amendment No. 79 as follows:

On Page 16, by striking subsection (c) and (d) and substituting in lieu thereof the following:

(c) Subject to the limitations provided by Subsection (d) of this section, a ~~[A]~~ permit holder may lease, sell, or otherwise transfer ownership of permitted water rights.

(d) The ~~[, but a]~~ holder of an initial regular ~~[a]~~ permit for irrigation use may ~~[not]~~ lease, sell, or otherwise transfer ownership of not more than 50 percent of the irrigation rights initially permitted. The ~~[user's]~~ permit holder's remaining irrigation water rights must be used in accordance with the original initial regular permit and must pass with transfer of the irrigated land. Irrigation rights initially permitted based on land irrigated from the applicant's well that were not owned by the applicant are appurtenant to land owned by the applicant and irrigated by the applicant's well.

And on Page 17 by striking Subsection (g) in its entirety.

Amendment No. 81 was withdrawn.

**Amendment No. 82**

Representative Morrison offered the following amendment to Amendment No. 79:

Amend Amendment No. 79 as follows:

On Page 9, by striking Subsection (d)(3) in its entirety and substituting in lieu thereof the following:

(3) be approved and executed by the authority, the Commission, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Development Board and the United States Fish and Wildlife Service not later than September 1, 2012, and the agreement shall take effect December 31, 2012.

Amendment No. 82 was adopted.

**Amendment No. 83**

Representatives Merritt, Frost, Hughes, Hopson, Berman, and Homer offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (page 202, prefiled amendment packet), as follows:

(1) In the instructions, strike "by adding the following as a new Article and numbering it" and substituting "by adding the following new Articles and numbering them".

(2) Add the following to the amendment:

ARTICLE \_\_\_\_\_. TEXAS-LOUISIANA BORDER REGION

SECTION \_\_\_\_\_. The legislature finds that the use of water resources in and orderly economic development of the area of this state near the Texas-Louisiana border is of concern to the entire state.



SECTION \_\_\_\_\_. Chapter 2056, Government Code, is amended by adding Section 2056.012 to read as follows:

Sec. 2056.012. STRATEGIC PLAN FOR TEXAS-LOUISIANA BORDER REGION. (a) In this section:

(1) "Committee" means the Texas-Louisiana border region economic development steering committee.

(2) "Fund" means the Texas-Louisiana border region economic development steering committee fund.

(3) "Texas-Louisiana border region" has the meaning assigned by Section 2056.002.

(b) The committee consists of:

(1) the county judges of the five most populous counties in the Texas-Louisiana border region;

(2) the county judge of any other county in the Texas-Louisiana border region, if the commissioners court elects to join the committee; and

(3) any representatives from economic development councils serving the Texas-Louisiana border region, as selected by the committee.

(c) The committee shall develop a strategic plan for the economic development of the Texas-Louisiana border region, including the use of the area's water resources, in the same manner as a state agency is required by this chapter to make a strategic plan for its operations, and may take action to implement the strategic plan.

(d) The members of the committee shall elect one member as presiding officer. The presiding officer may select another member to preside in the absence of the presiding officer. The presiding officer shall call at least one meeting of the committee each year and may call other meetings as the presiding officer determines are appropriate. A member of the committee is not entitled to compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred while serving as a member. The committee shall adopt rules for its proceedings and appoint an executive committee. The committee may employ and compensate persons to carry out the powers and duties of the committee. Chapter 171, Local Government Code, applies to a member of the committee in the same manner as that chapter applies to a local public official.

(e) The committee is a public body and a political subdivision of the state exercising public and essential governmental functions and has all the powers necessary or convenient to carry out the purposes of this section. The committee, in the exercise of powers under this section, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code. The committee is subject every 12th year to review under Chapter 325.

(f) The committee may sue and be sued in all courts, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving a supersedeas or cost bond. An action at law or in equity against the committee may be brought in any county in the Texas-Louisiana border region.

(g) The committee may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of its powers.

(h) The committee may enter into a joint ownership agreement with any person.

(i) The committee may make contracts, leases, and agreements with, and accept grants and loans from, the United States, this state, agencies and political subdivisions of this state or another state of the United States, the United Mexican States, or a state of the United Mexican States, and other persons and entities and may perform any act necessary for the full exercise of the powers vested in it.

(j) Notwithstanding Chapter 551, the committee may hold an open or closed meeting by telephone conference call. The meeting is subject to the notice requirements applicable to other meetings. The notice of the meeting must specify as the location of the meeting the location where meetings of the committee are usually held. Each part of the meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.

Amendment No. 83 was adopted.

#### **Amendment No. 84**

Representative T. King offered the following amendment to Amendment No. 79:

Amend the Morrison amendment on page 202 of the Prefiled Amendment Packet to **CSSB 3** by adding Subsection (h) to Sec. 1.26 on page 208 to read as follows:

(h) Notwithstanding the existence of stage I or II of an interim or final critical period adopted by the authority under this section, a person authorized to withdraw groundwater from the aquifer for irrigation purposes shall, without regard to the withdrawal reductions prescribed for that stage, be allowed to continue withdrawals for irrigation purposes.

Amendment No. 84 was adopted.

#### **Amendment No. 85**

Representative T. King offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison (page 202, pre-filed amendments packet) for **CSSB 3** as follows:

(1) Strike the proposed SECTION of the bill (page 1 of the amendment) amending Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

(2) Strike the proposed SECTION of the bill (pages 16 and 17 of the amendment) amending Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

Representative Puente moved to table Amendment No. 85.

A record vote was requested.

The motion to table prevailed by (Record 1595): 79 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bohac; Bolton; Bonnen; Branch; Castro; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Crownover; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; England; Farabee; Farias; Flores; Garcia; Gattis; Geren; Giddings; Goolsby; Haggerty; Hamilton; Hancock; Harper-Brown; Hartnett; Herrero; Hill; Hochberg; Homer; Hopson; Jackson; Jones; King, S.; Krusee; Laubenberg; Leibowitz; Mallory Caraway; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Morrison; Murphy; O'Day; Oliveira; Orr; Otto; Parker; Paxton; Phillips; Pierson; Puente; Ritter; Rose; Smith, T.; Strama; Straus; Swinford; Talton; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Woolley(C); Zerwas.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Chavez; Coleman; Corte; Crabb; Darby; Eissler; Elkins; Farrar; Flynn; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Hardcastle; Harless; Heflin; Hernandez; Hilderbran; Hodge; Howard, C.; Howard, D.; Isett; Keffer; King, P.; King, T.; Kuempel; Latham; Lucio; Macias; Madden; Martinez; McCall; Miles; Miller; Mowery; Naishtat; Noriega; Olivo; Ortiz; Patrick; Peña; Pitts; Quintanilla; Raymond; Riddle; Rodriguez; Smith, W.; Solomons; Veasey; Vo; West; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Bailey; Burnam; Callegari; Creighton; Escobar; Frost; Hughes; Moreno; Pickett; Smithee; Taylor; Thompson.

#### STATEMENTS OF VOTE

When Record No. 1595 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

I was shown voting yes on Record No. 1595. I intended to vote no.

S. King

#### Amendment No. 86

Representative T. King offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (Prefiled Amendment Packet page 202) as follows:

(1) On page 5, where appropriate, insert a new column between the first and second columns of TABLE 1 to read as follows:

HONDO INDEX

WELL LEVEL

MSL

<700

<690

<680

<677

(2) On page 7 insert the following:

(h) For purposes of determining withdrawal reduction percentages under the authority's critical period management plan adopted under Subsection (b) of this section for wells that withdraw water from the San Antonio Pool, the applicable index well is:

(1) state well #69-47-306, labeled "Hondo Index Well" in Table 1 under Subsection (b) of this section, in connection with wells located in Medina County; and

(2) Index Well J-17, in connection with wells located outside Medina County.

Representative Puente moved to table Amendment No. 86.

A record vote was requested.

The motion to table prevailed by (Record 1596): 83 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Anchia; Bolton; Bonnen; Branch; Burnam; Castro; Chisum; Cohen; Coleman; Cook, B.; Cook, R.; Creighton; Crownover; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; England; Escobar; Farias; Flores; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hill; Hochberg; Hopson; Howard, D.; Jackson; Jones; Keffer; King, S.; Kuempel; Latham; Laubenberg; Macias; Mallory Caraway; Martinez Fischer; McClendon; McReynolds; Merritt; Moreno; Morrison; Murphy; Naishtat; O'Day; Oliveira; Orr; Otto; Parker; Paxton; Peña; Pierson; Puente; Ritter; Rodriguez; Rose; Smith, T.; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Woolley(C); Zerwas.

Nays — Allen; Alonzo; Anderson; Aycock; Berman; Bohac; Brown, B.; Brown, F.; Chavez; Corte; Crabb; Darby; Driver; Eissler; Farabee; Farrar; Flynn; Gallego; Guillen; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Homer; Howard, C.; Isett; King, P.; King, T.; Krusee; Leibowitz; Lucio; Madden; Martinez; McCall; Menendez; Miles; Miller; Mowery; Noriega; Olivo; Ortiz; Patrick; Pickett; Pitts; Quintanilla; Raymond; Riddle; Smith, W.; Vo; West; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Bailey; Callegari; Christian; Davis, J.; Eiland; Elkins; Frost; Garcia; Hughes; Phillips; Smithee; Thompson.

### STATEMENTS OF VOTE

When Record No. 1596 was taken, I was in the house but away from my desk. I would have voted yes.

Frost

When Record No. 1596 was taken, I was in the house but away from my desk. I would have voted yes.

Garcia

### Amendment No. 87

Representative T. King offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (Prefiled Amendment Packet page 202) as follows:

(1) on page 7, insert a new Subsection (h) to read as follows:

(h) A person authorized to withdraw groundwater from the aquifer for irrigation purposes shall be allowed to continue withdrawals without regard to the withdrawal reductions prescribed for stage I or II under Subsection (b).

Amendment No. 87 was withdrawn.

### Amendment No. 88

Representative T. King offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (Prefiled Amendment Packet page 202) as follows:

(1) Add the following appropriately numbered SECTIONS to the amendment and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 1.03(10), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(10) "Existing user" means a person who has withdrawn and beneficially used underground water from the aquifer on or before June 28, 1996 [~~1, 1993~~]

SECTION \_\_\_\_\_. Article 1, Section 1.18(b), Chapter 626, Acts of 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority may not consider or take action on an application relating to a proposed or existing well of which there is no evidence of actual beneficial use before June 28, 1996 [~~1, 1993~~], until a final determination has been made on all initial regular permit applications submitted on or before the initial application date of February 28, 1997 [~~March 1, 1994~~].

(2) In SECTION \_\_\_\_ of the Amendment, in amended Section 1.14(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 2), strike the text beginning with "through wells" through the period at the end of the

subsection and substitute "through wells drilled after June 28, 1996 [~~1, 1993, except additional water as provided by Subsection (d) and then on an interruptible basis~~]."

(3) In SECTION \_\_\_\_ of the Amendment, strike the recital to the section (page 3), and substitute:

Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (a-1) and amending Subsection (g) to read as follows:

(a-1) An existing user who drilled an aquifer well after June 1, 1993, and who filed an application for historical use of groundwater from the aquifer during the historical period of June 1, 1993, through June 28, 1996, and has initiated an appeal or filed litigation against the authority before March 1, 2007, is qualified for an initial regular permit.

Representative Puente moved to table Amendment No. 88.

A record vote was requested.

The motion to table was lost by (Record 1597): 48 Yeas, 90 Nays, 1 Present, not voting.

Yeas — Alonzo; Bonnen; Callegari; Castro; Chisum; Christian; Corte; Creighton; Crownover; Dukes; Dunnam; Farias; Flores; Gattis; Geren; Haggerty; Hamilton; Hochberg; Jackson; King, P.; King, S.; Latham; Laubenberg; Martinez Fischer; McClendon; Menendez; Merritt; Morrison; Murphy; O'Day; Orr; Otto; Paxton; Phillips; Puente; Rose; Smith, T.; Solomons; Straus; Talton; Taylor; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Woolley(C); Zerwas.

Nays — Allen; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Chavez; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Darby; Davis, J.; Delisi; Deshotel; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hancock; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Isett; Jones; Keffer; King, T.; Kuempel; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McReynolds; Miles; Moreno; Mowery; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Parker; Patrick; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, W.; Smithee; Strama; Swinford; Vaught; Vo; West; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Bailey; Davis, Y.; Driver; Hardcastle; Harper-Brown; Hughes; Krusee; Miller; Peña; Thompson.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1597. I intended to vote no.

S. King

Amendment No. 88 was adopted.

**Amendment No. 89**

Representative Macias offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (pages 202-219 of the prefiled amendments packet) as follows:

(1) In added Subsection (f), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 7 of the amendment), strike "may require further withdrawal reductions before reviewing and considering the recommendations provided under Section 1.26A of this article if the discharge of the Comal Springs or the San Marcos Springs declines an additional 15 percent after Stage IV withdrawal reductions are imposed under Subsection (b) of this section" and substitute "shall require further withdrawal reductions to prevent Comal Springs or San Marcos Springs from going completely dry".

(2) In proposed Subsection (k)(2), Section 1.26A, Chapter 626, Acts of the 73rd legislature, Regular Session, 1993 (page 12 of the amendment), between "species" and the underlined semicolon, insert "at the Comal Springs and the San Marcos Springs".

Amendment No. 89 was adopted. (The vote was reconsidered later today, and Amendment No. 89 was tabled by Record 1600.)

**Amendment No. 90**

Representative Rose offered the following amendment to Amendment No. 79:

Amend Amendment No. 79 by Morrison to **CSSB 3** (prefiled amendment packet pages 202-219) as follows:

(1) In SECTION \_\_\_\_ of the amendment, in amended Section 1.26(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 206), strike "recommendation and, for each recommendation not implemented, the reason it was not implemented." and substitute "recommendation. Once the program document is approved by the legislature under Section 1.26A of this article, the authority shall implement the program document as approved."

(2) In SECTION \_\_\_\_ of the amendment, in added Section 1.26A(d)(3), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 210), strike "and the agreement shall take effect December 31, 2012." and substitute "be submitted to the 83rd Legislature for its consideration, and take effect on September 1, 2013, only if approved by legislation enacted by that legislature."

(3) In SECTION \_\_\_\_ of the amendment, after the semicolon at the end of Subdivision (4) in added Section 1.26A(q), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 215), add "and".

(4) In SECTION \_\_\_\_ of the amendment, in added Section 1.26A(q), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 215), strike Subdivision (5).

(5) In SECTION \_\_\_\_ of the amendment, in added Section 1.26A(q), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 215), strike "(6)" and substitute "(5)".

Representative Puente moved to table Amendment No. 90.

A record vote was requested.

The motion to table prevailed by (Record 1598): 94 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cook, B.; Cook, R.; Corte; Creighton; Crownover; Delisi; Deshotel; Driver; Dukes; Eissler; Farias; Flores; Flynn; Gallego; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Herrero; Hilderbran; Hochberg; Hodge; Hopson; Howard, C.; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Latham; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Mowery; Murphy; Olivo; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Puente; Raymond; Ritter; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Turner; Vaught; Villarreal; Woolley(C); Zedler; Zerwas.

Nays — Anchia; Burnam; Cohen; Coleman; Crabb; Darby; Davis, Y.; Dunnam; Dutton; Eiland; Elkins; England; Escobar; Farabee; Farrar; Frost; Garcia; Gattis; Geren; Gonzales; Harless; Homer; Howard, D.; Kuempel; Macias; McReynolds; Moreno; Naishtat; Noriega; Oliveira; Ortiz; Pierson; Quintanilla; Riddle; Rodriguez; Rose; Strama; Thompson; Van Arsdale; Veasey; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Bailey; Davis, J.; Hamilton; Hernandez; Hill; Hughes; Krusee; Lucio; Mallory Caraway; Morrison; O'Day; Pitts; West.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1598. I intended to vote no.

Heflin

### Amendment No. 91

Representative Leibowitz offered the following amendment to Amendment No. 79:

Amend Morrison Amendment on page 202 of **CSSB 3** Amendment Packet by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTION accordingly:

SECTION \_\_\_\_ . Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.081 to read as follows:

Sec. 1.081. FIRE CONTROL. To protect the water quality of the aquifer, the board shall adopt rules regarding the control of fires in the aquifer's recharge zone. In adopting rules under this section, the board shall consult with fire departments and fire marshals with jurisdiction over the recharge zone.

Amendment No. 91 was adopted.



**Amendment No. 92**

Representative Rose offered the following amendment to Amendment No. 79:

Amend Amendment No. 79 by Morrison to **CSSB 3** (pages 202 through 219 of the prefiled amendments packet) as follows:

(1) In proposed TABLE 1, in proposed Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 207), strike "<96" and substitute "<100".

(2) In proposed TABLE 1, in proposed Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 207), strike "<80" and substitute "<90".

(3) In proposed TABLE 1, in proposed Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 207), between "<150" and "<640", strike "N/A" and substitute "<80".

(4) In proposed TABLE 1, in proposed Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 207), between "<100" and "<630", strike "N/A" and substitute "<60".

Representative Puente moved to table Amendment No. 92.

A record vote was requested.

The motion to table prevailed by (Record 1599): 113 Yeas, 30 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Delisi; Deshotel; Dutton; Eissler; Elkins; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kuempel; Latham; Laubenberg; Leibowitz; Madden; Mallory Caraway; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno; Morrison; Mowery; Murphy; O'Day; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Riddle; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Woolley(C); Zedler; Zerwas.

Nays — Bolton; Burnam; Coleman; Davis, Y.; Dukes; Dunnam; Eiland; England; Gallego; Gonzales; Heflin; Hodge; Hopson; Howard, D.; Lucio; Macias; Martinez; McReynolds; Miles; Naishtat; Noriega; Oliveira; Quintanilla; Ritter; Rodriguez; Rose; Strama; Thompson; Vaught; Veasey.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Bailey; Driver; Hill; Krusee; Pierson.

**Amendment No. 93**

Representative T. King offered the following amendment to Amendment No. 79:

Amend the Morrison Amendment to **CSSB 3** in SECTION 1 of the amendment as follows:

(1) In the recital to SECTION 1 of the amendment (page 1, lines 5-6), strike "Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended" and substitute "Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsection (f-1)".

(2) In amended Section 1.11(f), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 1, lines 11-14), strike "facilities except in the Uvalde Pool, where the authority may only contract with an entity based in Uvalde County for the authority or that entity to own, finance, design, construct, operate, or maintain recharge facilities." and substitute the following: facilities. For a recharge facility in Uvalde or Medina County, the authority shall partner with a political subdivision of this state in whose territory the facility is or will be located to own, finance, design, construct, operate, or maintain the facility.

(3) In amended Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, immediately following amended Subsection (f) of that section (page 1, between lines 19 and 20), insert the following:

(f-1) If the authority issues bonds to finance a recharge facility project under Subsection (f) of this section to be located outside Medina and Uvalde Counties, the authority shall exempt the holders of permits for wells located in Medina and Uvalde Counties from any fee increase or assessment imposed by the authority to pay the principal of or interest on the bonds.

Amendment No. 93 was adopted.

**Amendment No. 94**

Representative Morrison offered the following amendment to Amendment No. 79:

Amend Floor Amendment No. 79 by Morrison to **CSSB 3** (beginning on page 202 of the pre-filed amendments packet) by striking the SECTION proposed by the amendment amending Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (pages 15 and 16 of the amendment).

Amendment No. 94 was adopted.

**Amendment No. 89 - Vote Reconsidered**

Representative Hilderbran moved to reconsider the vote by which Amendment No. 89 was adopted.

The motion to reconsider prevailed.

Representative Hilderbran moved to table Amendment No. 89.

A record vote was requested.

The motion to table prevailed by (Record 1600): 105 Yeas, 19 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Aycock; Bonnen; Branch; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, R.; Corte; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dutton; England; Escobar; Farabee; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Howard, C.; Hughes; Isett; Jackson; Keffer; King, P.; King, S.; King, T.; Krusee; Latham; Laubenberg; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miles; Moreno; Morrison; Mowery; Murphy; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Raymond; Ritter; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley(C); Zerwas.

Nays — Berman; Bohac; Bolton; Brown, B.; Crabb; Dukes; Eissler; Elkins; Flynn; Hancock; Howard, D.; Kuempel; Macias; Madden; Miller; Riddle; Rodriguez; Strama; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Allen; Anderson; Bailey; Burnam; Cook, B.; Davis, J.; Delisi; Dunnam; Eiland; Giddings; Hamilton; Harper-Brown; Hill; Hopson; Jones; Menendez; Naishtat; Noriega; O'Day; Pickett; Pierson; Rose; Smithee; Thompson.

### STATEMENTS OF VOTE

When Record No. 1600 was taken, my vote failed to register. I would have voted yes.

Allen

When Record No. 1600 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

When Record No. 1600 was taken, my vote failed to register. I would have voted yes.

Giddings

When Record No. 1600 was taken, my vote failed to register. I would have voted yes.

Pierson

When Record No. 1600 was taken, I was in the house but away from my desk. I would have voted no.

Rose

Amendment No. 79, as amended, was adopted.

**Amendment No. 95**

Representative Gallego offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 220

Amend **CSSB 3** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . TERRITORY OF CULBERSON COUNTY GROUNDWATER CONSERVATION DISTRICT

SECTION \_\_\_\_ .01. Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 3A to read as follows:

Sec. 3A. In addition to the portions of Culberson County included in the boundaries of the district on August 31, 2007, the boundaries of the district include all of the remaining territory in Culberson County.

SECTION \_\_\_\_ .02. (a) The annexation under Section 3A, Chapter 1075, Acts of the 75th Legislature, Regular Session, 1997, as added by this article, of the additional territory in Culberson County that was not included in the boundaries of the Culberson County Groundwater Conservation District on August 31, 2007, is subject to ratification at an election held under Section 36.328, Water Code, and this section in which only the voters residing in the territory to be annexed are eligible to vote.

(b) The board of directors of the Culberson County Groundwater Conservation District shall hold the ratification election on the first uniform election date that occurs after the effective date of this article that allows for compliance with the time requirements of the Election Code.

(c) If a majority of the voters voting at the ratification election vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries include all of Culberson County.

(d) If a majority of the voters voting at the ratification election do not vote in favor of the annexation, the Culberson County Groundwater Conservation District boundaries are unchanged and this article expires.

Amendment No. 95 was adopted.

**Amendment No. 96**

Representative Chavez offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 222

Amend **CSSB 3** (house committee printing) as follows:

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

SECTION \_\_\_\_ . Section XXXXXX, is amended by adding Section (a) and

(b):

(a) The creation of a Fresh Water Supply District by a county between June 1, 2005 and December 31, 2006 is validated and confirmed in all respects as of the dates the creation occurred. The creation may not be held invalid because it was not performed in compliance with Chapter 53, Water Code.

(b) This Section does not apply to an act or proceeding which is the subject of litigation that is pending on the effective date of this Act or an act or proceeding that, under a statute of this state or the United States was a misdemeanor or felony at the time the act or proceeding occurred.

Amendment No. 96 was withdrawn.

**Amendment No. 97**

Representative Hopson offered the following amendment to **CSSB 3**:  
Floor Packet Page No. 51

Amend **CSSB 3** (house committee printing) by striking sections SECTION 3.04 and SECTION 3.05 and substituting the following:

"SECTION 3.04. RESTRICTION ON ELIGIBILITY TO HOLD WATER RIGHTS; LIABILITY FOR CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS. (a) This section applies to;

(1) a proposed reservoir to be located on the Neches River in Anderson and Cherokee Counties, downstream from Lake Palestine; that is to be located in the Region I Regional Water Planning Area; and

(2) a proposed reservoir to be located on the Sulphur River upstream from its confluence with White Oak Creek; with a dam that will be located in Titus and Red River Counties and the reservoir would also impound water in Franklin County; that is to be located in the Region D Regional Water Planning Area.

(b) The right to appropriate at least 20 percent of the quantity of water that is authorized to be appropriated from each proposed reservoir must be held by one or more entities located in the regional water planning area in which the reservoir is to be located.

(c) If one or more entities located outside the regional water planning area in which a proposed reservoir is to be located are to hold the right to appropriate a majority of the quantity of water that is authorized to be appropriated from the reservoir, that entity or those entities must pay all of the costs of constructing, operating, and maintaining the reservoir until such time as one or more entities located in the regional water planning area in which the reservoir is to be located begins diverting water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir.

SECTION 3.05. STUDY COMMISSION ON REGION C WATER SUPPLY. (a) The study Commission on Region C Water Supply is established. The study commission consists of six members as follows:

(1) two members appointed by the Region C Regional Water Planning Group; and

(2) two members appointed by the Region D Regional Water Planning Group.

(3) two members appointed by the Region I Regional Water Planning Group.

(b) A member of the study commission may be, but is not required to be, a voting member of the regional water planning group that appointed the member.

(c) The members of the study commission shall select a presiding officer from among the members.

(d) Members of the study commission are not entitled to compensation for service on the study commission but may be reimbursed for travel expenses incurred while conducting the business of the study commission, as provided for in the General Appropriations Act.

(e) The study commission shall:

(1) review the water supply alternatives available to the Region C Regional Water Planning Area, including obtaining additional water supply from Wright Patman Lake, Toledo Bend Reservoir, Lake Texoma, Lake o' the Pines, other existing and proposed reservoirs, and groundwater resources;

(2) in connection with the review under Subdivision (1) of this subsection, analyze the socioeconomic effect on the area where the water supply is located that would result from the use of the water to meet the water needs of the Region C Regional Water Planning Area, including:

(A) the effects on landowners, agricultural and natural resources, businesses, industries, and taxing entities of different water management strategies; and

(B) in connection with the use by the Region C Regional Water Planning Area of water from Wright Patman Lake, the effect on water availability in that lake and the effect on industries relying on that water availability;

(3) determine whether water demand in the Region C Regional Water Planning Area may be reduced through additional conservation and reuse measures so as to postpone the need for additional water supplies;

(4) evaluate measures that would need to be taken to comply with the mitigation requirements of the United States Army Corps of Engineers in connection with any proposed new reservoirs, including identifying potential mitigation sites;

(5) consider whether the mitigation burden described by Subdivision (4) of this subsection may be shared by the Regions C, D, and I Regional Water Planning Areas in proportion to the allocation to each region of water in any proposed reservoir;

(6) review innovative methods of compensation to affected property owners, including royalties for water stored on acquired properties and annual payments to landowners for properties acquired for the construction of a reservoir to satisfy future water management strategies;

(7) evaluate the minimum number of surface acres required for the construction of proposed reservoirs in order to develop adequate water supply; and

(8) identify the locations of proposed reservoir sites, and proposed mitigation as applicable as selected in accordance with existing state and federal law in the Regions C, D, and I Regional Water Planning Areas using satellite imagery with sufficient resolution to permit land ownership to be determined.

(f) The study commission may not be assisted by any person that is a party to or is employed by a party to a contract to perform engineering work with respect to site selection, permitting, design, or construction of a proposed reservoir in Regions D or I.

(g) The Texas Water Development Board, on request of the study commission, may provide staff support or other assistance necessary to enable the study commission to carry out its duties. The Texas Water Development Board shall provide funding for the study commission, including funding of any studies conducted by the study commission, from the regional planning budget of the board.

(h) Not later than December 1, 2010, the study commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives that includes any:

- (1) studies completed by the study commission;
- (2) legislation proposed by the study commission;
- (3) a recommendation as to whether Marvin Nichols should remain a designated reservoir site;

- (4) a recommendation as to whether any reservoir to be located on the Neches River in Anderson and Cherokee Counties, downstream from Lake Palestine should remain a designated reservoir site; and

- (5) other findings and recommendations of the study commission.

(i) The study commission is abolished and this section expires December 31, 2011.

### **Amendment No. 98**

Representative McReynolds offered the following amendment to Amendment No. 97:

Amend Floor Amendment No. 97 by Hopson (Floor Amendment Packet page 51) on page 52 of the amendment by striking lines 3 through 5 and substituting the following:

water. At such time, the entity or entities making a diversion shall pay a pro-rata share of the cost of operating and maintaining the reservoir. In addition, the entities that are to hold the right to appropriate a majority of the quantity of water that is to be appropriated from the reservoir shall pay all of the costs associated with realignment, relocation, and elevation of the Texas State Railroad in order to maintain its operations.

Amendment No. 98 was adopted.

Amendment No. 97, as amended, was adopted.

### **Amendment No. 65 - Vote Reconsidered**

Representative Alonzo moved to reconsider the vote by which Amendment No. 65 was adopted.

The motion to reconsider prevailed.

**Amendment No. 99**

Representative R. Cook offered the following amendment to Amendment No. 65:

Amend Floor Amendment No. 65 by Alonzo to **CSSB 3** as follows:

(1) Strike page 1, lines 1 through 4, of the amendment and substitute the following:

Amend **CSSB 3** (house committee printing) as follows:

(1) In ARTICLE 2 of the bill, add the following appropriately numbered SECTION and renumber the other SECTIONS of that ARTICLE accordingly:

(2) On page 2 of the amendment, following line 4, add the following:

(2) Add the following appropriately numbered ARTICLE to the bill and renumber the other ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . STUDY OF ROLE OF LAKE SOMERVILLE IN ECONOMIC DEVELOPMENT

SECTION \_\_\_\_ .01. The legislature finds that:

(1) in 1954, the United States Congress authorized the construction of Lake Somerville to provide flood control, water conservation, and other beneficial uses for nearby areas; subsequently, the United States Army Corps of Engineers began reservoir construction in 1962 and began to impound water in 1967;

(2) straddling the borders of Burleson, Washington, and Lee Counties, on Yegua Creek 20 river miles upstream from that creek's confluence with the Brazos River, the lake has a storage capacity of 337,700 acre-feet;

(3) operation of the lake is supervised by the Fort Worth District of the United States Army Corps of Engineers; the lake is one of nine federal reservoirs that are integrated into the Brazos River Authority's basin-wide system and associated water resource development master plan;

(4) the Brazos River Authority owns the stored water, a source from which it furnishes supplies to the City of Brenham according to a contract that was last renewed for a 10-year period in 2003;

(5) also significantly involved in the region is the Lower Colorado River Authority, which, from its diverse mix of power plants, provides wholesale electricity to various communities as well as offering them its economic research and expertise;

(6) although Lake Somerville has long been a tourist destination for fishing and other water recreation, the facility has not fully effectuated the three-county economic impact that originally was expected at the time that it was built; and

(7) a study of Lake Somerville's role in economic development would assist in explaining why the lake has not yet had that impact, beyond the tourism industry, and would help to identify impediments that currently restrict its contribution as well as strategies that would better maximize its economic potential.

SECTION \_\_\_\_ .02. The Brazos River Authority and the Lower Colorado River Authority shall:



(1) conduct, with appropriate input from the public and private sectors, a joint baseline study of the role of Lake Somerville in the economic development of the surrounding vicinity; and

(2) jointly submit a full report of their findings and recommendations to the 81st Legislature when that legislature convenes in January 2009.

Amendment No. 99 was adopted.

Amendment No. 65, as amended, was adopted.

### **Amendment No. 6 - Vote Reconsidered**

Representative Martinez Fischer moved to reconsider the vote by which Amendment No. 6, as amended, was adopted on May 21.

The motion to reconsider prevailed.

### **Amendment No. 100**

Representatives Martinez Fischer, Corte, Menendez, Leibowitz, Farias, and Castro offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 by Puente to **CSSB 3** on page 98 of the prefiled amendments packet by striking lines 6-26 and substituting the following:

#### ARTICLE 5A

SECTION 5A.01. Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

(a) Through every practical and legal means to develop, transport, deliver, distribute, store, and treat water for use within the District, including the storm and flood waters within the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

~~(b) [to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;~~

~~(c) [(e)] to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;~~

~~(c) [(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every~~

~~purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;~~

(~~e~~) to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for preserving the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

(d) (~~f~~) to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein within or without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

(e) (~~e~~) to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the county of Bexar [~~or outside of the boundaries of the District~~], necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

(f) (~~h~~) to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

(g) (~~g~~) to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

(h) (~~g~~) to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

(i) [~~(h)~~] to sue and be sued in its corporate name;

(j) [~~(i)~~] to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

(k) [~~(j)~~] to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five days next after the district may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two consecutive weeks, in one or more newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object sought to be accomplished or the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State;

(l) [~~(k)~~] to adopt, use, and alter a corporate seal;

(m) [~~(l)~~] to appoint agents and employees; prescribe their duties and fix their compensation;

(n) [~~(m)~~] to make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions herein conferred;

(o) [~~(n)~~] to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

(p) [~~(o)~~] to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created;

(q) [~~(s)~~] to enter into planning agreements with the Texas Water Development Board under Subchapter C, Chapter 16, Water Code, for the purpose of conducting studies necessary to maintain retail water supply services to customers within the boundaries of the District; and

(r) [~~(t)~~] to cooperate with and support local fire departments and economic development activities sponsored by local entities within the District that use water and water resources provided, or to be provided, by the District.

SECTION 5A.02. Section 5A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Subsection (c) to read as follows:

(c) The District's boundaries for the purpose of conducting an election are coextensive with the boundaries of Bexar County.

SECTION 5A.03. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 7A to read as follows:

Sec. 7A. The District is governed by a board of nine directors, composed of:

- (1) the members of the Commissioners Court of Bexar County;
- (2) the county judge of Atascosa County, if the District provides services to customers in Atascosa County;
- (3) the county judge of Comal County, if the District provides services to customers in Comal County;
- (4) the county judge of Medina County, if the District provides services to customers in Medina County; and
- (5) the mayor of San Antonio.

SECTION 5A.04. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 8A to read as follows:

Sec. 8A. (a) The board of directors is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. The review shall be conducted as if the board of directors were scheduled to be abolished September 1, 2010.

(b) If the legislature does not continue the members of the board of directors in office:

- (1) the Commissioners Court of Bexar County shall hold an election to elect new board members, in accordance with Section 5A, on the uniform election date in November of 2010; and
- (2) the terms of the board members expire on the date the election returns are canvassed.

SECTION 5A.05. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by amending Section 9 to read as follows:

Sec. 9. The Board of Directors from time to time shall be authorized to make or cause to be made surveys and engineering investigations for the information of the District to facilitate the accomplishment of the purposes for which the District is created, as expressed in the provisions of this Act; and may employ engineers, attorneys and all other technical and non-technical employees or assistants and fix and provide the amount and manner of their compensation, and may provide for payment of expenditures deemed essential to the proper maintenance and administration of the District. Notwithstanding Section 49.060,

~~Water Code, a member [The members] of the Board of Directors is not entitled to receive fees of office [shall receive a per diem of not more than Ten Dollars (\$10) per day, for the time actually expended on business of the District, together with traveling and other necessary expenses, provided that such per diem fee shall not be paid to a Director for more than one hundred (100) days in any one year].~~

SECTION 5A.06. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 23A and 23B to read as follows:

Sec. 23A. The District may not provide a service to a customer located outside Bexar County unless:

(1) the customer received services from the District on or before April 4, 2007; or

(2) the District is the only service provider in the service area in which the customer is located.

Sec. 23B. (a) The District may not charge a customer who receives water services from the District on and after September 1, 2007, a residential or commercial water rate that is greater than the rate charged by the District on September 1, 2007. This subsection expires September 1, 2012.

(b) If, on or after September 1, 2007, the District contracts with a person to provide water services to District customers and the person with whom the District contracts has water rates lower than the District's, a customer who receives water services from the District on September 1, 2007, and when the contract is in effect is entitled to the water rate charged by the person with whom the District contracts.

SECTION 5A.07. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27A to read as follows:

Sec. 27A. (a) The District may not terminate without cause an employee who, on June 1, 2007:

(1) is vested in the District's retirement plan; and

(2) earns an annual salary of \$50,000 or less.

(b) An employee described by Subsection (a) of this section who is terminated by the District for cause is entitled to the grievance process available to an employee of Bexar County who is not classified as a civil service employee.

SECTION 5A.08. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27C to read as follows:

Sec. 27C. (a) The District may not employ fewer than 90 percent of the number of employees employed by the District on June 1, 2007, who earned an annual salary of \$50,000 or less.

(b) The District may reduce the number of employees employed by the District who earn an annual salary of \$50,000 or less only through:

(1) retirement;

(2) voluntary resignation; or

(3) termination for cause.

(c) An employee terminated by the District for cause is entitled to the grievance process available to an employee of Bexar County who is not classified as a civil service employee.

(d) This section expires September 1, 2012.

SECTION 5A.09. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27D to read as follows:

Sec 27D. (a) Not later than 120 days after the first meeting of the Board of Directors of the District composed of the persons described by Section 7A, the District shall:

(1) produce a report of an assessment of the operations and maintenance condition of the District;

(2) produce a status report of infrastructure improvements under construction;

(3) produce a report certifying any rate structure changes approved by the District and documenting a schedule for future changes to rate structure anticipated by the District; and

(4) deliver these reports to the Bexar Metropolitan Water District Legislative Oversight Committee.

(b) Not later than 180 days after the first meeting of the Board of Directors of the District composed of the persons described by Section 7A, the District shall produce an assessment of the District's financial condition and present it to the legislative oversight committee.

(c) Not later than 240 days after the first meeting of the Board of Directors of the District composed of the persons described by Section 7A, the District shall:

(1) produce a report of necessary improvements to the system and a schedule for the implementation of those improvements;

(2) produce a report on the sustainability and adequacy of the water resources of the District and a plan for obtaining additional water resources if deficiencies exist; and

(3) deliver these reports to the legislative oversight committee.

(d) Not later than one year after the first meeting of the Board of Directors of the District composed of the persons described by Section 7A, the District shall:

(1) produce a report on service delivery improvements that have been completed and that are in progress;

(2) produce a report identifying all service improvements necessary for the system and a schedule for the completion of those improvements; and

(3) deliver these reports to the legislative oversight committee.

(e) Not later than three years after the first meeting of the Board of Directors of the District composed of the persons described by Section 7A, the District shall have a uniform rate structure that contains rates that are equal to or lower than the rates of other large retail water providers in the region, except that the District's rates must be sufficient to meet debt service obligations and debt coverage requirements.

(f) This section expires September 1, 2012.

SECTION 5A.10. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27E to read as follows:

Sec. 27E. (a) Bexar County may not transfer, sell, or lease to a public utility the management or assets, including certificates of convenience and necessity and water rights, of the District.

(b) This section does not apply to a certificate of convenience and necessity or an asset of the District outside of Bexar County.

SECTION 5A.11. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 32 to read as follows:

Sec. 32. (a) The District shall permit a customer to pay a bill at one or more retail locations in the District.

(b) The District may not close a customer service branch that is in operation on May 1, 2007 unless a comparable customer service branch is opened. This subsection expires May 1, 2012.

SECTION 5A.12. For purposes of service on the Canyon Regional Water Authority Board of Directors, a representative from the district shall be selected from the Board of Directors of the District.

SECTION 5A.13. Section 8, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is repealed.

#### ARTICLE 5B

SECTION 5B.01. Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended to read as follows:

Sec. 3. In addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse, the District shall have the following general powers:

(a) Through every practical and legal means to develop, transport, deliver, distribute, store, and treat water for use within the District, including the storm and flood waters within the District, including the power to cooperate with the United States Government or any agency thereof, or any municipality, public, quasi-public or private agency and to contract, negotiate, and enter into agreements with any one or more of such agencies in effecting such purposes;

~~(b) [to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters;~~

~~[(e)]~~ to conserve and distribute waters essential for domestic and other uses by the inhabitants of the District, including necessary water supply for cities and towns situated within the District;

~~(c) [(d) to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the District so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared;~~

~~(c)~~ to provide by purchase, construction, lease, gift, or in any other manner and to operate any and all facilities deemed by the District essential for preserving the purity of all the surface and underground waters of the District for the protection of the health of its inhabitants, and to formulate plans to make and enforce rules and regulations for the effective disposal of any and all sewage wastes, refuse, or residuum, however accumulated; which otherwise would contaminate, pollute, or render unsafe and insanitary the surface and underground waters of the District and which might threaten or impair the health of its inhabitants or which might adversely affect the health of the inhabitants downstream below the District;

~~(d)~~ ~~(f)~~ to acquire by purchase, construction, lease, gift, or in any other manner (otherwise than by condemnation) and to maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest therein within or without the boundaries of the District deemed by its Board of Directors necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this Act;

~~(e)~~ ~~(g)~~ to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the county of Bexar ~~or outside of the boundaries of the District~~, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the District, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16 of the Constitution of the State of Texas; provided that the District shall not have the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the District;

~~(f)~~ ~~(h)~~ to cooperate, contract, and enter into agreements with towns, cities, districts, or political subdivisions located in or outside of the District and with Bexar County, in the construction, purchase, lease, maintenance, improvement, use, and operation of any and all facilities, works, and plants necessary or convenient to the accomplishment of the purposes for which the District was created;

~~(g)~~ ~~(i)~~ to make contracts with any person, private corporation, municipal corporation, political subdivision, or the Board of Trustees thereof, operating water distribution facilities for the benefit of a city or town within the District, under which the District may perform services for such parties or such parties may perform services for the District, or under which either may operate all or any part of the facilities of the other, having due regard for the duties and obligations of such parties in the instrument prescribing their or its duties;

~~(h)~~ ~~(j)~~ to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, or reconstructed and to use and operate any and all facilities of any kind necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred by this Act;

~~(i)~~ ~~(k)~~ to sue and be sued in its corporate name;



(j) [(+) ] to make by-laws for the management and regulation of its affairs conformably to the powers and purposes herein conferred and consistent with the Constitution of this State;

(k) [(+) ] to make rules and regulations and to prescribe penalties for the breach of any rule or regulation of the District, which penalties shall not exceed fines of more than Two Hundred Dollars (\$200), or imprisonment for more than thirty (30) days, or may provide both such fine and such imprisonment. The penalties hereby authorized shall be in addition to any other penalties provided by the laws of Texas and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located; provided, however, that no rule or regulation which provides a penalty for the violation thereof shall be in effect, as to enforcement of the penalty, until five days next after the district may have caused a substantive statement of the particular rule or regulation and the penalty for the violation thereof to be published, once a week for two consecutive weeks, in one or more newspapers affording general circulation in the area in which the property of the district is situated; and, the substantive statement so to be published shall be as condensed as is possible to afford an intelligent direction of the mind to the object sought to be accomplished or the act forbidden by the rule or regulation; one notice may embrace any number of regulations; there must be embraced in the notice advice that breach of the particular regulation, or regulations, will subject the violator to the infliction of a penalty and there also shall be included in the notice advice that the full text of the regulation sought to be enforced is on file in the principal office of the District, where the same may be read by any interested person. Five (5) days after the second publication of the notice hereby required, the advertised regulation shall be in effect, and ignorance of any such regulation shall not constitute a defense to a prosecution for the enforcement of a penalty; and, the rules and regulations authorized hereby, after the required publication, shall judicially be known to the courts and shall be considered of a nature like unto that of valid penal ordinances of a city of the State;

(l) [(+) ] to adopt, use, and alter a corporate seal;

(m) [(+) ] to appoint agents and employees; prescribe their duties and fix their compensation;

(n) [(+) ] to make contracts and execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions herein conferred;

(o) [(+) ] to borrow money for its authorized purposes, to accept grants or loans or allotments from the United States Government or any of its agencies, or others, and in connection with any such grants, loans, or allotments to enter into such agreements as may be required to make them effective, and for the purpose of obtaining funds to issue its negotiable tax bonds and its negotiable revenue bonds in the manner and to the extent hereinafter provided;

(p) [(+) ] to operate and maintain with consent of the governing body of any city, town, or political subdivision located in the District any works, plants, or facilities deemed necessary or convenient to the accomplishment of the purposes for which the District is created;

(q) ~~[(s)]~~ to enter into planning agreements with the Texas Water Development Board under Subchapter C, Chapter 16, Water Code, for the purpose of conducting studies necessary to maintain retail water supply services to customers within the boundaries of the District; and

(r) ~~[(t)]~~ to cooperate with and support local fire departments and economic development activities sponsored by local entities within the District that use water and water resources provided, or to be provided, by the District.

SECTION 5B.02. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 23A and 23B to read as follows:

Sec. 23A. The District may not provide a service to a customer located outside Bexar County unless the customer received services from the District on or before April 4, 2007.

Sec. 23B. (a) The District may not charge a customer who receives water services from the District on and after September 1, 2007, a residential or commercial water rate that is greater than the rate charged by the District on September 1, 2007. This subsection expires September 1, 2012.

(b) If, on or after September 1, 2007, the District contracts with a person to provide water services to District customers and the person with whom the District contracts has water rates lower than the District's, a customer who receives water services from the District on September 1, 2007, and when the contract is in effect is entitled to the water rate charged by the person with whom the District contracts.

SECTION 5B.03. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27D to read as follows:

Sec 27D. (a) Not later than 120 days after the effective date of the Act enacting this article, the District shall:

(1) produce a report of an assessment of the operations and maintenance condition of the District;

(2) produce a status report of infrastructure improvements under construction;

(3) produce a report certifying any rate structure changes approved by the District and documenting a schedule for future changes to rate structure anticipated by the District; and

(4) deliver these reports to the legislative oversight committee.

(b) Not later than 180 days after the effective date of the Act enacting this article, the District shall produce an assessment of the District's financial condition and present it to the Bexar Metropolitan Water District Legislative Oversight Committee.

(c) Not later than 240 days after the effective date of the Act enacting this article, the District shall:

(1) produce a report of necessary improvements to the system and a schedule for the implementation of those improvements;

(2) produce a report on the sustainability and adequacy of the water resources of the District and a plan for obtaining additional water resources if deficiencies exist; and

(3) deliver these reports to the legislative oversight committee.

(d) Not later than one year after the effective date of the Act enacting this article, the District shall:

(1) produce a report on service delivery improvements that have been completed and that are in progress;

(2) produce a report identifying all service improvements necessary for the system and a schedule for the completion of those improvements; and

(3) deliver these reports to the legislative oversight committee.

(e) Not later than eighteen months after the effective date of the Act enacting this article, the District must have a uniform rate structure that contains rates that are equal to or lower than the rates of other large retail water providers in the region.

(f) This section expires September 1, 2012.

SECTION 5B.04. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 32 to read as follows:

Sec. 32. (a) The District shall permit a customer to pay a bill at one or more retail locations in the District.

(b) The District may not close a customer service branch that is in operation on June 1, 2007, unless a comparable customer service branch is opened. This subsection expires September 1, 2012.

SECTION 5B.05. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27A to read as follows:

Sec. 27A. The District shall submit to the Bexar Metropolitan Water District Legislative Oversight Committee the following:

(1) a schedule for achieving the objectives set out in Section 27D within six months of the effective date of this section;

(2) evidence that the District, within one and one half years from the effective date of this section, has completed its three-year plan of improvements as adopted by the board of directors of the District before the effective date of this Act;

(3) audited annual financial statements indicating the financial condition of the district within six months of the effective date of this section;

(4) a written projection of all rate and fee increases for three years following the effective date of this Act within six months of the effective date of this section;

(5) any documentation or materials used in conducting a standard managerial and financial audit; and

(6) any other information the legislative oversight committee requests.

SECTION 5B.06. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27C to read as follows:

Sec. 27C. The District shall implement a rate structure that promotes and encourages conservation of water and provides for lower rates for customers using lower quantities of water.

SECTION 5B.07. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Section 27E to read as follows:

Sec. 27E. The District shall implement an appeal and grievance process for employees of the District.

## ARTICLE 5C

SECTION 5C.01. Chapter 306, Acts of the 49 Legislature, Regular Session, 1945, is amended by adding Section 33A as follows:

Sec. 33A. LEGISLATIVE OVERSIGHT COMMITTEE. (a) In recognition of the important goal of the state in providing safe and efficient water supply services to the customers of the District and the necessity for state oversight and regulation of the District to ensure the achievement of this goal there is created the Bexar Metropolitan Water District Legislative Oversight Committee.

(b) The legislative oversight committee shall:

(1) monitor the progress of the district in implementing a rate structure that conserves water, provides adequate service to low-income customers, and assists in creating uniform rates among water utility providers in the region;

(2) monitor the quality of service provided by the district;

(3) monitor the plans by the district to provide for sustainability of water resources and plan for infrastructure needs;

(4) identify regulatory and statutory barriers to achievement of the district's goals, and make recommendations to the Legislature, if necessary; and

(5) perform any other oversight function considered appropriate by the legislative oversight committee.

(c) The legislative oversight committee is composed of three members appointed to represent the following members:

(1) the senator sponsor of the Act enacting this section, or, if the senator cannot serve, a senator appointed by the lieutenant governor;

(2) the house author of the Act enacting this section, or, if the representative cannot serve, a representative appointed by the speaker of the house of representatives; and

(3) one member with special expertise in the operation of public water utilities appointed by the governor.

(d) A member of the legislative oversight committee is not entitled to receive compensation for service on the legislative oversight committee but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the legislative oversight committee, as provided by the General Appropriations Act.

(e) The District shall provide staff support for the legislative oversight committee.

(f) If Article 5A of this Act becomes effective, this section expires on September 1, 2012, and the legislative oversight committee is abolished.

SECTION 5C.02. STATE AUDIT. Subject to approval by the Legislative Audit Committee for inclusion in the annual audit plan, the State Auditor shall conduct a financial and managerial audit of the District upon passage of this Act and submit the findings from the audit in a written report to the members of the Legislative Oversight Committee, the Board of Directors of the District, the Texas Legislature, and the Bexar County Commissioners. The District shall cooperate and provide assistance and access to all necessary records, even if they

are confidential, to the state auditor in conducting the audit pursuant to this Section. The District shall reimburse the state auditor for the cost of performing the audit.

SECTION 5C.03. TRANSITION PERIOD. (a) The period on or after the effective date of the Act and before the implementation of Article 5A or Article 5B of this Act is the transition period.

(b) During the term of the transition period, the district may not:

(1) destroy or falsify any record of the District, including, but not limited to, written correspondence, electronic mail, and tape recordings;

(2) modify in any manner the compensation, benefits, bonus plan, or any matter related to compensation of all employees, including management, of the district;

(3) enter into any contract or agreement that cannot be terminated with 45 days notice and no penalty for termination;

(4) enter into any contract or agreement to privatize operation of any part of the district system; or

(5) sell, lease, transfer, or convert any assets of the District.

SECTION 5C.04. (a) The legal notice of the intention to introduce Articles 5A, 5B, and 5C, setting forth the general substance of articles 5A, 5B, and 5C, has been published as provided by law, and the notice and a copy of article 5A, 5B, and 5C have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice of articles 5A and 5B to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to articles 5A and 5B with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of articles 5A and 5B are fulfilled and accomplished.

SECTION 5C.05. (a) Articles 5A and 5C take effect January 1, 2008.

(b) If the United States Department of Justice issues a letter under Section 5 of the Voting Rights Act interposing an objection to the implementation of any portion of Article 5A, 5B, or 5C, the Texas Secretary of State shall publish notice of the objection in the Texas Register. The notice shall contain a copy of the letter referenced in this section. On publication of the notice, Article 5B takes effect and Article 5A is no longer effective.

Amendment No. 100 was adopted.

Amendment No. 6, as amended, was adopted.

### **Amendment No. 101**

Representative Chavez offered the following amendment to **CSSB 3**:

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Amend **CSSB 3** (house committee printing) as follows:

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

SECTION \_\_\_\_\_. Section XXXXXX, is amended by adding Section (a) and

(b):

(a) The creation of a Fresh Water Supply District by a county between June 1, 2005 and December 31, 2006 is validated and confirmed in all respects as of the dates the creation occurred. The creation may not be held invalid because it was not performed in compliance with Chapter 53, Water Code.

(b) This Section does not apply to an act or proceeding which is the subject of litigation that is pending on the effective date of this Act or an act or proceeding that, under a statute of this state or the United States was a misdemeanor or felony at the time the act or proceeding occurred.

Amendment No. 101 was adopted.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

### **CSSB 3 - (consideration continued)**

**CSSB 3**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anchia recorded voting no.)

### **RULES SUSPENDED**

Representative Taylor moved to suspend all necessary rules to take up and consider the Emergency State Calendar at this time.

The motion prevailed.

### **EMERGENCY CALENDAR SENATE BILLS SECOND READING**

The following bills were laid before the house and read second time:

### **SB 2033 ON SECOND READING (Chisum - House Sponsor)**

**SB 2033**, A bill to be entitled An Act relating to the issuance of general obligation bonds by the Texas Public Finance Authority for certain maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

### **HB 1 - REMARKS**

REPRESENTATIVE DUNNAM: Mr. Chisum, do you know today how high we are up on the Article III University and College Expenditures above and beyond the house and the senate budgets?

REPRESENTATIVE CHISUM: Well, we are not finished with that right now.

DUNNAM: Are we at \$160 million above that now, \$160 million above what either the house or the senate appropriated?

CHISUM: That might be a good figure, but I don't have it exactly.

DUNNAM: And we decided to spend \$160 million on people's pet projects for their universities, above and beyond the senate and house's budgets, because of what?

CHISUM: There are a number of articles in there that are listed.

DUNNAM: There are a number of articles that are talking about that people are being offered money for their universities, and that Article is being kept open in an attempt to influence speaker politics. Is there any truth to that whatsoever?

CHISUM: Mr. Dunnam, I have not made that offer to anyone.

DUNNAM: I know I'm not, and I know you wouldn't, Mr. Chisum, I know you wouldn't. My question is, to your knowledge, is there truth to any of those allegations at all?

CHISUM: Mr. Dunnam, I have not been involved in any of those kinds of negotiations, and I have no comment about it.

DUNNAM: You cannot deny it, though?

CHISUM: I have no involvement in those negotiations.

DUNNAM: Let me ask you one other question, because I asked you yesterday how much the teacher pay raise had been cut, and you said you did not know, and I just want to see if I can refresh your memory. Do you remember on March 17 about 9:30 a.m., y'all had a public hearing on the **HB 1** conference committee, and you suggested at that hearing, in that public hearing, that it was your intention to finish Article III that evening?

CHISUM: Yes, sir.

DUNNAM: And are you also aware that you actually made the motion at that meeting to adopt, and you did it about 10 o'clock that morning, or that evening, you actually made the motion to adopt the TEA budget? You recall that?

CHISUM: On March 17?

DUNNAM: March 17, 2007, approximately 10 o'clock. Thirty minutes into the meeting that you were chairing, you made a motion to adopt the TEA budget.

CHISUM: On March 17 we were not in conference.

DUNNAM: Well, then the tape is wrong, evidently, because we're looking at a tape.

CHISUM: Okay.

DUNNAM: The TEA budget adopted by the conferees cut \$340 million from the across-the-board teacher pay raise. I'm sorry, May 17th.

CHISUM: Okay, May 17th.

DUNNAM: May 17th, you made the motion to adopt the TEA budget.

CHISUM: That is correct.

DUNNAM: And that budget cut \$340 million out of the across-the-board teacher pay raise.

CHISUM: That's correct.

**SB 2033 - (consideration continued)**

A record vote was requested.

**SB 2033** was passed to third reading by (Record 1601): 140 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Villarreal; Vo; West; Woolley(C); Zedler; Zerwas.

Nays — Burnam.

Present, not voting — Mr. Speaker.

Absent, Excused, Committee Meeting — Kolkhorst.

Absent — Dunnam; Dutton; Martinez Fischer; Mowery; Pierson; Smith, T.; Veasey.

**SB 1640 ON SECOND READING**  
**(Chisum and Guillen - House Sponsors)**

**SB 1640**, A bill to be entitled An Act relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

**Amendment No. 1**

Representative Chisum offered the following amendment to **SB 1640**:



Amend **SB 1640** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 52.17, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (a-1) to read as follows:

(a) Each fiscal year a sufficient portion of the funds received by the board as repayment of student loans granted under this chapter, as interest on the loans, and as other available funds relating to the student loan program shall be deposited in the state treasury in the Texas college interest and sinking fund or a board interest and sinking fund to:

(1) pay the interest and principal coming due during the next ~~[ensuing]~~ fiscal year ~~on [and to establish and maintain a reserve in the interest and sinking fund equal to the average annual principal and interest requirements of]~~ all outstanding bonds issued under this chapter that are secured by money ~~[funds]~~ in, as applicable, the Texas college interest and sinking fund or a board interest and sinking fund; and

(2) establish and maintain any reserves required by the board resolution authorizing the issuance of the bonds.

(a-1) With respect to any bonds that remain outstanding under this chapter, the board may, subject to the terms of the applicable board resolution authorizing the issuance of those bonds:

(1) reduce, eliminate, or replace any reserve portion of the Texas college interest and sinking fund or a board interest and sinking fund; and

(2) apply any excess money in accordance with Subsection (b).

(c) ~~If [In the event that]~~ funds received by the board in any fiscal year as repayment of student loans and as interest on the loans are insufficient to pay the interest coming due and the principal maturing on the bonds during the next ~~[ensuing]~~ fiscal year as described by Subsection (a), the comptroller shall transfer into the Texas college interest and sinking fund and each board interest and sinking fund out of the first money coming into the treasury that ~~[, which]~~ is not otherwise appropriated by the constitution~~[-]~~ an additional amount sufficient to pay that ~~[the]~~ interest ~~[coming due]~~ and ~~[the]~~ principal ~~[maturing on the bonds during the ensuing fiscal year]~~.

(d) The resolution authorizing the issuance of the bonds may provide for the deposit, from bond proceeds, of not more than ~~36~~ [24] months' interest, and may provide for the use of bond proceeds as a reserve for the payment of principal of and interest on the bonds.

(b) Section 52.19, Education Code, is amended to read as follows:

Sec. 52.19. INVESTMENT OF FUNDS. All money in the Texas college interest and sinking fund and in each board interest and sinking fund, including any ~~[the]~~ reserve portion, and all money in the Texas Opportunity Plan Fund and in the student loan auxiliary fund in excess of the amount necessary for student loans, and all money in each board student loan fund shall be invested by the comptroller in the investments prescribed by board resolution. The board shall furnish to the comptroller a copy of the resolution prescribing authorized

investments. The board may sell any instruments owned in the Texas college interest and sinking fund, a board interest and sinking fund, the Texas Opportunity Plan Fund, the student loan auxiliary fund, or a board student loan fund at the prevailing market price. Income from these investments may be deposited in any of those funds.

(c) Section 52.541(c), Education Code, is amended to read as follows:

(c) The board may transfer funds between the Texas Opportunity Plan Fund and the student loan auxiliary fund and among the separate accounts established under this section within those funds if:

(1) the transfer is approved by the board and is necessary to administer the Texas Opportunity Plan Fund or the student loan auxiliary fund; and

(2) the reason for the transfer is documented in the accounting of the funds.

(d) Section 52.82(c), Education Code, is amended to read as follows:

(c) The board may sell the bonds at a negotiated sale if the board determines that a negotiated sale is a more efficient and economical method of selling the bonds. If the board has determined that the bonds will be sold by competitive bid, the board by resolution shall prescribe the manner of giving notice of the sale.

(e) The following statutes are repealed:

(1) Sections 52.14 and 52.15, Education Code; and

(2) Section 52.32(d), Education Code.

(f) Notwithstanding any other provision of this Act, this section takes effect September 1, 2007.

Amendment No. 1 was adopted.

### HB 1 - REMARKS

REPRESENTATIVE HILL: Mr. Chisum, you and Mr. Dunnam just had an exchange.

REPRESENTATIVE CHISUM: Yes, sir.

HILL: And that exchange revolved around some special items in the budget.

CHISUM: Yes, sir.

HILL: And I think they're all associated with higher education. There was a total of \$168 million, is that what you were talking about?

CHISUM: That's correct.

HILL: Okay. You said that you had not had any involvement in those special items, is that correct?

CHISUM: That's correct.

HILL: So did someone else on the Appropriations Committee have involvement in those special items?

CHISUM: Mr. Hill, I am not at all sure what all the conferees were doing, so I hesitate to speak for any of those. You might ask them.

HILL: And I don't mean to put you on the spot, Mr. Chisum, I really don't want to do that.

CHISUM: I understand.

HILL: But you know that this has been the subject of some commentary.

CHISUM: Yes, sir.

HILL: You know that?

CHISUM: Yes, sir.

HILL: And it has been said that those special items were to be used for political purposes.

CHISUM: Mr. Hill, all the special items I have seen were requests in the special items list from the universities. There are no other special items that I am aware of that are in that budget.

HILL: And yet you're not aware of these particular ones?

CHISUM: I'm not aware of any of the negotiations, except those special items that showed up on the list, yes, sir. We have not adopted them.

HILL: You have not?

CHISUM: No, sir.

HILL: So if you have not adopted them —

CHISUM: The conferees have not adopted Article III of the education budget.

HILL: So what could we anticipate would be the ultimate disposition of those special items?

CHISUM: They are changing and I have the vice-chair of Article III here, would be happy to talk with you. But they won't all survive, Fred, some will be kicked off, some will survive. That's the sticky issue we're negotiating with the governor, we're negotiating with the senate on those items, and where they go in Article IX, or Article III, or **HB 15**. That's the process we're going through at this point. I wish we were through, but we're not through.

HILL: Have these special items been developing as we go along during the last week or so?

CHISUM: Yes, sir.

HILL: So if we would have been having this conversation a week or 10 days ago, they would not have existed?

CHISUM: No, that's not true. They have been there for a long time. Some of them were in Article XI, and they were pulled up into the budget, but it's just a process we've been going through since we started.

HILL: Okay.

CHISUM: The education people brought these to us. That's what we're talking about.

HILL: Mr. Chisum, I know that this has been a very difficult process for you, and I don't want you to feel like anyone is putting any particular pressure on you in regards to this, but this is an issue that has been the subject of a lot of conversation.

CHISUM: Yes, sir.

HILL: Yes.

CHISUM: I'm sure the house will do the right thing in the end, Mr. Hill.

HILL: And we know that you will.

CHISUM: Yes, sir.

### REMARKS ORDERED PRINTED

Representative Castro moved to print remarks between Representative Dunnam and Representative Chisum and Representative Hill and Representative Chisum.

The motion prevailed.

REPRESENTATIVE BERMAN: Mr. Chisum, do you know that I have four items, four special items, on Article XI, that went on Article XI two-and-a-half months ago, during the Appropriations Committee hearings? Do you know that?

REPRESENTATIVE CHISUM: Yes, sir.

BERMAN: Do you know that nobody has contacted me about any of my items on Article XI whatsoever, and that to this day, I have no idea whether any of those items are going to pass or not?

### REMARKS ORDERED PRINTED

Representative Berman moved to print remarks between Representative Chisum and Representative Berman.

The motion prevailed.

### SB 1640 - (consideration continued)

#### Amendment No. 2

Representative Strama offered the following amendment to **SB 1640**:

Amend **SB 1640** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 54.203, Education Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) The exemption from fees provided for in Subsection (a) ~~[of this section]~~ does not apply to a person who ~~[is]~~ at the time of ~~[his]~~ registration ~~[he]~~ is entitled to receive ~~[eligible for]~~ educational benefits under federal legislation ~~[in effect at the time of his registration]~~ if the value of those benefits received in a semester or other term is equal to or exceeds the value of the exemption ~~for the same semester or other term~~. If the value of federal benefits received in a semester or other term does not equal or exceed the value of the exemption for the same semester or

other term, ~~[except that]~~ the person ~~[must first utilize the federal benefit for which he]~~ is entitled to receive both the federal benefit and the exemption in the same semester or other term. The ~~[eligible and the]~~ combined amount of the federal benefit plus the amount of the exemption received in a semester or other term may ~~[this waiver shall]~~ not exceed the cost of tuition and fees for that semester or other term ~~[maximum value of the waiver]~~. A person is covered by the exemption ~~[exemptions]~~ if the person's ~~[his]~~ right to benefits under federal legislation is extinguished at the time of the person's ~~[his]~~ registration, except that a person may ~~[is]~~ not receive ~~[eligible for]~~ an exemption from fees under this section if the person's right to benefits under federal legislation is extinguished because the person is in default of repayment of a loan made to the person under a federal program to provide or guarantee loans for educational purposes.

(e-1) A person may ~~[is]~~ not receive an ~~[eligible for the]~~ exemption under this section if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

SECTION \_\_\_\_\_. Section 54.203(e), as amended by this Act, and Section 54.203(e-1), as added by this Act, apply beginning with tuition and fees for the 2007 fall semester. Tuition and fees for a term or semester before the 2007 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 2 was adopted.

**SB 1640**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

### **CSSB 1719 ON SECOND READING (Chisum - House Sponsor)**

**CSSB 1719**, A bill to be entitled An Act relating to the authority of the comptroller to pay certain claims and to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

Representative Dukes offered the following amendment to **CSSB 1719**:

Amend **CSSB 1719** (house committee printing) in Section 3 of the bill (page 86, between lines 18 and 19) by inserting:

To pay the City of Austin for claim paid on behalf of Capital Area Metropolitan Planning Organization (CAMPO) in calendar year 2000 to Parson Brinckerhoff for CAMPO modeling work under Texas Department of Transportation Contract No. 9XXF0002

\$95,567.08

To pay the City of Austin for claim paid on behalf of Capital Area Metropolitan Planning Organization (CAMPO) in calendar year 1999 to Parson Brinckerhoff for CAMPO Travel Survey Study work under Texas Department of Transportation Contract No. 50-8X1F0008

\$237,120.00

To pay the City of Austin for claim paid on behalf of Capital Area Metropolitan Planning Organization (CAMPO) in calendar year 2003 to Alliance Texas for CAMPO modeling work under Texas Department of Transportation Contract

\$21,472.87

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Thompson offered the following amendment to **CSSB 1719**:

Amend **CSSB 1719** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION \_\_\_\_\_. Section 103.052, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$50,000 [±

~~[(1) \$25,000]~~ multiplied by the number of years served in prison, expressed as a fraction to reflect partial years [~~-, if the time served is less than 20 years; or~~

~~[(2) \$500,000 if the time served is 20 years or more].~~

(a-1) A person sentenced to death who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$100,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.

SECTION \_\_\_\_\_. Subsection (c), Section 103.105, Civil Practice and Remedies Code, is repealed.

SECTION \_\_\_\_\_. (a) The change in law made by this Act to Section 103.052, Civil Practices and Remedies Code, applies to an administrative proceeding for compensation for wrongful imprisonment for which the application is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 103.105, Civil Practice and Remedies Code, applies to an action:

(1) commenced on or after the effective date of this Act; or

(2) pending on that effective date and in which the trial, or any new trial or retrial following motion, appeal, or otherwise, begins on or after that effective date.

(c) In an action commenced before the effective date of this Act, a trial, new trial, or retrial that is in progress on the effective date is governed by the law applicable to the trial, new trial, or retrial immediately before the effective date, and that law is continued in effect for that purpose.

Amendment No. 2 was withdrawn.

Representative Chisum moved to postpone consideration of **CSSB 1719** until after the second reading of **CSSB 1848**.

The motion prevailed.

**CSSB 1848 ON SECOND READING**  
**(Chisum and Guillen - House Sponsors)**

**CSSB 1848**, A bill to be entitled An Act relating to state fiscal matters.

**CSSB 1848 - POINT OF ORDER**

Representative Dunnam raised a point of order against further consideration of **CSSB 1848** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The chair sustained the point of order.

**POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

**CSSB 1719 ON SECOND READING**  
**(Chisum - House Sponsor)**

**CSSB 1719**, A bill to be entitled An Act relating to the authority of the comptroller to pay certain claims and to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

**CSSB 1719** was read second time earlier today, amendments were offered and disposed of, and **CSSB 1719** was postponed until this time.

**Amendment No. 3**

Representative Thompson offered the following amendment to **CSSB 1719**:

Amend **CSSB 1719** by adding the following Sections to read as follows and renumbering the subsequent Sections appropriately:

SECTION \_\_\_\_\_. Section 103.051, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) to apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon or court order justifying the application for compensation; and

(3) a statement provided by the Texas Department of Criminal Justice verifying the length of incarceration~~]; and~~

~~[(4) a certification of the claimant's actual innocence of the crime for which the claimant was sentenced that is signed by the attorney representing the state in the prosecution of felonies in the county in which the sentence was rendered].~~

(b-1) In determining the eligibility of a claimant, the comptroller shall consider only the verified copy of the pardon or court order filed by the claimant under Subsection (a). If the pardon or court order does not clearly indicate on its face that the pardon or the court order was granted or rendered on the basis of the claimant's actual innocence of the crime for which the claimant was sentenced, the comptroller shall deny the claim. The comptroller's duty to determine the eligibility of a claimant under this section is purely ministerial.

SECTION \_\_\_\_\_. The change in law made by this Act applies only to an application for compensation under Section 103.051, Civil Practice and Remedies Code, that is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law as it existed on the date of filing, and that law is continued in effect for that purpose.

Amendment No. 3 was adopted.

**CSSB 1719**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: D. Howard recorded voting present, not voting.)

### REASON FOR VOTE

My husband is an attorney and he represents a client whose interests are affected by this miscellaneous claims legislation. Pursuant to Article III, Section 22, I voted present, not voting on this bill for that reason.

D. Howard

### RULES SUSPENDED

Representative Taylor moved to suspend all necessary rules to take up and consider the Constitutional Amendments Calendar at this time.

The motion prevailed.

### CONSTITUTIONAL AMENDMENTS CALENDAR SENATE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

#### **SJR 44 ON SECOND READING (Hardcastle - House Sponsor)**

**SJR 44**, A joint resolution proposing a constitutional amendment authorizing the legislature to permit the voters of a municipality with a population of less than 10,000 to authorize the governing body of the municipality to enter into an agreement with an owner of real property in or adjacent to an area in the



municipality that has been approved for funding under certain revitalization or redevelopment programs to prohibit ad valorem tax increases on the owner's property for a limited period.

(Kolkhorst now present)

A record vote was requested.

**SJR 44** was adopted by (Record 1602): 149 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley(C); Zedler; Zerwas.

Present, not voting — Mr. Speaker.

**SJR 65 ON SECOND READING**  
**(Chisum - House Sponsor)**

**SJR 65**, A joint resolution proposing a constitutional amendment authorizing the issuance of general obligation bonds for maintenance, improvement, repair, and construction projects and for the purchase of needed equipment.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Chisum offered the following committee amendment to **SJR 65**:

Amend **SJR 65** (engrossed version) on page 2, line 3, by striking "Prairie View A&M University" and substituting "the Texas School for the Deaf".

Amendment No. 1 was adopted.

A record vote was requested.

**SJR 65**, as amended, was adopted by (Record 1603): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrerero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley(C); Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Creighton.

#### STATEMENT OF VOTE

When Record No. 1603 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

#### **SJR 57 ON SECOND READING** **(Chisum and Guillen - House Sponsors)**

**SJR 57**, A joint resolution proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students and for authority to enter into bond enhancement agreements with respect to general obligation bonds issued for that purpose.

A record vote was requested.

**SJR 57** was adopted by (Record 1604): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel;

Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley(C); Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Herrero.

### STATEMENT OF VOTE

When Record No. 1604 was taken, I was in the house but away from my desk. I would have voted yes.

Herrero

(Bonnen in the chair)

### SJR 29 ON SECOND READING (Flores - House Sponsor)

**SJR 29**, A joint resolution proposing a constitutional amendment authorizing the legislature to exempt all or part of the residence homesteads of certain totally disabled veterans from ad valorem taxation.

#### Amendment No. 1

Representative McReynolds offered the following amendment to **SJR 29**:

Amend **SJR 29** (House committee printing) as follows:

(1) Between SECTIONS 1 and 2 of the resolution (on page 1, between lines 15 and 16), insert the following SECTIONS to the resolution and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 2(b), Article VIII, Texas Constitution, is amended to read as follows:

(b) The Legislature may, by general law, exempt property owned by a disabled veteran or by the surviving spouse and surviving minor children of a disabled veteran. A disabled veteran is a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or by a successor to that agency[;] or by the military service in which the veteran [he] served. A veteran who is certified as having a disability of less than 10 percent is not entitled to an exemption. A veteran having a disability rating of not less than 10 percent but less [~~not more~~] than 30 percent may be granted an exemption from taxation for property valued at up to \$5,000. A veteran having a disability rating of not less [~~more~~] than 30 percent but less [~~not more~~] than 50 percent may be granted an exemption from taxation for property valued at up to \$7,500. A veteran having a disability rating of not less [~~more~~] than 50 percent but less [~~not more~~] than 70 percent may be granted an exemption from taxation for property valued at up to \$10,000. A veteran who has a disability rating of [~~more than~~] 70

percent or more, or a veteran who has a disability rating of not less than 10 percent and has attained the age of 65, or a disabled veteran whose disability consists of the loss or loss of use of one or more limbs, total blindness in one or both eyes, or paraplegia, may be granted an exemption from taxation for property valued at up to \$12,000. The spouse and children of any member of the United States Armed Forces who dies while on active duty may be granted an exemption from taxation for property valued at up to \$5,000. A deceased disabled veteran's surviving spouse and children may be granted an exemption which in the aggregate is equal to the exemption to which the veteran was entitled when the veteran died.

SECTION \_\_\_\_\_. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the legislature to exempt all or part of the residence homesteads of certain totally disabled veterans from ad valorem taxation and authorizing a change in the manner of determining the amount of the existing exemption from ad valorem taxation to which a disabled veteran is entitled and expires January 1, 2009.

(b) The amendments to Sections 1-b and 2(b), Article VIII, of this constitution take effect January 1, 2008, and apply only to a tax year beginning on or after that date.

(2) In SECTION 2 of the resolution, the proposed constitutional election ballot language (on page 1, line 21), between "taxation" and the period, insert "and authorizing a change in the manner of determining the amount of the existing exemption from ad valorem taxation to which a disabled veteran is entitled".

Amendment No. 1 was adopted.

A record vote was requested.

**SJR 29**, as amended, was adopted by (Record 1605): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Harcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Olivo; Orr; Otto; Parker; Patrick; Paxton; Peña;

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

Present, not voting — Mr. Speaker.

Absent — Dunnam; King, S.; Oliveira; Ortiz; Vo.

### STATEMENT OF VOTE

When Record No. 1605 was taken, my vote failed to register. I would have voted yes.

S. King

### SCR 85 - ADOPTED (Solomons - House Sponsor)

Representative Solomons moved to suspend all necessary rules to take up and consider at this time **SCR 85**.

The motion prevailed.

The following resolution was laid before the house:

**SCR 85**, Recalling **SB 924** from the governor for further consideration.

**SCR 85** was adopted.

### SJR 64 ON SECOND READING (Krusee - House Sponsor)

**SJR 64**, A joint resolution proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Transportation Commission to provide funding for highway improvement projects.

A record vote was requested.

**SJR 64** was adopted by (Record 1606): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Burnam; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett;

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

Present, not voting — Mr. Speaker.

Absent — Castro; Hopson; King, S.; McReynolds; Olivo; Vo.

### **POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

(Speaker in the chair)

#### **CSSB 785 ON SECOND READING (Morrison - House Sponsor)**

**CSSB 785**, A bill to be entitled An Act relating to information related to the performance of an abortion; creating an offense.

**CSSB 785** was read second time on May 21, postponed until 9:30 a.m. today, and was again postponed until this time.

#### **CSSB 785 - POINT OF ORDER**

Representative Dutton raised a point of order against further consideration of **CSSB 785** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The speaker sustained the point of order.

### **MAJOR STATE CALENDAR SENATE BILLS THIRD READING**

The following bills were laid before the house and read third time:

(Bonnen in the chair)

#### **SB 7 ON THIRD READING (Eissler - House Sponsor)**

**SB 7**, A bill to be entitled An Act relating to instruction in cardiopulmonary resuscitation, the availability and use of automated external defibrillators at certain school campuses and athletic events, and the creation of a cardiovascular screening pilot program.

A record vote was requested.

**SB 7** was passed by (Record 1607): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings;

Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Burnam.

**CSSB 920 ON SECOND READING  
(Corte - House Sponsor)**

**CSSB 920**, A bill to be entitled An Act relating to informed consent to an abortion.

Representative Corte moved to postpone consideration of **CSSB 920** until 10 a.m. Friday, June 1.

The motion prevailed.

**RULES SUSPENDED**

Representative Eiland moved to suspend all necessary rules to postpone consideration of all third reading bills until 9 a.m. tomorrow.

The motion prevailed.

**MAJOR STATE CALENDAR  
SENATE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**CSSB 1846 ON SECOND READING  
(Truitt - House Sponsor)**

**CSSB 1846**, A bill to be entitled An Act relating to funding for, and benefits provided under, the Teacher Retirement System of Texas.

(Driver in the chair)

**Amendment No. 1**

Representative McClendon offered the following amendment to **CSSB 1846**:

Amend **CSSB 1846** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (a), Section 825.404, Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least 6.7 ~~[six]~~ and not more than 10 percent of the aggregate annual compensation of ~~all~~ members of the retirement system during that fiscal year.

SECTION 2. Subsection (e), Section 825.4092, Government Code, is amended to read as follows:

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from ~~was reported under~~ the retirement system ~~[rules in effect for the report month of January 2005 by:~~

~~[(1) that reporting employer; or~~

~~[(2) another employer, if both employers are school districts that consolidated into a consolidated school district on or] before September 1, 2005.~~

SECTION 3. Subsection (b), Section 1575.204, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, each employer who reports to the retirement system under Section 824.6022, Government Code, the employment of a retiree who is enrolled in the group program shall contribute to the fund the difference, if any, between the contribution amount that the reported retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the trustee. The amounts required to be paid under this subsection are not required to be paid by a reporting employer for a retiree who retired from the ~~[was reported by that employer under]~~ retirement system before September 1, ~~[rules in effect for the report month of January]~~ 2005.

SECTION 4. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit, as provided by this section.

(b) The supplemental payment is payable not later than September of 2007 and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of August 2007.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of August 2007, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:



- (1) a standard retirement annuity payment;
- (2) an optional retirement annuity payment as either a retiree or beneficiary;
- (3) a life annuity payment under Section 824.402(a)(4), Government Code;
- (4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3), Government Code; or
- (5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or a beneficiary under an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before December 31, 2006. If the annuitant is a beneficiary under Section 824.402(a)(3) or (4), Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2006. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2006. The supplemental payment is in addition to the guaranteed number of payments under Section 824.402(a)(3) or 824.204(c)(3) or (4), Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

- (1) Section 824.304(a), Government Code, relating to disability retirees with less than 10 years of service credit;
- (2) Section 824.804(b), Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;
- (3) Section 824.501(a), Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or
- (4) Section 824.404(a), Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

SECTION 5. Section 825.404(a), Government Code, as amended by this Act, applies beginning with the fiscal year that begins September 1, 2007.

SECTION 6. Section 825.4092, Government Code, as amended by this Act, applies only to an employer contribution required to be made under that section on or after September 1, 2007. An employer contribution required to be made before September 1, 2007, is governed by the law as it existed at the time the contribution was required to be made, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2007.

A record vote was requested.

Amendment No. 1 was adopted by (Record 1608): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver(C); Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Corte.

## Amendment No. 2

Representative Callegari offered the following amendment to **CSSB 1846**:

Amend **CSSB 1846** (house committee printing) by inserting the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 1575, Insurance Code, is amended by adding Sections 1575.057, 1575.058, 1575.059, 1575.060, 1575.061, and 1575.062 to read as follows:

Sec. 1575.057. TREATMENT OF CERTAIN REVENUE FROM PHARMACEUTICAL MANUFACTURERS IN CONTRACTS WITH PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that:

(1) with respect to any transaction with a pharmaceutical manufacturer or labeler in relation to the program, the pharmacy benefit manager represents the interests of the program; and

(2) any compensation provided by a pharmaceutical manufacturer or labeler to the pharmacy benefit manager in relation to the program must be remitted to the trustee for deposit to the credit of the retired school employees

group insurance fund, including compensation provided for formulary management and drug-switch programs, educational support, claims processing and pharmacy network fees that are charged from retail pharmacies, and data sales fees.

Sec. 1575.058. SPECIALTY PHARMACY SERVICES. (a) In this section:

(1) "Pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(2) "Specialty pharmacy service" means a service offered by a pharmacy benefit manager in relation to benefits that involve chronic conditions, unusually high treatment costs, or management of complex care issues. The term specifically includes the provision of pharmaceutical benefits involving:

(A) injectable and infusion therapies;

(B) therapies with annual costs to the patient of \$5,000 or more;

and

(C) therapies requiring complex care.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program that includes specialty pharmacy services must provide that the pharmacy benefit manager shall:

(1) pass through to the trustee for deposit to the credit of the retired school employees group insurance fund 100 percent of any revenue associated with distribution of a specialty pharmacy product paid by a pharmaceutical manufacturer or labeler to the pharmacy benefit manager;

(2) agree to charge the trustee on an acquisition cost basis, which may include a dispensing fee, for all specialty pharmacy prescriptions, based on actual inventory costs or wholesale acquisition cost; and

(3) provide case management for critical disease conditions, as specified by the contract, and agree not to incorporate the costs of the case management into the costs assessed for drug ingredients for the specialty pharmacy product.

Sec. 1575.059. MAIL ORDER PHARMACY SERVICES. (a) In this section:

(1) "Mail order pharmacy" means a pharmacy that is licensed as a Class A or Class E pharmacy under Chapter 560, Occupations Code, and that primarily delivers prescription drugs to an enrollee through the United States Postal Service or a commercial delivery service.

(2) "Pharmacy benefit manager" means an administering firm or other person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program that includes pharmacy services must provide that the pharmacy benefit manager shall agree to charge the trustee on an acquisition cost basis, which may include a dispensing fee, for all prescriptions filled by a mail order pharmacy, based on actual inventory costs or wholesale acquisition cost.

Sec. 1575.060. AMOUNTS CHARGED BY PHARMACY BENEFIT MANAGERS FOR CERTAIN CLAIMS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that the pharmacy benefit manager may not charge the program an amount for a brand retail claim payment or generic retail claim payment that is more than the amount the pharmacy benefit manager pays a pharmacy in the pharmacy benefit manager's retail network for the same claim.

Sec. 1575.061. AUDIT OF PHARMACY BENEFIT MANAGERS. (a) In this section, "pharmacy benefit manager" means a person, other than a pharmacy or pharmacist, who acts as an administrator in connection with pharmacy benefits. The term includes an administrator subject to Chapter 4151 who administers pharmacy benefits.

(b) A contract with a pharmacy benefit manager entered into with respect to the group program must provide that the trustee, using an auditor selected by the trustee, may audit:

- (1) the program's pharmacy benefit claims;
- (2) the pharmacy benefit manager's contracts with pharmacies and pharmaceutical manufacturers and labelers;
- (3) the pharmacy benefit manager's utilization management clinical criteria; and
- (4) mail service purchasing invoices related to benefits provided under the program.

(c) This section does not affect the state auditor's authority to access information or conduct an audit.

Sec. 1575.062. PHARMACY BENEFIT MANAGERS: DESIGNATION OF CONFIDENTIAL INFORMATION. (a) A pharmacy benefit manager may designate as confidential any information the pharmacy benefit manager is required to disclose to comply with Section 1575.057, 1575.058, 1575.059, 1575.060, or 1575.061.

(b) Information designated as confidential under this section may not be disclosed by the trustee to any person without the consent of the pharmacy benefit manager unless the disclosure is:

- (1) ordered by a court for good cause shown;
- (2) made under seal in a court filing; or
- (3) made to the commissioner or the attorney general in connection with an investigation authorized by this code or any other law.

SECTION \_\_\_\_. The change in law made by this Act in adding Sections 1575.057, 1575.058, 1575.059, 1575.060, 1575.061, and 1575.062, Insurance Code, applies only to a contract entered into with a pharmacy benefit manager under Chapter 1575, Insurance Code, on or after the effective date of this Act.

Amendment No. 2 was withdrawn.

**Amendment No. 3**

Representatives McClendon and Martinez offered the following amendment to **CSSB 1846**:

Amend **CSSB 1846** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (a), Section 825.404, Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least 6.7 ~~[six]~~ and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

SECTION 2. Subsection (e), Section 825.4092, Government Code, is amended to read as follows:

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who retired from ~~[was reported under]~~ the retirement system ~~[rules in effect for the report month of January 2005 by:~~

~~[(1) that reporting employer, or~~

~~[(2) another employer, if both employers are school districts that consolidated into a consolidated school district on or]~~ before September 1, 2005.

SECTION 3. Subsection (b), Section 1575.204, Insurance Code, is amended to read as follows:

(b) Each state fiscal year, each employer who reports to the retirement system under Section 824.6022, Government Code, the employment of a retiree who is enrolled in the group program shall contribute to the fund the difference, if any, between the contribution amount that the reported retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the trustee. The amounts required to be paid under this subsection are not required to be paid by a reporting employer for a retiree who retired from the ~~[was reported by that employer under]~~ retirement system before September 1, ~~[rules in effect for the report month of January]~~ 2005.

SECTION 4. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit, as provided by this section.

(b) The supplemental payment is payable not later than September of 2007 and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of August 2007.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required

deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of August 2007, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:

- (1) a standard retirement annuity payment;
- (2) an optional retirement annuity payment as either a retiree or beneficiary;
- (3) a life annuity payment under Section 824.402(a)(4), Government Code;
- (4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3), Government Code; or
- (5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or a beneficiary under an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before December 31, 2006. If the annuitant is a beneficiary under Section 824.402(a)(3) or (4), Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2006. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2006. The supplemental payment is in addition to the guaranteed number of payments under Section 824.402(a)(3) or 824.204(c)(3) or (4), Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

- (1) Section 824.304(a), Government Code, relating to disability retirees with less than 10 years of service credit;
- (2) Section 824.804(b), Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;
- (3) Section 824.501(a), Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or
- (4) Section 824.404(a), Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

SECTION 5. Section 825.404(a), Government Code, as amended by this Act, applies beginning with the fiscal year that begins September 1, 2007.

SECTION 6. Section 825.4092, Government Code, as amended by this Act, applies only to an employer contribution required to be made under that section on or after September 1, 2007. An employer contribution required to be made before September 1, 2007, is governed by the law as it existed at the time the contribution was required to be made, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2007.

Amendment No. 3 was withdrawn.

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

Representative Chavez offered the following amendment to **CSSB 1846**:

Amend **CSSB 1846** (house committee printing) by inserting the following new SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 825.4092, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (f) to read as follows:

(b) Except as provided by Subsections [~~Subsection~~] (e) and (f), during each payroll period for which a retiree is reported, the employer shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

(1) the current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

(2) the current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

(c) Except as provided by Subsections [~~Subsection~~] (e) and (f), each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Insurance Program under Chapter 1575, Insurance Code, the employer who reports the employment of a retiree shall contribute to the trust fund established under that chapter any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the retirement system. If more than one employer reports the retiree to the retirement system during a month, the amount of the required payment shall be prorated among the employers.

(f) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a school district that has been required to expand classroom facilities to accommodate an increased number of students resulting from the United States Department of Defense base realignment and closure process. The total number of employed retirees subject to the exemption established by this subsection may not exceed 500 and, if necessary, the board of trustees shall by rule establish a method to equitably allocate that number to each school district described by this subsection. This subsection expires December 31, 2011.

SECTION \_\_\_\_\_. Section 1575.204, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The amounts required to be paid under Subsection (b) are not required to be paid by a school district that has been required to expand classroom facilities to accommodate an increased number of students resulting from the United States Department of Defense base realignment and closure process. The total number of employed retirees subject to the exemption established by this subsection may not exceed 500 and, if necessary, the board of trustees shall by rule establish a method to equitably allocate that number to each school district described by this subsection. This subsection expires December 31, 2011.

Amendment No. 4 was adopted.

A record vote was requested.

**CSSB 1846**, as amended, was passed to third reading by (Record 1609): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Naishtat; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

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

Absent — Davis, J.; Hill; Murphy; Noriega.

**SB 1604 ON SECOND READING**  
**(Bonnen - House Sponsor)**

**SB 1604**, A bill to be entitled An Act relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.

**Amendment No. 1**

Representative Escobar offered the following amendment to **SB 1604**:



Amend **SB 1604** on page 23 by striking lines 13-21 and substitute the following:

(d) Notwithstanding Sections 5.551, 5.556, 27.011, and 28.018, an application for an authorization submitted after September 1, 2007, is an uncontested matter not subject to a contested case hearing or the hearing requirements of Chapter 2001, Government Code, unless the authorization seeks any of the following:

(1) the initial establishment or amendment to the restoration table or levels that would apply to any area covered by the authorization; or,

(2) the initial establishment or amendment to the establishment of monitoring wells for any area covered by the authorization, including the location, number, depth, spacing, and design of the monitoring wells or clusters of monitoring wells use for the detection of excursions or releases of contaminants from the mine area; or,

(3) the initial establishment or amendment to the type or amount or restoration bond required for the area covered by the authorization to assure that there are sufficient funds available to the state for restoration of the groundwater in the area by a third-party restorer, should the permittee seek bankruptcy protection or otherwise not be available to restore the groundwater.

(e) An application seeking approval under (d)(1)-(d)(3) is subject to the public notice and contested hearing requirements provided in Section 27.018, Water Code.

Representative Bonnen moved to table Amendment No. 1.

A record vote was requested.

The motion to table was lost by (Record 1610): 48 Yeas, 91 Nays, 2 Present, not voting.

Yeas — Berman; Bonnen; Branch; Brown, F.; Corte; Creighton; Crownover; Delisi; Eissler; Elkins; Farabee; Flynn; Geren; Goolsby; Guillen; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Jackson; King, P.; King, T.; Kolkhorst; Kuempel; Latham; Madden; Morrison; Orr; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Smith, W.; Smithee; Solomons; Swinford; Talton; Taylor; Truitt; West; Woolley; Zedler.

Nays — Allen; Alonzo; Anchia; Anderson; Aycok; Bailey; Bohac; Bolton; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Crabb; Darby; Davis, J.; Davis, Y.; Dukes; Dunnam; Dutton; Eiland; England; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Gattis; Gonzales; Gonzalez Toureilles; Haggerty; Hamilton; Harper-Brown; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jones; Keffer; Krusee; Laubenberg; Leibowitz; Lucio; Macias; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miles; Miller; Moreno; Mowery; Murphy; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pierson; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Strama; Thompson; Turner; Vaught; Veasey; Villarreal; Vo; Zerwas.

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

Absent — Deshotel; Giddings; Hill; King, S.; Menendez; O'Day; Paxton; Straus; Van Arsdale.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

#### **SB 1604 - (consideration continued)**

Amendment No. 1 was adopted.

#### **SB 1604 - POINT OF ORDER**

Representative Burnam raised a point of order against further consideration of **SB 1604** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The chair overruled the point of order.

**SB 1604**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

(Bonnen in the chair)

#### **CSSB 1693 ON SECOND READING (Krusee - House Sponsor)**

**CSSB 1693**, A bill to be entitled An Act relating to the creation of inland port authorities; providing authority to impose a tax and issue bonds.

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

Representative Krusee offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) as follows:

(1) In proposed Section 672.159, Business & Commerce Code (page 13, line 20), between "entity" and "without", insert "or other taxing entity".

(2) In proposed Section 672.159, Business & Commerce Code (page 13, line 21), between "entity" and the period, insert "or other taxing entity".

Amendment No. 1 was adopted.

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

Representative Krusee offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** in SECTION 1 of the bill, in proposed Section 672.154(b), Business & Commerce Code (house committee printing, page 12, lines 6 and 7), by striking "provided that in no instance may the authority acquire property through eminent domain".

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Krusee offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) as follows:

(1) In Section 1 of the bill, in added Section 672.051, Business & Commerce Code (page 3, between lines 19 and 20), insert the following:

(b) The contiguous area may not include any territory in:

(1) a county that is not a participating entity; or

(2) the corporate boundaries or extraterritorial jurisdiction of a municipality that is not a participating entity.

(2) In Section 1 of the bill, in added Section 672.051, Business & Commerce Code (page 3, line 20), strike "(b)" and substitute "(c)".

(3) In Section 1 of the bill, in added Section 672.052, Business & Commerce Code (page 3, line 26), strike "create" and substitute "participate in the creation of".

(4) In Section 1 of the bill, strike added Section 672.053, Business & Commerce Code (page 4, lines 5-16), and substitute:

Sec. 672.053. PROPOSAL TO CREATE. An authority is proposed to be created when each participating entity by order, ordinance, or resolution proposes the authority's creation.

(5) In Section 1 of the bill, in added Section 672.054(a), Business & Commerce Code (page 4, line 20), strike "672.053(a)" and substitute "672.053".

(6) In Section 1 of the bill, strike added Section 672.055, Business & Commerce Code (page 5, lines 13-23), and substitute:

Sec. 672.055. CREATION BY ORDER, ORDINANCE, OR RESOLUTION; GOVERNING AGREEMENT. (a) After all hearings, the governing bodies of the participating entities may by concurrent order, ordinance, or resolution and execution of an agreement under this section create an authority.

(b) The participating entities must execute an agreement to create and govern the authority. The agreement must:

(1) specify the number of authority directors and who appoints the directors;

(2) describe the authority's boundaries;

(3) name the authority the "(insert name) Inland Port Authority";

(4) be approved as part of the concurrent order, ordinance, or resolution;

and

(5) specify the authority's powers under this chapter.

(c) The specified powers may limit but may not expand the powers granted by this chapter.

(7) In Section 1 of the bill, in added Section 672.101(a)(5), Business & Commerce Code (page 6, line 12), strike "672.053" and substitute "672.055".

(8) In Section 1 of the bill, in added Section 672.104(a), Business & Commerce Code (page 6, line 27), strike "672.053" and substitute "672.055".

(9) In Section 1 of the bill, in added Section 672.165(a), Business & Commerce Code (page 15, line 17), strike "672.053" and substitute "672.055".

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Giddings offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) as follows:

(1) In Section 1 of the bill, in added Section 672.051, Business & Commerce Code (page 3, between lines 24 and 25), insert the following:

(c) The contiguous area may not include any territory in the corporate boundaries or extraterritorial jurisdiction of a municipality that by ordinance or resolution objects to the inclusion of its territory in the authority.

Amendment No. 4 was adopted.

**Amendment No. 5**

Representative Phillips offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** in SECTION 1 of the bill as follows:

(1) In proposed Section 672.051(a)(3)(A), Business & Commerce Code (House committee printing, page 3, line 13), strike "a municipally owned airport" and substitute "an airport owned by a municipality or county".

(2) In proposed Section 672.051(a)(3)(B), Business & Commerce Code (House committee printing, page 3, line 15), between "highway" and "or", insert ", a United States highway,".

Amendment No. 5 was adopted.

**Amendment No. 6**

Representative Murphy offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** in SECTION 1 of the bill, in proposed Section 672.054, Business & Commerce Code (House committee printing, page 5, between lines 12 and 13), by inserting the following:

(e) Not later than the 10th day before the date of the first hearing held under this section, the participating entity must provide to each owner of property located wholly or partly in the proposed boundaries of the authority notice of the hearing and of the property owner's right to exclude the property from the authority under Subsection (c)(4). The notice must be sent to the property owner at the current address of the property according to the appraisal record maintained by the appraisal district for that property under Section 25.02, Tax Code.

Amendment No. 6 was adopted.

**Amendment No. 7**

Representative Murphy offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** in SECTION 1 of the bill by striking proposed Section 672.301(b), Business & Commerce Code (house committee printing, page 20, lines 12 and 13), and substituting the following:

(b) An authority shall obtain approval under Section 375.207, Local Government Code, for bonds issued for, or plans or specifications for, an improvement project to be located in the corporate boundaries or extraterritorial

jurisdiction of any municipality. Section 375.207 does not apply to a project to be located outside the boundaries and extraterritorial jurisdiction of any municipality.

(c) Section 375.208, Local Government Code, does not apply to an authority.

Amendment No. 7 was adopted.

#### **Amendment No. 8**

Representative Puente offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) in SECTION 1 of the bill, in added Subsection (a), Section 672.205, Business & Commerce Code (page 19, line 5), after the period, by inserting "The rules adopted under this subsection must include the use of historically underutilized businesses as defined by Section 2161.001, Government Code."

Amendment No. 8 was adopted.

#### **Amendment No. 9**

Representative Herrero offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) as follows:

(1) In SECTION 1 of the bill, strike added Paragraph (A), Subdivision (3), Subsection (a), Section 672.051, Business & Commerce Code (page 3, lines 13 and 14).

(2) In SECTION 1 of the bill, in added Subdivision (3), Subsection (a), Section 672.051, Business & Commerce Code (page 3, line 15), strike "(B)" and substitute "(A)".

(3) In SECTION 1 of the bill, in added Subdivision (3), Subsection (a), Section 672.051, Business & Commerce Code (page 3, line 18), strike "(C)" and substitute "(B)".

Amendment No. 9 was withdrawn.

#### **Amendment No. 10**

Representative Pickett offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** in SECTION 1 of the bill, add the following to proposed Section 672.051, Business & Commerce Code (House committee printing, page 1, between lines 24 and 25):

(c) The contiguous area may include property located in a county adjacent to an international border with a population of more than 500,000 only if the inclusion of the property in the contiguous area is approved at an election called and held for that purpose in the county.

Amendment No. 10 was adopted.

#### **Amendment No. 11**

Representative Herrero offered the following amendment to **CSSB 1693**:

Amend **CSSB 1693** (house committee printing) in SECTION 1 of the bill, in added Paragraph (A), Subdivision (3), Subsection (a), Section 672.051, Business & Commerce Code (page 3, lines 13 and 14), by striking "with a runway at least 4,900 feet in length".

Amendment No. 11 was adopted.

### **CSSB 1693 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HERRERO: Thank you, Mr. Chairman. Just real quick, I'm trying to get an understanding of the purpose of this bill. If a municipality wants to create an inland port, will it only be able to do so under this act?

REPRESENTATIVE KRUSEE: I really don't know the answer to that. There may be other opportunities available to them that I don't know about, I know this one would allow.

HERRERO: This would be one of the ways, potentially, right?

KRUSEE: Yes, sir.

HERRERO: It's not limiting it to it being the only way to create an inland port, is that correct?

KRUSEE: That is correct.

### **REMARKS ORDERED PRINTED**

Representative Herrero moved to print remarks between Representative Krusee and Representative Herrero.

The motion prevailed.

A record vote was requested.

**CSSB 1693**, as amended, failed to pass to third reading by (Record 1611): 8 Yeas, 133 Nays, 2 Present, not voting.

Yeas — Burnam; Christian; Coleman; Crownover; Gallego; Krusee; Phillips; Thompson.

Nays — Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Callegari; Castro; Chisum; Cohen; Cook, B.; Cook, R.; Crabb; Creighton; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Garcia; Gattis; Geren; Giddings; Gonzales; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Moreno; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond;

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

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

Absent — Chavez; Corte; Driver; Gonzalez Toureilles; Hilderbran; Howard, C.; King, T.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1611. I intended to vote no.

Christian

I was shown voting yes on Record No. 1611. I intended to vote no.

Gallego

I was shown voting no on Record No. 1611. I intended to vote yes.

Geren

I was shown voting yes on Record No. 1611. I intended to vote no.

Thompson

I was shown voting no on Record No. 1611. I intended to vote yes.

Truitt

(Solomons in the chair)

### SB 2031 ON SECOND READING (Chisum - House Sponsor)

**SB 2031**, A bill to be entitled An Act relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

A record vote was requested.

**SB 2031** was passed to third reading by (Record 1612): 76 Yeas, 69 Nays, 3 Present, not voting.

Yeas — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Chisum; Christian; Cook, B.; Corte; Crabb; Creighton; Crownover; Davis, J.; Delisi; Deshotel; Driver; Eissler; Elkins; England; Farabee; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hill; Homer; Hopson; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Macias; Madden; Merritt; Miller; Morrison; Mowery; Murphy; O'Day; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Riddle; Smith, T.; Smith, W.; Smithee; Swinford; Taylor; Van Arsdale; West; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Bailey; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Cook, R.; Darby; Davis, Y.; Dukes; Dunnam; Eiland; Escobar; Farias; Farrar; Flores; Frost; Gallego; Garcia; Giddings; Gonzales; Gonzalez

Tourelles; Goolsby; Haggerty; Heflin; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; King, T.; Leibowitz; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miles; Moreno; Naishtat; Noriega; Oliveira; Olivo; Ortiz; Peña; Pierson; Pitts; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Strama; Straus; Talton; Thompson; Turner; Vaught; Veasey; Villarreal; Vo.

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

Absent — Dutton; Guillen.

### STATEMENTS OF VOTE

When Record No. 1612 was taken, my vote failed to register. I would have voted no.

Guillen

I was shown voting present, not voting on Record No. 1612. I intended to vote yes.

Truitt

### CSSB 1908 ON SECOND READING (Menendez - House Sponsor)

**CSSB 1908**, A bill to be entitled An Act relating to affordable housing.

#### Amendment No. 1

Representative Pickett offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** (Senate Committee Printing) as follows:

(1) In SECTION 8 of the bill, in amended Paragraph (F), Subdivision (1), Subsection (b), Section 2306.6710, Government Code (page 13, lines 16), strike "~~(G)~~ the rent levels of the units" and substitute "(G) the rent levels of the units;".

(2) In SECTION 8 of the bill, in Subdivision (1), Subsection (b), Section 2306.6710, Government Code (page 14, lines 17-20), strike Paragraphs (G) and (H) and substitute the following:

(H) the cost of the development by square foot;

[and]

(I) the services to be provided to tenants of the development; and

(J) whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014.

Amendment No. 1 was adopted.

#### Amendment No. 2

Representative Isett offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** (House Committee Printing) as follows:



(1) Strike SECTION 8 of the bill (page 12, line 16 through page 14, line 13) and substitute the following:

SECTION 8. Section 2306.6710(b), Government Code, is amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) ~~[the level of community support for the application, evaluated on the basis of written statements from state elected officials];~~

~~(G)~~ the rent levels of the units;

(G) ~~(H)~~ the cost of the development by square foot; and

(H) ~~(H)~~ the services to be provided to tenants of the development;

and

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement.

(2) Strike Subdivision (7), SECTION 34 of the bill (page 37, lines 23-24) and substitute the following:

(7) Subsections (f) and (g), Section 2306.6710, and Subsection (b), Section 2306.6718, Government Code.

Amendment No. 2 was withdrawn.

### Amendment No. 3

Representative Leibowitz offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** (Senate Committee Printing) as follows:

(1) In SECTION 8 of the bill, in amended Subdivision (1), Subsection (b), Section 2306.6710, Government Code (page 13, line 20), strike "and" and substitute "and".

(2) In SECTION 8 of the bill, in Subdivision (2), Subsection (b), Section 2306.6710, Government Code (page 14, line 1), strike the period and substitute the following:

; and

(3) encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

Amendment No. 3 was adopted.

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

Representative Swinford offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 11.182, Tax Code, is amended by amending Subsections (b), (e), and (h) to read as follows:

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns or controls if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family or owns or controls 100 percent of:

(A) the general partner interest of the limited partnership that owns the property, if applicable; or

(B) the entity that owns the property, if applicable; and

(4) engages ~~[exclusively]~~ in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that is ~~[includes a housing project constructed after December 31, 2001, and]~~ financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits, the organization must:

(1) ~~[control 100 percent of the interest in the general partner if the project is owned by a limited partnership;~~

~~(2)~~ comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

~~(2)~~ ~~(3)~~ submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction.

(h) Subsections (d) and (e)(2) [~~(e)(3)~~] do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(2) [~~(e)(3)~~] an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

Amendment No. 4 was withdrawn.

### **Amendment No. 5**

Representative Deshotel offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 379E to read as follows:

#### CHAPTER 379E. URBAN LAND BANK PROGRAM

Sec. 379E.001. SHORT TITLE. This chapter may be cited as the Urban Land Bank Program Act.

Sec. 379E.002. APPLICABILITY; CONSTRUCTION WITH OTHER LAW. This chapter applies only to a municipality:

(1) to which Chapter 379C or 379D does not apply; and

(2) that has not ever adopted a homestead land bank program under Subchapter E, Chapter 373A.

Sec. 379E.003. DEFINITIONS. In this chapter:

(1) "Affordable" means that the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable median family income for that unit size, in accordance with the income and rent limit rules adopted by the Texas Department of Housing and Community Affairs.

(2) "Community housing development organization" or "organization" means an organization that:

(A) meets the definition of a community housing development organization in 24 C.F.R. Section 92.2; and

(B) is certified by the municipality as a community housing development organization.

(3) "Land bank" means an entity established or approved by the governing body of a municipality for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

(4) "Low income household" means a household with a gross income of not greater than 80 percent of the area median family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(5) "Qualified participating developer" means a developer who meets the requirements of Section 379E.005 and includes a qualified organization under Section 379E.011.

(6) "Urban land bank plan" or "plan" means a plan adopted by the governing body of a municipality as provided by Section 379E.006.

(7) "Urban land bank program" or "program" means a program adopted under Section 379E.004.

Sec. 379E.004. URBAN LAND BANK PROGRAM. (a) The governing body of a municipality may adopt an urban land bank program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale for purposes of affordable housing development as provided by this chapter.

(b) The governing body of a municipality that adopts an urban land bank program shall establish or approve a land bank for the purpose of acquiring, holding, and transferring unimproved real property under this chapter.

Sec. 379E.005. QUALIFIED PARTICIPATING DEVELOPER. To qualify to participate in an urban land bank program, a developer must:

(1) have developed three or more housing units within the three-year period preceding the submission of a proposal to the land bank seeking to acquire real property from the land bank;

(2) have a development plan approved by the municipality for the land bank property; and

(3) meet any other requirements adopted by the municipality in the urban land bank plan.

Sec. 379E.006. URBAN LAND BANK PLAN. (a) A municipality that adopts an urban land bank program shall operate the program in conformance with an urban land bank plan.

(b) The governing body of a municipality that adopts an urban land bank program shall adopt a plan annually. The plan may be amended from time to time.

(c) In developing the plan, the municipality shall consider other housing plans adopted by the municipality, including the comprehensive plan submitted to the United States Department of Housing and Urban Development and all fair housing plans and policies adopted or agreed to by the municipality.

(d) The plan must include the following:

(1) a list of community housing development organizations eligible to participate in the right of first refusal provided by Section 379E.011;

(2) a list of the parcels of real property that may become eligible for sale to the land bank during the next year;

(3) the municipality's plan for affordable housing development on those parcels of real property; and

(4) the sources and amounts of money anticipated to be available from the municipality for subsidies for development of affordable housing in the municipality, including any money specifically available for housing developed under the program, as approved by the governing body of the municipality at the time the plan is adopted.

Sec. 379E.007. PUBLIC HEARING ON PROPOSED PLAN. (a) Before adopting a plan, a municipality shall hold a public hearing on the proposed plan.

(b) The city manager or the city manager's designee shall provide notice of the hearing to all community housing development organizations and to neighborhood associations identified by the municipality as serving the neighborhoods in which properties anticipated to be available for sale to the land bank under this chapter are located.

(c) The city manager or the city manager's designee shall make copies of the proposed plan available to the public not later than the 60th day before the date of the public hearing.

Sec. 379E.008. PRIVATE SALE TO LAND BANK. (a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(b) A sale of property for use in connection with the program is a sale for a public purpose.

(c) If the person being sued in a suit for foreclosure of a tax lien does not contest the market value of the property in the suit, the person waives the right to challenge the amount of the market value determined by the court for purposes of the sale of the property under Section 33.50, Tax Code.

(d) For any sale of property under this chapter, each person who was a defendant to the judgment, or that person's attorney, shall be given, not later than the 90th day before the date of sale, written notice of the proposed method of sale of the property by the officer charged with the sale of the property. Notice must be given in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure.

(e) After receipt of the notice required by Subsection (d) and before the date of the proposed sale, the owner of the property subject to sale may file with the officer charged with the sale a written request that the property not be sold in the manner provided by this chapter.

(f) If the officer charged with the sale receives a written request as provided by Subsection (e), the officer shall sell the property as otherwise provided in Section 34.01, Tax Code.

(g) The owner of the property subject to sale may not receive any proceeds of a sale under this chapter. However, the owner does not have any personal liability for a deficiency of the judgment as a result of a sale under this chapter.

(h) Notwithstanding any other law, if consent is given by the taxing units that are a party to the judgment, property may be sold to the land bank for less than the market value of the property as specified in the judgment or less than the total of all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale.

(i) The deed of conveyance of the property sold to a land bank under this section conveys to the land bank the right, title, and interest acquired or held by each taxing unit that was a party to the judgment, subject to the right of redemption.

Sec. 379E.009. SUBSEQUENT RESALE BY LAND BANK. (a) Each subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(b) Within the three-year period following the date of acquisition, the land bank must sell a property to a qualified participating developer for the purpose of construction of affordable housing for sale or rent to low income households. If after three years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(c) Unless the municipality increases the amount in its plan, the number of properties acquired by a qualified participating developer under this section on which development has not been completed may not at any time exceed three times the annual average residential production completed by the qualified participating developer during the preceding two-year period as determined by the municipality.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that, if the qualified participating developer does not apply for a construction permit and close on any construction financing within the two-year period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale to another qualified participating developer or conveyance to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

Sec. 379E.010. RESTRICTIONS ON OCCUPANCY AND USE OF PROPERTY. (a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale or rental of the property to low income households.

(b) At least 25 percent of the land bank properties sold during any given fiscal year to be developed for sale shall be deed restricted for sale to households with gross household incomes not greater than 60 percent of the area median

family income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(c) If property is developed for rental housing, the deed restrictions must be for a period of not less than 20 years and must require that:

(1) 100 percent of the rental units be occupied by and affordable to households with incomes not greater than 60 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development;

(2) 40 percent of the units be occupied by and affordable to households with incomes not greater than 50 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development; or

(3) 20 percent of the units be occupied by and affordable to households with incomes not greater than 30 percent of area median family income, based on gross household income, adjusted for household size, for the metropolitan statistical area in which the municipality is located, as determined annually by the United States Department of Housing and Urban Development.

(d) The deed restrictions under Subsection (c) must require the owner to file an annual occupancy report with the municipality on a reporting form provided by the municipality. The deed restrictions must also prohibit any exclusion of an individual or family from admission to the development based solely on the participation of the individual or family in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), as amended.

(e) Except as otherwise provided by this section, if the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(f) The land bank or the governing body of the municipality may modify or add to the deed restrictions imposed under this section. Any modifications or additions made by the governing body of the municipality must be adopted by the municipality as part of its plan and must comply with the restrictions set forth in Subsections (b), (c), and (d).

Sec. 379E.011. RIGHT OF FIRST REFUSAL. (a) In this section, "qualified organization" means a community housing development organization that:

(1) contains within its designated geographical boundaries of operation, as set forth in its application for certification filed with and approved by the municipality, a portion of the property that the land bank is offering for sale;

(2) has built at least three single-family homes or duplexes or one multifamily residential dwelling of four or more units in compliance with all applicable building codes within the preceding two-year period and within the organization's designated geographical boundaries of operation; and

(3) within the preceding three-year period has developed or rehabilitated housing units within a two-mile radius of the property that the land bank is offering for sale.

(b) The land bank shall first offer a property for sale to qualified organizations.

(c) Notice must be provided to the qualified organizations by certified mail, return receipt requested, not later than the 60th day before the beginning of the period in which a right of first refusal may be exercised.

(d) The municipality shall specify in its plan the period during which the right of first refusal provided by this section may be exercised by a qualified organization. That period must be at least nine months but not more than 26 months from the date of the deed of conveyance of the property to the land bank.

(e) If the land bank conveys the property to a qualified organization before the expiration of the period specified by the municipality under Subsection (d), the interlocal agreement executed under Section 379E.008(a)(4) must provide tax abatement for the property until the expiration of that period.

(f) During the specified period, the land bank may not sell the property to a qualified participating developer other than a qualified organization. If all qualified organizations notify the land bank that they are declining to exercise their right of first refusal during the specified period, or if an offer to purchase the property is not received from a qualified organization during that period, the land bank may sell the property to any other qualified participating developer at the same price that the land bank offered the property to the qualified organizations.

(g) In its plan, the municipality shall establish the amount of additional time, if any, that a property may be held in the land bank once an offer has been received and accepted from a qualified organization or other qualified participating developer.

(h) If more than one qualified organization expresses an interest in exercising its right of first refusal, the organization that has designated the most geographically compact area encompassing a portion of the property shall be given priority.

(i) In its plan, the municipality may provide for other rights of first refusal for any other nonprofit corporation exempted from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, provided that the preeminent right of first refusal is provided to qualified organizations as provided by this section.

(j) The land bank is not required to provide a right of first refusal to qualified organizations under this section if the land bank is selling property that reverted to the land bank under Section 379E.009(d).

Sec. 379E.012. OPEN RECORDS AND MEETINGS. The land bank shall comply with the requirements of Chapters 551 and 552, Government Code.

Sec. 379E.013. RECORDS; AUDIT; REPORT. (a) The land bank shall keep accurate minutes of its meetings and shall keep accurate records and books of account that conform with generally accepted principles of accounting and that clearly reflect the income and expenses of the land bank and all transactions in relation to its property.



(b) The land bank shall file with the municipality not later than the 90th day after the close of the fiscal year annual audited financial statements prepared by a certified public accountant. The financial transactions of the land bank are subject to audit by the municipality.

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

(1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;

(2) for each property acquired by the land bank during the preceding fiscal year:

(A) the street address of the property;

(B) the legal description of the property;

(C) the date the land bank took title to the property;

(D) the name and address of the property owner of record at the time of the foreclosure;

(E) the amount of taxes and other costs owed at the time of the foreclosure; and

(F) the assessed value of the property on the tax roll at the time of the foreclosure;

(3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer:

(A) the street address of the property;

(B) the legal description of the property;

(C) the name and mailing address of the developer;

(D) the purchase price paid by the developer;

(E) the maximum incomes allowed for the households by the terms of the sale; and

(F) the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

(d) The land bank shall maintain in its records for inspection a copy of the sale settlement statement for each property sold by a qualified participating developer and a copy of the first page of the mortgage note with the interest rate and indicating the volume and page number of the instrument as filed with the county clerk.

(e) The land bank shall provide copies of the performance report to the taxing units who were parties to the judgment of foreclosure and shall provide notice of the availability of the performance report for review to the organizations and neighborhood associations identified by the municipality as serving the neighborhoods in which properties sold to the land bank under this chapter are located.

(f) The land bank and the municipality shall maintain copies of the performance report available for public review.

SECTION \_\_\_\_\_. Section 11.18, Tax Code, is amended by amending Subsection (d) and adding Subsection (o) to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support to elderly persons, including the provision of recreational or social activities and facilities designed to address the special needs of elderly persons, or to the handicapped, without regard to the beneficiaries' ability to pay;

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the pardons and paroles division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; ~~[or]~~

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing; or

(21) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) is considered to be used exclusively by the qualified charitable organization to perform that function.

SECTION \_\_\_\_\_. Section 11.18, Tax Code, as amended by this Act, applies only to an ad valorem tax year that begins on or after the effective date of this Act.

Amendment No. 5 was adopted.

**Amendment No. 6**

Representative Keffer offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Sections 403.302(d) and (i), Government Code, are amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

(6) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(7) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(8) [~~7~~] the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(9) [~~8~~] the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(10) [~~9~~] a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(11) [~~10~~] the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(12) [~~11~~] the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(13) [~~12~~] the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(14) [~~13~~] the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(14) [~~(d)(13)~~] subtract from the market

value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(14) [~~(d)(13)~~] subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

(b) This section applies only to an annual school district property value study conducted for a tax year that begins on or after January 1, 2008.

Amendment No. 6 was adopted.

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

Representative Coleman offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) whether the development is a mixed-income development that satisfies each of the following characteristics:

(i) at least 20 percent of the development's units are provided to individuals and families with incomes greater than 60 percent of the area median family income;

(ii) at least 15 percent of the development's units are provided to individuals and families with incomes of not more than 40 percent of the area median family income or at least 10 percent of the development's units are provided to individuals and families with incomes of not more than 30 percent of the area median family income;

(iii) each of the development's units that is funded with housing tax credits contains a minimum of two bedrooms; and

(iv) a local political subdivision or public housing authority financially participates in the development;

(E) the size and quality of the units;

(F) [~~F~~] the commitment of development funding by local political subdivisions;

(G) [~~F~~] the level of community support for the application, evaluated on the basis of written statements from state elected officials;

(H) [~~G~~] the rent levels of the units;

(I) [~~H~~] the cost of the development by square foot, unless the development exceeds a height of four stories and is located in an area designated by the appropriate local political subdivision as a high density area; and

(J) [~~I~~] the services to be provided to tenants of the development;  
and

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(G) [~~(b)(1)(F)~~], the department shall award:

(1) positive points for positive written statements received;

(2) negative points for negative written statements received; and

(3) zero points for neutral statements received.

SECTION \_\_\_\_\_. The changes in law made to Section 2306.6710, Government Code, by this Act apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

Amendment No. 7 was withdrawn.

### **Amendment No. 8**

Representative Alonzo offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter DD, Chapter 2306, Local Government Code, is amended by adding Section 2306.6736 to read as follows:

Sec. 2306.6736. LIMITATION ON CERTAIN ZONING REQUIREMENTS. (a) Notwithstanding Section 2306.6705(5) or any other law, the department may not require an applicant to provide evidence that the development is permitted under any applicable zoning ordinances before the 180th day after the date the applicant submits an application under this chapter.

(b) The department shall grant an applicant a reasonable extension of the 180-day period described by Subsection (a) if the applicant provides evidence that the applicant has made a good faith effort to provide the evidence described by Subsection (a) but has failed to provide the evidence because the political subdivision that adopted the applicable zoning ordinance has not responded to the applicant's request for a determination concerning zoning compliance.

Amendment No. 8 was withdrawn.

### **Amendment No. 9**

Representative Coleman offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 2306.6710(b) and (f), Government Code, are amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) whether the development is a mixed-income development that satisfies each of the following characteristics:

(i) at least 20 percent of the development's units are provided to individuals and families with incomes greater than 60 percent of the area median family income;

(ii) at least 15 percent of the development's units are provided to individuals and families with incomes of not more than 40 percent of the area median family income or at least 10 percent of the development's units are provided to individuals and families with incomes of not more than 30 percent of the area median family income;

(iii) each of the development's units that is funded with housing tax credits contains a minimum of two bedrooms; and

(iv) a local political subdivision or public housing authority financially participates in the development;

(E) the size and quality of the units;



(F) [~~(F)~~] the commitment of development funding by local political subdivisions;

(G) [~~(F)~~] the level of community support for the application, evaluated on the basis of written statements from state elected officials;

(H) [~~(G)~~] the rent levels of the units;

(I) [~~(H)~~] the cost of the development by square foot, unless the development exceeds a height of four stories and is located in an area designated by the appropriate local political subdivision as a high density area; and

(J) [~~(I)~~] the services to be provided to tenants of the development; and

(2) uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement.

(f) In evaluating the level of community support for an application under Subsection (b)(1)(G) [~~(b)(1)(F)~~], the department shall award:

- (1) positive points for positive written statements received;
- (2) negative points for negative written statements received; and
- (3) zero points for neutral statements received.

SECTION \_\_\_\_\_. The changes in law made to Section 2306.6710, Government Code, by this Act apply only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that begins on or after the effective date of this Act. An application that is submitted during an application cycle that began before the effective date of this Act is governed by the law in effect at the time the application cycle began, and the former law is continued in effect for that purpose.

Amendment No. 9 was withdrawn.

### **Amendment No. 10**

Representative Swinford offered the following amendment to **CSSB 1908**:

Amend **CSSB 1908** by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 11.182, Tax Code, is amended by amending Subsections (b), (e), and (h) to read as follows:

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns or controls if the organization:

- (1) is organized as a community housing development organization;
- (2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family or owns or controls 100 percent of:

(A) the general partner interest of the limited partnership that owns the property, if applicable; or

(B) the entity that owns the property, if applicable; and

(4) engages [~~exclusively~~] in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that is [~~includes a housing project constructed after December 31, 2001, and~~] financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits, the organization must:

(1) [~~control 100 percent of the interest in the general partner if the project is owned by a limited partnership;~~

[(2)] comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

(2) [(2)] submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction.

(h) Subsections (d) and (e)(2) [(e)(3)] do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(2) [(e)(3)] an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

Amendment No. 10 was withdrawn.

**CSSB 1908**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

### **CSSB 1951 ON SECOND READING**

**(Hartnett, R. Cook, Kolkhorst, Oliveira, and Escobar - House Sponsors)**

**CSSB 1951**, A bill to be entitled An Act relating to the creation of judicial districts, the creation of the office of district attorney in certain counties, and the election and duties of certain district attorneys in certain counties.

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

Representative Chisum offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.6051 to read as follows:

Sec. 24.6051. 507TH JUDICIAL DISTRICT (BROWN COUNTY). (a) The 507th Judicial District is composed of Brown County.

(b) The 507th District Court has concurrent jurisdiction with the statutory county courts of Brown County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(b) The 507th Judicial District is created on the effective date of this section.

(c) Notwithstanding Section 24.311, Government Code, the initial vacancy in the office of judge of the 507th Judicial District shall be filled by election. The office exists for purposes of the primary and general election in 2008. A vacancy after the initial vacancy is filled as provided by Section 28, Article V, Texas Constitution.

Amendment No. 1 was adopted.

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

Representative Gallego offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 25.2352(a), Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Val Verde County has concurrent jurisdiction with the district court in:

(1) family law cases and proceedings; and

(2) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$500,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition.

(b) Section 25.2352(a), Government Code, as amended by this Act, applies only to an action filed on or after the effective date of this section. An action filed before the effective date of this section is governed by the law in effect on the date the action was filed, and the former law is continued in effect for that purpose.

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Chavez offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** (house committee printing) by adding the following appropriately numbered SECTION (page 5, between lines 13 and 14) and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.592 to read as follows:

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). The 448th Judicial District is composed of El Paso County.

(b) The 448th Judicial District is created on the effective date of this section.

### **CSSB 1951 - POINT OF ORDER**

Representative Flores raised a point of order against further consideration of **CSSB 1951** under Rule 4, Section 18(a)(4) of the House Rules on the grounds that the committee minutes are incomplete.

The point of order was withdrawn.

Amendment No. 3 was adopted.

### **Amendment No. 4**

Representative Keffer offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.6051 to read as follows:

Sec. 24.6051. 507TH JUDICIAL DISTRICT (BROWN COUNTY). (a) The 507th Judicial District is composed of Brown County.

(b) The 507th District Court has concurrent jurisdiction with the statutory county courts of Brown County in misdemeanor cases as well as the jurisdiction prescribed by general law for district courts.

(b) The 507th Judicial District is created on the effective date of this section.

(c) Notwithstanding Section 24.311, Government Code, the initial vacancy in the office of judge of the 507th Judicial District shall be filled by election. The office exists for purposes of the primary and general election in 2008. A vacancy after the initial vacancy is filled as provided by Section 28, Article V, Texas Constitution.

Amendment No. 4 was withdrawn.

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

Representative Pickett offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** (House committee printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 43.120, Government Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-1), (d-2), and (g) to read as follows:

(d) The commissioners courts of Culberson and Hudspeth counties shall each pay to El Paso County the budgeted prosecution costs, which may not exceed a total of \$90,000 for Culberson and Hudspeth counties per fiscal year ~~[\$100 a month to be expended, on sworn claims of the district attorney approved by the Commissioners Court of El Paso County]~~, for the preparation and conduct of criminal affairs of the district attorney's office, including compensation for assistants and other employees of the district attorney, applicable to their respective county. Each year the district attorney's office shall:

(1) prepare a budget and financial statement for the upcoming fiscal year; and

(2) file the budget and financial statement with the commissioners courts of Hudspeth and Culberson counties.

(d-1) The budget and financial statement required by Subsection (d) must contain:

(1) the budgeted prosecution costs for Culberson and Hudspeth counties, with the costs for each county listed separately; and

(2) any additional information considered appropriate by the district attorney or required by the commissioners court of Culberson or Hudspeth County.

(d-2) Hudspeth and Culberson counties shall remit one-fourth of the budgeted prosecution costs applicable to the respective county to El Paso County not later than the last day of each fiscal quarter.

(f) El Paso County is responsible for managing the funds expended by the district attorney for the preparation and conduct of criminal affairs of the district attorney's office, including funds to compensate assistants and other employees of the district attorney. Hudspeth and Culberson counties shall remit one-fourth of the budgeted funds to El Paso County not later than the last day of each fiscal quarter. ~~[The assistants and other employees of the district attorney are compensated by the Commissioners Court of El Paso County.]~~ The

Commissioners Court of El Paso County must approve the number of assistants and other employees appointed by the district attorney and the amount of compensation of those employees.

(g) Nothing in this section prevents El Paso County from entering into an interlocal agreement with Culberson or Hudspeth County in lieu of budgeting costs as provided by this section or Section 140.003, Local Government Code. An interlocal agreement under this subsection may not exceed \$90,000 per fiscal year.

(b) This section takes effect October 1, 2007.

Amendment No. 5 was adopted.

### **Amendment No. 6**

Representative Woolley offered the following amendment to **CSSB 1951**:

Amend **CSSB 1951** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Section 54.602, Government Code, is repealed.

Amendment No. 6 was adopted.

**CSSB 1951**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

### **CSSB 9 ON SECOND READING (Branch and Madden - House Sponsors)**

**CSSB 9**, A bill to be entitled An Act relating to the dissemination of criminal history record information and child abuse investigation reports for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

### **Amendment No. 1**

Representative Madden offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (house committee printing) as follows:

(1) In the recital to SECTION 8 of the bill (page 6, line 17), strike "22.0836" and substitute "22.0837".

(2) In SECTION 8 of the bill, after added Section 22.0836, Education Code (page 16, between lines 19 and 20), insert the following:

Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD INFORMATION. The agency by rule shall require a person submitting to a national criminal history record information review under Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an applicant for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0831. The agency or the department may require an entity authorized

to collect information for a national criminal history record information review to collect the fee required under this section and to remit the funds collected to the agency.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Eissler offered the following amendment to **CSSB 9**:

Amend **CSSB 9** by inserting a new SECTION 3 on page 1, line 21, renumbering current SECTION 3 and subsequent SECTIONS accordingly.

SECTION 3. Amend Sec. 21.048, Education Code, by adding a new subsection (d) to read as follows:

(d) Except as provided by 21.057, the results of an examination are not public information under Chapter 552, Government Code.

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Oliveira offered the following amendment to **CSSB 9**:

Amend **CSSB 9**, Section 3, Sec. 21.007(d) to read as follows:

(d) The board must provide an opportunity for an educator to show cause why the notice should not be placed on the educator's public certification records. The board shall propose rules establishing the length of time, not to exceed 180 days, that a notice may remain on the educator's public certification records before the board must:

(1) initiate a proceeding to impose a sanction on the educator on the basis of the alleged misconduct; or

(2) remove the notice from the educator's public certification records.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Gallego offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House committee printing) in SECTION 19 of the bill, adding Section 411.090(c), Government Code (page 31, line 26), between "department" and the period by inserting "and who is arrested for an offense listed under Section 21.060, Education Code".

Amendment No. 4 was adopted.

**Amendment No. 5**

Representative Burnam offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House committee printing) in SECTION 17 of the bill, in added Section 411.0845, Government Code (page 31, between lines 12 and 13), by adding the following new Subsection (l):

(l) Not later than January 1 of each odd-numbered year, the department shall purge all information contained in the clearinghouse relating to a person as to whom the department has obtained information as provided by Subchapter C,

Chapter 22, Education Code, and who is no longer employed in a capacity for which national criminal history record information is required to be obtained under that subchapter. The department shall work with the commissioner of education to update the files of the clearinghouse.

Amendment No. 5 was adopted.

**Amendment No. 6**

Representative Vaught offered the following amendment to **CSSB 9**:

Amend **CSSB 9** by inserting the following:

"The cost required by this Act shall be paid for by funds appropriated by the state for that purpose. If the state does not have sufficient funds available, a school district is not required to comply with this Act."

Amendment No. 6 was adopted.

**Amendment No. 7**

Representative Geren offered the following amendment to **CSSB 9**:

Amend **CSSB 9** by adding a new Section 22.0837, Education Code, to read as follows:

Section 22.0837. EXEMPTION FROM APPLICATION. Sections 22.083 through 22.0836 do not apply to school districts, charter schools, and shared services arrangements that are contracted with consumer reporting agencies governed by the Fair Credit Reporting Act (15 U.S.C. 1681 et. Seq.) to provide in-state and out-of-state background checks in every county, nationwide, identifiable, as a county of current or prior residence.

Amendment No. 7 was adopted.

**CSSB 9**, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero, Hopson, and Leibowitz recorded voting no.)

**CSSB 1879 ON SECOND READING  
(Hamilton - House Sponsor)**

**CSSB 1879**, A bill to be entitled An Act relating to the regulation of controlled substances.

**CSSB 1879** was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: B. Cook recorded voting no.)

**SB 1795 ON SECOND READING  
(Kolkhorst - House Sponsor)**

**SB 1795**, A bill to be entitled An Act relating to the amount of bonds and other public securities that may be secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.



**SB 1795 - POINT OF ORDER**

Representative Dunnam raised a point of order against further consideration of **SB 1795** under Rule 8, Section 13(c) of the House Rules on the grounds that the deadline for consideration of senate bills on second reading had passed.

The chair sustained the point of order.

**PROVIDING FOR RECESS**

Representative Taylor moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 9 a.m. today, May 23.

The motion prevailed.

**RESOLUTIONS REFERRED TO COMMITTEES**

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

**RECESS**

In accordance with a previous motion, the house, at 12:23 a.m., recessed until 9 a.m. today, May 23.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HCR 263** (By T. Smith), Commemorating the posthumous induction of former American Airlines president C. R. Smith into the Texas Transportation Hall of Honor.

To Rules and Resolutions.

**HCR 265** (By Dukes), Honoring Major James R. Stegall (Ret.) of Austin for his service to his country and recommending that he be inducted into the Texas Aviation Hall of Fame.

To Rules and Resolutions.

**HCR 266** (By Hilderbran), Honoring the 100th anniversary of Saint Joseph Catholic Church in Rowena.

To Rules and Resolutions.

**HR 2236** (By Morrison), Congratulating the Memorial Dance and Drill Team of Memorial High School in Victoria on winning the national title at the 2007 American Dance Team School International Competition.

To Rules and Resolutions.

**HR 2237** (By Rodriguez), Recognizing PrintGlobe, Inc., in Austin on the grand opening of its expanded facility in May 2007.

To Rules and Resolutions.

**HR 2238** (By Isett), Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.

To Rules and Resolutions.

**HR 2239** (By Martinez Fischer), Honoring Nick LaMantia, the main "12th Man" of the 2006 Texas A&M University Aggie football team.

To Rules and Resolutions.

**HR 2240** (By Martinez Fischer), Congratulating Diana Saldana on her appointment as a United States magistrate judge for the United States District Court, Southern District of Texas.

To Rules and Resolutions.

**HR 2242** (By Chavez), Honoring JoAnn G. Robles for serving as Democratic chair of Precinct 27 in El Paso County.

To Rules and Resolutions.

**HR 2243** (By Chavez), Honoring Craig Eric Sharp for serving as Democratic chair of Precinct 54 in El Paso County.

To Rules and Resolutions.

**HR 2244** (By Chavez), Honoring Dolores Salcido for serving as Democratic chair of Precinct 64 in El Paso County.

To Rules and Resolutions.

**HR 2245** (By Chavez), Honoring Sandra Martinez for serving as Democratic chair of Precinct 63 in El Paso County.

To Rules and Resolutions.

**HR 2247** (By Chavez), Honoring Lucia Salcido for serving as Democratic chair of Precinct 61 in El Paso County.

To Rules and Resolutions.

**HR 2248** (By Chavez), Honoring Ernesto J. Dominguez, Jr., for serving as Democratic chair of Precinct 59 in El Paso County.

To Rules and Resolutions.

**HR 2249** (By Chavez), Honoring Tony Petry for serving as Democratic chair of Precinct 58 in El Paso County.

To Rules and Resolutions.

**HR 2250** (By Chavez), Honoring Dora Moreno for serving as Democratic chair of Precinct 56 in El Paso County.

To Rules and Resolutions.

**HR 2251** (By Chavez), Honoring Luis Ruiz for serving as Democratic chair of Precinct 55 in El Paso County.

To Rules and Resolutions.

**HR 2252** (By Chavez), Honoring Yolanda Clay for serving as Democratic chair of Precinct 53 in El Paso County.

To Rules and Resolutions.

**HR 2253** (By Chavez), Honoring Isaac Pepper for serving as Democratic chair of Precinct 51 in El Paso County.

To Rules and Resolutions.

**HR 2254** (By Chavez), Honoring Maria Irene Torres for serving as Democratic chair of Precinct 49 in El Paso County.

To Rules and Resolutions.

**HR 2255** (By Chavez), Honoring Ruth Perez for serving as Democratic chair of Precinct 45 in El Paso County.

To Rules and Resolutions.

**HR 2256** (By Chavez), Honoring Lucia A. Calixtro for serving as Democratic chair of Precinct 42 in El Paso County.

To Rules and Resolutions.

**HR 2257** (By Chavez), Honoring Oliver Barraza for serving as Democratic chair of Precinct 38 in El Paso County.

To Rules and Resolutions.

**HR 2258** (By Chavez), Honoring Rosa M. Rangel for serving as Democratic chair of Precinct 36 in El Paso County.

To Rules and Resolutions.

**HR 2259** (By Chavez), Honoring Sergio Romo for serving as Democratic chair of Precinct 35 in El Paso County.

To Rules and Resolutions.

**HR 2260** (By Chavez), Honoring Soledad "Chloe" Galvan for serving as Democratic chair of Precinct 34 in El Paso County.

To Rules and Resolutions.

**HR 2261** (By Chavez), Honoring Jim Kelly for serving as Democratic chair of Precinct 33 in El Paso County.

To Rules and Resolutions.

**HR 2262** (By Chavez), Honoring Connie Finke for serving as Democratic chair of Precinct 30 in El Paso County.

To Rules and Resolutions.

**HR 2264** (By Hodge), Commending Jeremy W. Turner for his service as a legislative intern in the office of State Representative Terri Hodge.

To Rules and Resolutions.

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

To Rules and Resolutions.

**HR 2266** (By Dutton), Honoring Vernon Cannamore on his retirement as the program director of social studies for Galena Park Independent School District.

To Rules and Resolutions.

**HR 2374** (By Chavez), Honoring Beatriz Burciaga for serving as Democratic chair of Precinct 1 in El Paso County.

To Rules and Resolutions.

**HR 2375** (By Chavez), Honoring Judy Lugo for serving as Democratic chair of Precinct 66 in El Paso County.

To Rules and Resolutions.

**HR 2376** (By Chavez), Honoring Robert A. Grijalva for serving as Democratic chair of Precinct 67 in El Paso County.

To Rules and Resolutions.

**HR 2377** (By Chavez), Honoring Ramona De la Paz Torres for serving as Democratic chair of Precinct 68 in El Paso County.

To Rules and Resolutions.

**HR 2378** (By Chavez), Honoring Yolanda M. Griego for serving as Democratic chair of Precinct 69 in El Paso County.

To Rules and Resolutions.

**HR 2379** (By Chavez), Honoring Dolores Zarzosa for serving as Democratic chair of Precinct 70 in El Paso County.

To Rules and Resolutions.

**HR 2380** (By Chavez), Honoring Gabriel Pena for serving as Democratic chair of Precinct 71 in El Paso County.

To Rules and Resolutions.

**HR 2381** (By Strama), Honoring Jessica Gonzalez for her service as a legislative intern in the office of State Representative Mark Strama.

To Rules and Resolutions.

**HR 2387** (By T. King), Commemorating the 100th anniversary of the founding of Crystal City in November 2007.

To Rules and Resolutions.

**HR 2388** (By Chavez), Honoring Calvin Hayward for serving as Democratic chair of Precinct 72 in El Paso County.

To Rules and Resolutions.

**HR 2389** (By Chavez), Honoring Jan "Juana" Engels for serving as Democratic chair of Precinct 73 in El Paso County.

To Rules and Resolutions.

**HR 2390** (By Chavez), Honoring Carmen S. Duarte for serving as Democratic chair of Precinct 74 in El Paso County.

To Rules and Resolutions.

**HR 2391** (By Chavez), Honoring Alfred Escalante, Jr., for serving as Democratic chair of Precinct 75 in El Paso County.

To Rules and Resolutions.

**HR 2392** (By Chavez), Honoring Norman Chavez for serving as Democratic chair of Precinct 76 in El Paso County.

To Rules and Resolutions.

**HR 2393** (By Chavez), Honoring Anna M. Dominguez for serving as Democratic chair of Precinct 78 in El Paso County.

To Rules and Resolutions.

**HR 2394** (By Chavez), Honoring Daniel Lemus for serving as Democratic chair of Precinct 79 in El Paso County.

To Rules and Resolutions.

**HR 2395** (By Chavez), Honoring Naomi Marquez for serving as Democratic chair of Precinct 80 in El Paso County.

To Rules and Resolutions.

**HR 2396** (By Chavez), Honoring Pattielee Pinon for serving as Democratic chair of Precinct 81 in El Paso County.

To Rules and Resolutions.

**HR 2397** (By Chavez), Honoring R. Esther Montoya for serving as Democratic chair of Precinct 82 in El Paso County.

To Rules and Resolutions.

**HR 2398** (By Chavez), Honoring Sebastian Martinez for serving as Democratic chair of Precinct 83 in El Paso County.

To Rules and Resolutions.

**HR 2399** (By Chavez), Honoring Rey Estrada, Sr., for serving as Democratic chair of Precinct 87 in El Paso County.

To Rules and Resolutions.

**HR 2400** (By Chavez), Honoring Enriqueta G. "Queta" Fierro for serving as Democratic chair of Precinct 88 in El Paso County.

To Rules and Resolutions.

**HR 2401** (By Chavez), Honoring JoAn C. Lopez for serving as Democratic chair of Precinct 89 in El Paso County.

To Rules and Resolutions.

**HR 2402** (By Gonzales), Honoring Morris and Rita Atlas of McAllen on the establishment of a UT scholarship in their name by the Hidalgo-Starr Texas Exes.

To Rules and Resolutions.

**HR 2404** (By Zedler), Honoring Dr. Carolyn R. Carman-Merrifield of Mansfield for her professional achievements.

To Rules and Resolutions.

**HR 2407** (By Truitt), Congratulating Kristopher Puddy and Ragan Clay on their wedding.

To Rules and Resolutions.

**HR 2408** (By Bohac), In memory of Mary Margaret Hughes of Houston.  
To Rules and Resolutions.

**HR 2409** (By R. Cook), Honoring Southside Market and Barbecue of Elgin on its 125th anniversary.  
To Rules and Resolutions.

**HR 2410** (By Hilderbran), In memory of Stu Mitchell of Kerrville.  
To Rules and Resolutions.

**HR 2412** (By Farrar), Commemorating the 13th anniversary of the first keg shipped by the Saint Arnold Brewing Company of Houston.  
To Rules and Resolutions.

**HR 2416** (By Eiland), Recognizing May 21-28, 2007, as National Beach Safety Week in Galveston.  
To Rules and Resolutions.

**HR 2422** (By Dunnam), Honoring Evelyn Howard on being named the 2006 Caregiver of the Year by Visiting Angels Living Assistance Services.  
To Rules and Resolutions.

**HR 2424** (By Craddick), Congratulating Hector "Rocky" Valdes on his selection as District 18 Principal of the Year by the Texas Elementary Principals and Supervisors Association.  
To Rules and Resolutions.

**HR 2425** (By Craddick), Congratulating Ed and Marilee Runyan of Midland on their 50th wedding anniversary.  
To Rules and Resolutions.

**HR 2426** (By Craddick), Congratulating Cassandra Lyons of DeZavala Elementary School in Midland for being named a Wal-Mart Teacher of the Year.  
To Rules and Resolutions.

**HR 2427** (By T. Smith), Congratulating Ian Slinker of Trinity High School on becoming a National Merit Scholar finalist.  
To Rules and Resolutions.

**HR 2428** (By T. Smith), Congratulating James Mercado of Trinity High School on becoming a National Merit Scholar finalist.  
To Rules and Resolutions.

**HR 2429** (By T. Smith), Congratulating Kaitlyn Bryant of Trinity High School on becoming a National Merit Scholar finalist.  
To Rules and Resolutions.

**HR 2430** (By T. Smith), Congratulating Katie Baker of Trinity High School on becoming a National Merit Scholar finalist.  
To Rules and Resolutions.

**HR 2431** (By T. Smith), Congratulating Sam Smith of L.D. Bell High School on becoming a National Merit Scholar finalist.  
To Rules and Resolutions.

**HR 2432** (By T. Smith), Congratulating Nicole Rowlette of L.D. Bell High School on becoming a National Merit Scholar finalist.

To Rules and Resolutions.

**HR 2433** (By T. Smith), Honoring Dr. Lynne Rigg on her retirement from Hurst-Euless-Bedford Independent School District as the deputy superintendent for business operations.

To Rules and Resolutions.

**HR 2434** (By T. Smith), Congratulating Alyssa Nabors of L.D. Bell High School on becoming a National Merit Scholar finalist.

To Rules and Resolutions.

**HR 2435** (By T. Smith), Congratulating Ben Fain of L.D. Bell High School on becoming a National Merit Scholar finalist.

To Rules and Resolutions.

**HR 2436** (By T. Smith), Congratulating Brian Balthrop of L.D. Bell High School on becoming a National Merit Scholar finalist.

To Rules and Resolutions.

**HR 2437** (By T. Smith), Congratulating Alexandra Weeks of L. D. Bell High School on becoming a 2006-2007 National Hispanic Recognition Scholar.

To Rules and Resolutions.

**HR 2439** (By Escobar), Commending Erin Atwood for her work as an education policy analyst in the office of State Representative Juan Manuel Escobar.

To Rules and Resolutions.

**HR 2440** (By Deshotel), Recognizing Noah Erasmo Lopez of Dallas on his first birthday.

To Rules and Resolutions.

**HR 2442** (By W. Smith), Recognizing May 20 to May 26, 2007, as National Public Works Week.

To Rules and Resolutions.

**HR 2443** (By McClendon), Recognizing the San Antonio chapter of the Prairie View A&M University Alumni Association.

To Rules and Resolutions.

**HR 2444** (By Gallego), In memory of Zina Keith Worley of Del Rio.

To Rules and Resolutions.

**HR 2445** (By Martinez Fischer), Recognizing Valero Energy Corporation on its selection for the number one slot on Fortune magazine's "Best Big Companies to Work For" list.

To Rules and Resolutions.

**HR 2446** (By Herrero), In memory of Ruben Dario Cavada of Corpus Christi.

To Rules and Resolutions.

**HR 2448** (By Naishtat), In memory of Ruth Hunter Ellinger of Austin.  
To Rules and Resolutions.

**HR 2456** (By Oliveira), Congratulating Dr. Selma D. Yznaga on earning an 'Ohana Honors award from Counselors for Social Justice.  
To Rules and Resolutions.

**HR 2459** (By Hopson), Commemorating the 100th anniversary of the founding of the Carthage Book Club.  
To Rules and Resolutions.

**HR 2460** (By Hopson), Congratulating Charles and Oma Geraldine Flewellen of Beach City on their 50th wedding anniversary.  
To Rules and Resolutions.

**HR 2461** (By Hopson), Honoring Lieutenant Rickey Turner on his retirement from the Henderson Police Department.  
To Rules and Resolutions.

**HR 2462** (By Flynn), Congratulating the boys' golf team of Edgewood High School on winning the 2A State Championship.  
To Rules and Resolutions.

**HR 2463** (By Miller), Honoring the boys' track and field team of Copperas Cove High School for winning the UIL Class 4A State Championship.  
To Rules and Resolutions.

**HR 2464** (By Villarreal), Honoring the Conjunto Heritage Taller of San Antonio for its efforts to preserve and perpetuate traditional conjunto music in Texas.  
To Rules and Resolutions.

**HR 2468** (By P. King), Honoring Johnie Herbert for his nine years of service on the Weatherford City Council.  
To Rules and Resolutions.

**HR 2469** (By P. King), Congratulating the Trinity Christian Academy girls' basketball team on winning the 2007 Texas Christian Athletic Fellowship district championship and advancing to the state championship final.  
To Rules and Resolutions.

**HR 2470** (By P. King), Congratulating the Eagles football team of Trinity Christian Academy in Willow Park for winning the 2006 Texas Christian Schools Athletic Fellowship Division 1 state championship in six-man football.  
To Rules and Resolutions.

**HR 2471** (By P. King), Congratulating the Trinity Christian Academy girls' tennis team on its success at the 2007 Texas Christian Athletic Fellowship state tennis tournament.  
To Rules and Resolutions.



**HR 2472** (By P. King), Congratulating the Trinity Christian Academy baseball team on winning the 2007 Texas Christian Athletic Fellowship state championship.

To Rules and Resolutions.

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

To Rules and Resolutions.

**HR 2474** (By Harless), In memory of Franne R. Michaels of Houston.

To Rules and Resolutions.

**HR 2475** (By Solomons), Commending the Honorable Margaret Robbins for her years of service to the Texas judicial system.

To Rules and Resolutions.

**HR 2476** (By Garcia), In memory of Farrah "Vick" Vickers of Sinton.

To Rules and Resolutions.

**HR 2477** (By Rose), In memory of Paula Kay Wolking of San Marcos.

To Rules and Resolutions.

**HR 2479** (By Noriega), Congratulating Timur Tsend and Laura DeLeon on their wedding.

To Rules and Resolutions.

**HR 2480** (By Rose), Honoring Francis E. Bartley on his graduation from Texas State University-San Marcos, his service as the TSU System's first student regent, and his work as a legislative intern in the TSU Office of Governmental Relations.

To Rules and Resolutions.

**HR 2481** (By Rose), Honoring Amberlyn Fett of Dripping Springs on her receipt of the Youth Good Samaritan Award from the Central Texas Red Cross Association.

To Rules and Resolutions.

**HR 2482** (By Alonzo), Expressing support for the creation of the Sustainable Water Supply Research Center at The University of Texas at Arlington.

To Higher Education.

**HR 2483** (By Alonzo), Commemorating the donation of the papers of Master Sergeant Roy P. Benavidez to the Institute for Studies in American Military History at The University of Texas at Austin Center for American History and thanking the Benavidez family for this invaluable gift.

To Rules and Resolutions.

**HR 2484** (By Merritt), Congratulating Lindale native Miranda Lambert for winning the New Female Vocalist honor at the Academy of Country Music Awards.

To Rules and Resolutions.

**HR 2486** (By Merritt), Commemorating the 25th anniversary of the establishment of St. Mary's Catholic Church in Longview.

To Rules and Resolutions.

**HR 2487** (By Vaught), In memory of U.S. Army Colonel Jack "Jay" Cozby, Jr., of Dallas.

To Rules and Resolutions.

**HR 2488** (By Vaught), Honoring the 3rd Armored Cavalry Regiment on its receipt of a Valorous Unit Award for heroic actions in Iraq.

To Rules and Resolutions.

**HR 2490** (By Olivo), In memory of Icidro R. Flores of Sinton.

To Rules and Resolutions.

**HR 2496** (By Vaught), Honoring Evelyn Korn of Dallas on her 100th birthday.

To Rules and Resolutions.

**HR 2497** (By Vaught), In memory of Carolyn Kay Bass of Plano.

To Rules and Resolutions.

**HR 2498** (By Zedler), Commending Melba McDowell of Tarrant County for her civic service and political activism.

To Rules and Resolutions.

**HR 2500** (By Chavez), Honoring Santiago L. Rodriguez for serving as Democratic chair of Precinct 92 in El Paso County.

To Rules and Resolutions.

**HR 2501** (By Chavez), Honoring Rose Maya for serving as Democratic chair of Precinct 93 in El Paso County.

To Rules and Resolutions.

**HR 2502** (By Chavez), Honoring Manuel Moreno for serving as Democratic chair of Precinct 94 in El Paso County.

To Rules and Resolutions.

**HR 2503** (By Chavez), Honoring Ceci Carpio for serving as Democratic chair of Precinct 98 in El Paso County.

To Rules and Resolutions.

**HR 2504** (By Chavez), Honoring Pat White for serving as Democratic chair of Precinct 96 in El Paso County.

To Rules and Resolutions.

**HR 2505** (By Chavez), Honoring Richard Martinez for serving as Democratic chair of Precinct 101 in El Paso County.

To Rules and Resolutions.

**HR 2506** (By Chavez), Honoring Al Briones for serving as Democratic chair of Precinct 100 in El Paso County.

To Rules and Resolutions.

**HR 2507** (By Chavez), Honoring Clarissa S. Elias for serving as Democratic chair of Precinct 99 in El Paso County.

To Rules and Resolutions.

**HR 2508** (By Chavez), Honoring Maria Anchondo for serving as Democratic chair of Precinct 104 in El Paso County.

To Rules and Resolutions.

**HR 2509** (By Chavez), Honoring Ruth Williams for serving as Democratic chair of Precinct 103 in El Paso County.

To Rules and Resolutions.

**HR 2510** (By Chavez), Honoring Antonio R. Franco for serving as Democratic chair of Precinct 102 in El Paso County.

To Rules and Resolutions.

**HR 2511** (By Chavez), Honoring Albert Alvidrez for serving as Democratic chair of Precinct 110 in El Paso County.

To Rules and Resolutions.

**HR 2512** (By Chavez), Honoring Gabriela Catellano for serving as Democratic chair of Precinct 109 in El Paso County.

To Rules and Resolutions.

**HR 2513** (By Chavez), Honoring Annabell Perez for serving as Democratic chair of Precinct 108 in El Paso County.

To Rules and Resolutions.

**HR 2514** (By Chavez), Honoring Argelia Torres for serving as Democratic chair of Precinct 119 in El Paso County.

To Rules and Resolutions.

**HR 2515** (By Chavez), Honoring Margarita Duran for serving as Democratic chair of Precinct 117 in El Paso County.

To Rules and Resolutions.

**HR 2516** (By Chavez), Honoring Larry Arms for serving as Democratic chair of Precinct 115 in El Paso County.

To Rules and Resolutions.

**HR 2517** (By Chavez), Honoring Norma Borunda for serving as Democratic chair of Precinct 112 in El Paso County.

To Rules and Resolutions.

**HR 2518** (By Chavez), Honoring Aurelia Roque for serving as Democratic chair of Precinct 123 in El Paso County.

To Rules and Resolutions.

**HR 2519** (By Gallego), Recognizing restaurateur Adam Gonzales of Austin for his professional achievements.

To Rules and Resolutions.

**HR 2520** (By Craddick), Congratulating Janette and Richard Bowers of Horseshoe Bay on their 40th wedding anniversary.

To Rules and Resolutions.

**HR 2521** (By Craddick), Congratulating Joanna Carrillo-Rowley on her selection as District 18 Assistant Principal of the Year by the Texas Elementary Principals and Supervisors Association.

To Rules and Resolutions.

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

To Rules and Resolutions.

**HR 2524** (By Harper-Brown), Honoring the Irving Heritage Society for its service to the community.

To Rules and Resolutions.

**HR 2525** (By Harper-Brown), Honoring Assistant Chief Travis Hall of the Irving Police Department on his retirement.

To Rules and Resolutions.

**HR 2526** (By Jones), Recognizing 2007 as Colon Cancer Prevention and Awareness Year in Texas.

To Rules and Resolutions.

**HR 2527** (By Kolkhorst), In memory of Thomas Michael Buzbee of New Waverly.

To Rules and Resolutions.

**HR 2528** (By Zedler), Honoring Dr. Tom Annunziato, immediate past president of the Texas Optometric Association.

To Rules and Resolutions.

**HR 2529** (By Bohac), In memory of Harris County treasurer and legendary newsman Jack Cato of Houston.

To Rules and Resolutions.

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

To Rules and Resolutions.

**HR 2532** (By Deshotel), Recognizing July 17, 2007, as Salon Sanitation Awareness Day.

To Rules and Resolutions.

**HR 2534** (By Deshotel), Congratulating gospel singer and constable of Jefferson County Precinct 6 Joe "Q. B." Stevenson on his singing performance in a Blue Bell Ice Cream commercial.

To Rules and Resolutions.

**HR 2535** (By Deshotel), Congratulating Kristina Lindsey on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2536** (By Deshotel), Congratulating Patty Williams on her selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2537** (By Deshotel), Congratulating Haley Seymour on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2538** (By Deshotel), Congratulating Georgeanne Wallen on her selection as a recipient of a 2007 Young Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2539** (By Deshotel), Congratulating Joe and Linda Domino on their selection for a 2007 Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2540** (By Deshotel), Congratulating Chris Gonzales on his selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2541** (By Deshotel), Congratulating Margaret DeLong Mason LeBlanc on her selection as a recipient of a 2007 Jefferson Award by the Beaumont Enterprise.

To Rules and Resolutions.

**HR 2542** (By Deshotel), Honoring Judge Ransom "Duce" Jones of Beaumont for his efforts to curb truancy.

To Rules and Resolutions.

**HR 2543** (By Dutton), Congratulating Shirley Burks Howard on the occasion of her retirement from the Houston Independent School District on May 23, 2007.

To Rules and Resolutions.

**HR 2544** (By Dutton), Honoring the Reverend Robert L. Thomas, Jr., on three years of service to the Olivet Missionary Baptist Church.

To Rules and Resolutions.

**HR 2545** (By Dutton), Honoring George Thomas, general manager of KTSU-FM in Houston, for his professional achievements.

To Rules and Resolutions.

**SB 1755** to Law Enforcement.

**SCR 81** to Rules and Resolutions.

**SCR 82** to Rules and Resolutions.

**SCR 83** to Rules and Resolutions.

#### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 43**

**HB 44, HB 48, HB 54, HB 95, HB 188, HB 271, HB 273, HB 321, HB 413, HB 429, HB 530, HB 536, HB 604, HB 662, HB 890, HB 902, HB 921, HB 1029, HB 1129, HB 1170, HB 1268, HB 1293, HB 1355, HB 1420, HB 1446, HB 1602, HB 1700, HB 1709, HB 1720, HB 1767, HB 1798, HB 1804, HB 2095, HB 2144, HB 2195, HB 2248, HB 2345, HB 2391, HB 2565, HB 2589, HB 2591, HB 2626, HB 3140, HB 3259, HB 3446, HB 3473, HB 3505, HB 3634, HB 3827, HB 3900, HCR 114, HCR 199, HCR 203, HCR 240, HCR 248**

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1****MESSAGE FROM THE SENATE**

SENATE CHAMBER

Austin, Texas

Tuesday, May 22, 2007

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**LOCAL AND UNCONTESTED CALENDAR**

**HB 149** Phillips SPONSOR: Estes  
Relating to rates charged for water or sewer services by an entity that takes over a nonfunctioning water or sewer system.

**HB 198** Madden SPONSOR: Deuell  
Relating to the capacity of certain correctional facilities operated under contracts between the Texas Board of Criminal Justice and a private vendor or county commissioners court.

**HB 308** Kuempel SPONSOR: Estes  
Relating to the use of laser sighting devices by hunters who are legally blind.

**HB 462** Miller SPONSOR: Fraser  
Relating to the authority of certain municipalities to collect an infrastructure fee from certain governmental entities.

**HB 492** Orr SPONSOR: Averitt  
Relating to the removal, transfer, or exclusion of territory in emergency services districts.  
(Committee Substitute)

**HB 538** Callegari SPONSOR: Nichols

Relating to the scheduling of hearings before appraisal review boards on property tax protests; making conforming changes.

**HB 629** King, Phil SPONSOR: Duncan  
Relating to the date for a consolidation election of two or more municipalities.

**HB 643** Hughes SPONSOR: Nelson  
Relating to the renewal of an expired dental license for a dentist practicing voluntary charity care.

**HB 681** Hochberg SPONSOR: Duncan  
Relating to postconviction forensic testing.  
(Committee Substitute)

**HB 713** Callegari SPONSOR: Seliger  
Relating to the authority of a fresh water supply district to issue bonds or to enter into a contract to convey property to another water district or water supply corporation.

**HB 764** Dutton SPONSOR: West, Royce  
Relating to the collection of a family protection fee.

**HB 868** Haggerty SPONSOR: Shapleigh  
Relating to the recreational facility fee at The University of Texas at El Paso.

**HB 891** Hilderbran SPONSOR: Fraser  
Relating to water rights Permit No. 5394A issued to the Upper Guadalupe River Authority.

**HB 892** Hilderbran SPONSOR: Fraser  
Relating to the timely deposit of, and depositories for, certain county funds and registry funds.  
(Committee Substitute)

**HB 948** Davis, Yvonne SPONSOR: Ellis  
Relating to requirements for labeling certain drugs.

**HB 963** Guillen SPONSOR: West, Royce  
Relating to providing notice of the release or escape of a defendant to certain crime victims and witnesses in criminal trials.

**HB 1005** Giddings SPONSOR: Van de Putte  
Relating to the timely submission of a claim for payment by a workers' compensation health care provider.

**HB 1049** Phillips SPONSOR: Wentworth  
Relating to the automatic suspension of the driver's license of certain persons convicted of the offense of manslaughter.

**HB 1082** Straus SPONSOR: Van de Putte  
Relating to a pilot program to require reporting of methicillin-resistant *Staphylococcus aureus*.

**HB 1086** Hughes SPONSOR: Wentworth  
Relating to jurors and alternate jurors in a criminal case.  
(Committee Substitute)

**HB 1179** Flores SPONSOR: Nelson

Relating to procurements by the Texas Lottery Commission.

**HB 1187** Morrison SPONSOR: Van de Putte  
Relating to vouchers for tuition and required fees at certain institutions of higher education and excused absences from public school for students who sound "Taps" at a veteran's funeral.

**HB 1204** Giddings SPONSOR: West, Royce  
Relating to donations of juror reimbursements.

**HB 1265** Pena SPONSOR: Seliger  
Relating to the operations of the Task Force on Indigent Defense and a legal services fee for indigent persons paid by members of the state bar.  
(Committee Substitute)

**HB 1290** Macias SPONSOR: Fraser  
Relating to the appeal of a decision of the Texas Ethics Commission.  
(Committee Substitute)

**HB 1346** Latham SPONSOR: Deuell  
Relating to continuing education for truancy magistrates in certain counties.

**HB 1418** Kolkhorst SPONSOR: Ogden  
Relating to the name of Sam Houston State University.

**HB 1460** Haggerty SPONSOR: Harris  
Relating to the licensing, acquisition, regulation, and taxation of manufactured housing; providing administrative and criminal penalties.  
(Committee Substitute)

**HB 1561** Bailey SPONSOR: Gallegos  
Relating to the investigation of a firefighter in certain municipalities.

**HB 1667** Geren SPONSOR: Brimer  
Relating to the amount of the fee for issuing certain alcoholic beverage permits.  
(Committee Substitute)

**HB 1669** Cook, Robby SPONSOR: Ogden  
Relating to the authority of certain counties to impose a county hotel occupancy tax and to the rate of the tax.  
(Committee Substitute)

**HB 1679** Hughes SPONSOR: Eltife  
Relating to the General Land Office's determination as to the existence of vacant public school land.

**HB 1764** Kuempel SPONSOR: Wentworth  
Relating to the purchasing methods available to a county when paying with certain funds.

**HB 1788** Pitts SPONSOR: Hegar  
Relating to the planning, reporting, and review of the state's information resources.

**HB 1789** Pitts SPONSOR: Hegar  
Relating to the management and oversight of information resources projects.

**HB 1839** Bonnen SPONSOR: Deuell



Relating to the requirements for renewal of a license to carry a concealed handgun.

**HB 2015** Smithee SPONSOR: Duncan  
Relating to the reporting of claim information under certain group health plans; providing administrative penalties.

**HB 2042** Dukes SPONSOR: Nelson  
Relating to an electronic database of physicians, hospitals, and other health care providers participating in the state Medicaid program.

**HB 2132** Straus SPONSOR: Van de Putte  
Relating to the creation of a diabetes mellitus registry pilot program.

**HB 2171** Swinford SPONSOR: Seliger  
Relating to the first day of instruction in school districts whose prospective or former students generally attend certain grades in another state.

**HB 2173** Cook, Byron SPONSOR: Brimer  
Relating to the continuation and functions of the Prepaid Higher Education Tuition Board.  
(Committee Substitute)

**HB 2313** Rose SPONSOR: Nichols  
Relating to designating the second full week in September as obesity awareness week.

**HB 2359** Hartnett SPONSOR: Wentworth  
Relating to the collection of certain filing fees by statutory probate courts for deposit in the judicial fund, the use of those deposits, and the remittance of the excess of those deposits.

**HB 2371** Morrison SPONSOR: Zaffirini  
Relating to hearings regarding cease and desist orders against certain persons operating a career school or college without proper authority.

**HB 2438** Truitt SPONSOR: Nelson  
Relating to the allocation of revenue from the municipal hotel occupancy tax for certain transportation systems.  
(Committee Substitute)

**HB 2462** Van Arsdale SPONSOR: Brimer  
Relating to providing for the sale of certain gambling equipment seized by a law enforcement agency.

**HB 2489** Berman SPONSOR: Duncan  
Relating to registration and reporting requirements for lobbyists.

**HB 2503** Eissler SPONSOR: Williams  
Relating to a technology literacy assessment instrument to be administered to certain public school students.

**HB 2518** Davis, Yvonne SPONSOR: Ellis  
Relating to the posting by the General Land Office of information about the process for purchasing commercial real estate from the School Land Board.

**HB 2580** Naishtat SPONSOR: Nelson

Relating to the designation by the Department of Family and Protective Services of an individual to consent on behalf of the department to medical care for a child in foster care.

**HB 2664**                      Truitt                      SPONSOR: Duncan  
Relating to audits of certain public retirement system actuarial valuations, studies, and reports.

**HB 2718**                      Paxton                      SPONSOR: Ellis  
Relating to treatment of retrospective premiums for group life insurance issued through certain nonprofit membership associations.

**HB 2754**                      Anchia                      SPONSOR: Fraser  
Relating to the regulation of state banks and state trust companies.

**HB 2765**                      Eiland                      SPONSOR: Averitt  
Relating to certain variable insurance contracts.

**HB 2882**                      Hughes                      SPONSOR: Wentworth  
Relating to the service retirement annuity of certain members of the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two.

**HB 2910**                      Gattis                      SPONSOR: Ogden  
Relating to the authority of certain municipalities to regulate certain quarry activities.

**HB 2983**                      Creighton                      SPONSOR: Hegar  
Relating to a petition for the creation of a fresh water supply district.

**HB 3066**                      Truitt                      SPONSOR: Patrick, Dan  
Relating to the use of political contributions to make payments in connection with the rental or purchase of certain real property; providing a criminal penalty. (Committee Substitute)

**HB 3068**                      Guillen                      SPONSOR: Zaffirini  
Relating to the authority and responsibilities of certain political subdivisions in relation to development. (Committee Substitute)

**HB 3092**                      Hilderbran                      SPONSOR: Duncan  
Relating to considering for school district accountability purposes the performance of students confined by court order in a residential program or facility.

**HB 3132**                      Cook, Robby                      SPONSOR: Ogden  
Relating to the authority of certain counties to impose a county hotel occupancy tax.

**HB 3249**                      Truitt                      SPONSOR: Brimer  
Relating to the entities reviewed by the Sunset Advisory Commission. (Committee Substitute)

**HB 3672**                      Bohac                      SPONSOR: Ellis  
Relating to mobile food units in certain populous counties; providing a penalty. (Committee Substitute)

**HB 3876**                      Menendez                      SPONSOR: Nichols

Relating to the regulation of the practice of dentistry; providing penalties.  
(Committee Substitute)

**HB 4062** Miller SPONSOR: Nelson  
Relating to the enforcement and administration of certain programs by the  
Department of Agriculture.  
(Committee Substitute)

**HCR 67** Leibowitz SPONSOR: Seliger  
Urging Congress to provide further drought relief for Texas.

**SB 1755** Ellis  
Relating to the collection and dissemination of certain information for a federal  
firearm background check.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, May 22, 2007 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the  
following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SCR 83** Watson  
In memory of Loretta Johnson Williams of Austin.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, May 22, 2007 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 52** Chavez SPONSOR: Harris  
Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

**HB 53** Chavez SPONSOR: Shapleigh  
Relating to the designation of the Cesar Chavez Border Highway and the designation by name of other parts of the highway system.  
(Committee Substitute/Amended)

**HB 618** Bonnen SPONSOR: Jackson,  
Mike  
Relating to the eligibility of emergency medical services personnel to participate in a low-interest home loan program offered by the state.

**HB 638** Hughes SPONSOR: Eltife  
Relating to the issuance of identification cards to certain retired peace officers and to the eligibility of certain retired peace officers to obtain a weapons proficiency certificate.  
(Amended)

**HB 914** Madden SPONSOR: Hinojosa  
Relating to the establishment of an office of inspector general and the authority of the state auditor to conduct audits at the Texas Youth Commission.  
(Committee Substitute/Amended)

**HB 1318** Dukes SPONSOR: Watson  
Relating to retirement systems for police officers in certain municipalities.

**HB 1719** McReynolds SPONSOR: Nichols  
Relating to requiring landowners to report the burial of certain animal carcasses.

**HB 3123** Miles SPONSOR: Gallegos  
Relating to involvement in charitable events by holders of alcoholic beverage licenses and permits.

**HB 4044** Parker SPONSOR: Estes  
Relating to the qualifications and method of electing directors of the Mustang Special Utility District.

**HB 4091** Coleman SPONSOR: Ellis  
Relating to the boundaries and board of directors of Harris County Improvement District No. 6.  
(Committee Substitute)

**HB 4109** Eissler SPONSOR: Williams  
Relating to the administration, powers, including taxing powers and the authority to issue bonds, boundaries, operations, financing, and dissolution of the Town Center Improvement District of Montgomery County, Texas.  
(Amended)

**HCR 208** Aycock SPONSOR: Fraser

Congratulating the City of Killeen on being named the Association of Defense Communities 2006 Active Base Community of the Year.

**HCR 209** Homer SPONSOR: Eltife  
In memory of Gracie Ray Anne Williams of Bogata.

**HCR 215** Homer SPONSOR: Eltife  
In memory of Mary Celeste Morrison Fasken Marcum of Midland.

**HCR 216** Homer SPONSOR: Eltife  
Honoring nine-year-old Katie Chaix of Paris, Texas, for saving her little sister's life.

**HCR 217** Homer SPONSOR: Eltife  
Honoring the building firm of Harrison, Walker & Harper for its award-winning restoration and construction projects in Texas.

**HCR 218** Homer SPONSOR: Eltife  
In memory of James William "Billy" Daniel of Mount Pleasant.

**HCR 228** Straus SPONSOR: Wentworth  
In memory of Bruce B. Cloud of San Antonio.

**HCR 231** Ritter SPONSOR: Williams  
In memory of Beaumont police officer Lisa Renee Ligda Beaulieu.

**HCR 234** Hughes SPONSOR: Eltife  
In memory of the Honorable William M. Steger, U.S. District Judge for the Eastern District of Texas.

**HCR 242** Homer SPONSOR: Eltife  
In memory of J. W. "Dub" Thomas of Mount Pleasant.

**HCR 244** Homer SPONSOR: Eltife  
In memory of Brent Douglas Wilson of Paris.

**HCR 245** Homer SPONSOR: Eltife  
In memory of Calvin Dudley of Paris.

**HCR 246** Homer SPONSOR: Eltife  
In memory of Janie D. "Mimi" Buster of the Caviness community.

**HCR 262** Guillen SPONSOR: Hinojosa  
In memory of John Austin Pena of Edinburg.

**HJR 72** Solomons SPONSOR: Carona  
Proposing a constitutional amendment to clarify certain provisions relating to the making of a home equity loan and use of home equity loan proceeds.  
(Committee Substitute)

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, May 22, 2007 - 4

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 14** Keffer, Jim SPONSOR: Nelson  
Relating to reorganizing certain state institutions that provide financing for cancer research, including creating the Cancer Prevention and Research Institute of Texas, and information about certain cancer treatments; granting authority to issue bonds.

**HB 199** Madden SPONSOR: Whitmire  
Relating to a residential infant care program for mothers confined in Texas Department of Criminal Justice facilities.

**HB 317** Miller SPONSOR: Fraser  
Relating to the student enrollment required for the issuance of certain revenue bonds for facilities at Texas A&M University–Central Texas.  
(Amended)

**HB 1886** Callegari SPONSOR: West, Royce  
Relating to the procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.  
(Committee Substitute/Amended)

**HB 1889** Raymond SPONSOR: Zaffirini  
Relating to allowing certain active judicial officers and bailiffs to carry weapons.  
(Amended)

**HB 1899** England SPONSOR: Harris  
Relating to the sale of certain real property at an ad valorem tax sale and to the right of redemption in connection with that real property.  
(Committee Substitute)

**HB 2118** Pickett SPONSOR: Van de Putte  
Relating to licensing and regulation of residential fire alarm technicians and regulation and installation of fire detection and alarm devices.  
(Committee Substitute/Amended)

**HB 2918** Isett, Carl SPONSOR: Deuell  
Relating to state information technology contracting and procurement practices.  
(Committee Substitute/Amended)

- HB 3143** Flynn SPONSOR: Patrick, Dan  
Relating to electioneering near a polling place.
- HB 3325** Escobar SPONSOR: Lucio  
Relating to the extent of extraterritorial jurisdiction of certain municipalities.
- HB 3732** Hardcastle SPONSOR: Averitt  
Relating to the implementation of advanced clean energy projects and other environmentally protective projects in this state.  
(Committee Substitute/Amended)
- HB 3972** Hughes SPONSOR: Eltife  
Relating to a bailiff to serve the 115th District Court in Upshur County.
- HB 3995** Chisum SPONSOR: Duncan  
Relating to the name, administration, powers, and duties of the Collingsworth County Underground Water Conservation District.
- HCR 221** Bohac SPONSOR: Patrick, Dan  
Congratulating Wesley and Bertha Krueger of Houston on their 50th wedding anniversary.
- HCR 250** Madden SPONSOR: Hinojosa  
Honoring Nate Blakeslee of the Texas Observer and Doug Swanson of The Dallas Morning News for their reporting regarding the Texas Youth Commission.
- HCR 251** Madden SPONSOR: Hinojosa  
Commending Ana Yanez Correa and Marc Levin on their contributions to the legislature's deliberations on juvenile justice and criminal justice in general.
- HCR 264** Isett, Carl SPONSOR: Duncan  
Recognizing Laura Lynn Lewis of Lubbock on her achievements as an artist.
- HJR 40** Hochberg SPONSOR: Hegar  
Proposing a constitutional amendment authorizing the legislature to provide that the maximum appraised value of a residence homestead for ad valorem taxation is limited to the lesser of the most recent market value of the residence homestead as determined by the appraisal entity or 110 percent, or a greater percentage, of the appraised value of the residence homestead for the preceding tax year.
- HJR 90** Keffer, Jim SPONSOR: Nelson  
Proposing a constitutional amendment providing for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of general obligation bonds for the purpose of scientific research of all forms of human cancer.  
(Amended)
- SCR 85** Brimer  
Recalling **SB 924** from the governor for further consideration.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 5**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Tuesday, May 22, 2007 - 5

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 2** Chisum SPONSOR: Ogden  
Relating to making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions.  
(Amended)

**HB 13** Swinford SPONSOR: Carona  
Relating to homeland security issues, including border security issues and law enforcement.  
(Committee Substitute/Amended)

**HB 109** Turner SPONSOR: Averitt  
Relating to eligibility for and information regarding the child health plan program.  
(Committee Substitute)

**HB 573** Gonzales SPONSOR: Lucio  
Relating to providing street lights in a subdivision in the unincorporated area of certain counties.

**HB 589** Aycock SPONSOR: Fraser  
Relating to the student enrollment required for Texas A&M University–Central Texas to operate as a general academic teaching institution.  
(Amended)

**HB 649** McCall SPONSOR: Carona  
Relating to the fraudulent use of a child's identifying information.

**HB 755** Dutton SPONSOR: Nelson  
Relating to disciplinary action taken against a person required to file a death certificate.

**HB 945** Herrero SPONSOR: Hinojosa  
Relating to the dates on which certain independent school districts may hold an election of trustees.  
(Committee Substitute/Amended)

**HB 1022** Hilderbran SPONSOR: Williams



Relating to the exemption from ad valorem taxation of a motor vehicle owned by an individual and used in the course of the owner's occupation or profession and also for personal activities of the owner and to the rendition of such vehicles.

**HB 1111** Turner SPONSOR: Uresti  
Relating to prohibitions on and reporting concerning medical, psychiatric, and other research on children committed to the Texas Youth Commission.  
(Amended)

**HB 1457** McReynolds SPONSOR: Nichols  
Relating to the acceptable methods for disposal of poultry carcasses.  
(Committee Substitute)

**HB 1470** Eissler SPONSOR: Seliger  
Relating to the Texas Economic Development Act, including the continuation of that Act and tax credits claimed under that Act, and to the duties of the comptroller of public accounts and the Texas Education Agency under that Act.  
(Committee Substitute)

**HB 1609** Crownover SPONSOR: Shapleigh  
Relating to the Communities In Schools program.  
(Committee Substitute)

**HB 2034** England SPONSOR: Shapiro  
Relating to the regulation of sex offender treatment providers.  
(Committee Substitute/Amended)

**HB 2074** Krusee SPONSOR: Ogden  
Relating to the creation of the East Williamson County Multi-Institution Teaching Center.  
(Committee Substitute)

**HB 2138** Paxton SPONSOR: Wentworth  
Relating to regulation of property tax lenders; providing a penalty.  
(Amended)

**HB 2365** Truitt SPONSOR: Duncan  
Relating to financial accounting and reporting for this state and political subdivisions of this state.  
(Committee Substitute)

**HB 3070** Strama SPONSOR: Watson  
Relating to a study of methods for increasing the availability of certain information on energy efficiency of certain residential property.

**HB 3275** Miller SPONSOR: Hegar  
Relating to a study regarding the distribution of funds for highway projects.  
(Committee Substitute/Amended)

**HB 3485** King, Susan SPONSOR: Shapiro  
Relating to career and technical education provided by school districts and certain postsecondary institutions.

**HB 3495** Otto SPONSOR: Williams

Relating to the contents of the notice of the meeting at which the governing body of a taxing unit will vote on a proposed ad valorem tax rate that will result in a tax revenue increase.

**HB 3552** Orr SPONSOR: Lucio  
Relating to the issuance of private activity bonds.  
(Amended)

**HB 4069** Phillips SPONSOR: Estes  
Relating to the creation of the Platinum Ranch Municipal Utility District No. 1 of Grayson County; providing authority to impose taxes and issue bonds; granting the power of eminent domain.  
(Amended)

**HB 4085** Laubenberg SPONSOR: Deuell  
Relating to the creation of the Triple Creek Municipal Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

**HB 4110** Coleman SPONSOR: Whitmire  
Relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.  
(Committee Substitute)

**HB 4139** Flynn SPONSOR: Deuell  
Relating to the creation of a county court at law in Van Zandt County.  
(Amended)

**HJR 30** Jackson, Jim SPONSOR: Janek  
Proposing a constitutional amendment to allow the repurchase of real property acquired by a governmental entity through eminent domain.

**HJR 54** Hilderbran SPONSOR: Williams  
Proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation one motor vehicle owned by an individual and used in the course of the owner's occupation or profession and also for personal activities of the owner.

**SCR 84** Watson  
Recognizing Phil Hatlen on the occasion of his retirement from the Texas School for the Blind and Visually Impaired.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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## APPENDIX

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### STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

**May 21**

Culture, Recreation, and Tourism - **SB 410**

**ENROLLED**

**May 21 - HB 8, HB 413, HB 536, HB 604, HB 890, HB 902, HB 1029, HB 1170, HB 1268, HB 1355, HB 2144, HB 2391, HB 3140, HB 3900, HCR 114, HCR 199, HCR 203, HCR 240, HCR 248**

**SIGNED BY THE GOVERNOR**

**May 21 - HCR 213, HCR 236, HCR 241**

