



# **JOURNAL**

OF THE

# **SENATE**

---

SIXTY-SIXTH DAY

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REGULAR SESSION

OF THE

EIGHTY-THIRD LEGISLATURE

SATURDAY, MAY 25, 2013



# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-SIXTH DAY  
(Saturday, May 25, 2013)

The Senate met at 1:53 p.m. pursuant to adjournment and was called to order by Senator Eltife.

The roll was called and the following Senators were present: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodriguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona.

The Presiding Officer announced that a quorum of the Senate was present.

Pastor A. W. Anthony Mays, Mount Sinai Missionary Baptist Church, Austin, offered the invocation as follows:

Dear Lord, our God, supreme ruler over all Your creation, we humble ourselves in Your very presence. I ask You to hear this prayer, as You have heard our prayers before. I ask You to hear this prayer which I pray in the name of Jesus the Christ, who is lord. Please look down upon this gathering of public servants for the State of Texas and grant us Your heavenly wisdom. For our sins, which are many, please do not turn us away. We pause a few moments to ask Your gracious blessings upon all those who have suffered recently in this state and in this country through the impact of the fierce storms and the tragic explosions in West. Dear Lord, give consolation to their hearts and strengthen their wills. We thank You, dear Lord, for all You do, and we thank You simply for who You are. You have caused Your blessings in great abundance to fall upon the State of Texas in so many and varied ways. This state is blessed with natural resources and with a great heritage. Now, for all these things we offer You both thanksgiving and praise. Dear Lord, bless this gathering of elected servants and all these persons who give them support and assistance to perform their sworn tasks of representing all the citizens of this great state. Bless each Member, male and female, collectively and individually, with Your divine wisdom. Grant them Your benevolent spirit along with a sense of humble stewardship of all this state's resources, knowing that all stewards must one day give an account of their stewardship. Help them to both speak and listen with Your heart of love. I ask You to protect each one and their

family members from danger from all who would seek to do them harm. Please grant them Your favor for righteous judgments and that their work will result in what is right and good for all the citizens of this State of Texas. Fortify them with strong courage and guiding convictions of truth and justice for all. I ask these things for them and for all of us in Jesus' name. Amen.

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

The motion prevailed without objection.

### LEAVE OF ABSENCE

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

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Saturday, May 25, 2013 - 1

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

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

**HB 2590** (145 Yeas, 0 Nays, 2 Present, not voting)

**HB 3860** (144 Yeas, 0 Nays, 2 Present, not voting)

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

**HB 870** (non-record vote)

House Conferees: Bell - Chair/Allen/Alonzo/Giddings/White

**HB 3447** (non-record vote)

House Conferees: Gutierrez - Chair/Farias/Larson/Rodriguez, Justin/Villarreal

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

**SB 401** (non-record vote)

House Conferees: Allen - Chair/Deshotel/Farney/Miles/Patrick, Diane

**SB 460** (non-record vote)

House Conferees: Coleman - Chair/Aycock/Davis, John/Huberty/White

**SB 484** (non-record vote)

House Conferees: Turner, Sylvester - Chair/Allen/Carter/Giddings/Moody

**SB 949** (non-record vote)

House Conferees: Sheffield, J. D. - Chair/Davis, Sarah/Johnson/Lewis/Zerwas

**SB 1158** (non-record vote)

House Conferees: Menéndez - Chair/Cortez/Darby/Otto/Pickett

**SB 1373** (non-record vote)

House Conferees: Miller, Rick - Chair/Menéndez/Sheets/Thompson, Senfronia/Zedler

**SB 1596** (non-record vote)

House Conferees: Rodriguez, Eddie - Chair/Howard/Otto/Perez/Workman

**SB 1681** (non-record vote)

House Conferees: Harper-Brown - Chair/Burkett/Perry/Turner, Scott/Vo

**SB 1747** (non-record vote)

House Conferees: Keffer - Chair/Darby/Guillen/King, Phil/Phillips

**SB 1907** (non-record vote)

House Conferees: Kleinschmidt - Chair/Guillen/Miller, Rick/Raymond/Springer

Respectfully,

/s/Robert Hancy, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE ON HOUSE BILL 2836**  
**(Motion In Writing)**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2836** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2836** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Duncan, Williams, Van de Putte, and Seliger.

**CONFERENCE COMMITTEE ON HOUSE BILL 3660**  
**(Motion In Writing)**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3660** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3660** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Estes, Schwertner, Uresti, and Watson.

**CONFERENCE COMMITTEE ON HOUSE BILL 1675**  
**(Motion In Writing)**

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1675** and submitted a Motion In Writing that the request be granted.

The Motion In Writing prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1675** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Birdwell, Patrick, Whitmire, and Huffman.

**SENATE RESOLUTION 1060**

Senator Rodríguez offered the following resolution:

**SR 1060**, In memory of Victor Apodaca, Jr.

On motion of Senator Rodríguez, the resolution was read and was adopted by a rising vote of the Senate.

In honor of the memory of Victor Apodaca, Jr., the text of the resolution is printed at the end of today's *Senate Journal*.

**SENATE BILL 1398 WITH HOUSE AMENDMENT**

Senator Estes called **SB 1398** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1398** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to rules governing the allocation of delegates to a political party's national presidential nominating convention.

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

SECTION 1. Section 191.007, Election Code, is amended to read as follows:

Sec. 191.007. ALLOCATION OF DELEGATES. (a) Each political party holding a presidential primary election shall adopt a rule for allocating delegates ~~[based on the results of the presidential primary election].~~

(b) A rule adopted under this section may utilize either a proportional or winner-take-all method, based on the results of the presidential primary election, which may be based on:

(1) a direct tie to statewide popular vote totals;

(2) a direct tie to congressional or state senatorial district popular vote totals; or

(3) an alternative disproportionate method that is based on statewide, congressional district, or state senatorial district popular vote totals.

(c) Subsection (b) does not apply to delegates allocated:

(1) among party and elected officials; or

(2) through an allocation based on participants registering for or attending a caucus or similar process, provided that at ~~[At]~~ least 75 percent of the total number of delegates who are to represent this state at the party's national presidential nominating convention, excluding delegates allocated among party and elected officials, shall be allocated in accordance with the rule adopted under this section based on the results of the presidential primary election ~~[among one or more of the candidates whose names appear on the presidential primary election ballot and, if applicable, the uncommitted status].~~

SECTION 2. 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, 2013.

The amendment was read.

Senator Estes moved to concur in the House amendment to **SB 1398**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 1610 WITH HOUSE AMENDMENT**

Senator Schwertner called **SB 1610** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1610** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the notification of individuals following a breach of security of computerized data.

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

SECTION 1. Sections 521.053(b-1) and (e), Business & Commerce Code, are amended to read as follows:

(b-1) If ~~[Notwithstanding Subsection (b), the requirements of Subsection (b) apply only if]~~ the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident ~~[of this state or another state that does not require a person described by Subsection (b) to notify the individual of a breach of system security. If the individual is a resident]~~ of a state that requires a person described by Subsection (b) to provide notice of a breach of system security, the notice of the breach of system security required under Subsection (b) may be provided under that state's law or under ~~[satisfies the requirements of]~~ Subsection (b).

(e) A person may give notice as required by Subsection (b) or (c) by providing:

- (1) written notice at the last known address of the individual;
- (2) electronic notice, if the notice is provided in accordance with 15 U.S.C.

Section 7001; or

- (3) notice as provided by Subsection (f).

SECTION 2. 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, 2013.

The amendment was read.

Senator Schwertner moved to concur in the House amendment to **SB 1610**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 872 WITH HOUSE AMENDMENT**

Senator Deuell called **SB 872** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 872** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to county expenditures for certain health care services.

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



SECTION 1. Section 61.036, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Regardless of the application, documentation, and verification procedures or eligibility standards established by the department under Subchapter A, a county may credit an intergovernmental transfer to the state toward eligibility for state assistance if the transfer was made to provide health care services as part of the Texas Healthcare Transformation and Quality Improvement Program waiver issued under 42 U.S.C. Section 1315.

(e) A county may credit toward eligibility for state assistance intergovernmental transfers made under Subsection (d) that in the aggregate do not exceed four percent of the county's general revenue levy in any state fiscal year, provided:

(1) The commissioners court determines that the expenditure fulfills the county's obligations to provide indigent health care under this chapter;

(2) The commissioners court determines that the amount of care available through participation in the waiver is sufficient in type and amount to meet the requirements of this chapter; and

(3) The county receives periodic reports from health care providers that receive supplemental or incentive payments under the Texas Healthcare Transformation and Quality Improvement Program waiver that document the number and types of services provided to persons who are eligible to receive services under this chapter.

SECTION 2. Not later than December 1, 2014, the Department of State Health Services shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives on the effects of the provisions of this Act on services rendered to eligible residents under Chapter 61, Health and Safety Code.

SECTION 3. (a) The change in law made by this Act to Section 61.036, Health and Safety Code, applies only to state assistance for health care services under Chapter 61, Health and Safety Code, as amended by this Act, that are delivered on or after the effective date of this Act.

(b) State assistance for health care services under Chapter 61, Health and Safety Code, that are delivered before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 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, 2013.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 872**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

#### **SENATE BILL 993 WITH HOUSE AMENDMENT**

Senator Deuell called **SB 993** from the President's table for consideration of the House amendment to the bill.

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

### Floor Amendment No. 1

Amend **SB 993** (house committee printing) on page 3 by striking lines 9 through 13 and substituting the following:

(f) The Texas Nonprofit Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this section expires September 1, 2019. [This section expires September 1, 2013.]

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 993**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 1411 WITH HOUSE AMENDMENT

Senator Deuell called **SB 1411** from the President's table for consideration of the House amendment to the bill.

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

### Floor Amendment No. 1

Amend **SB 1411** (house committee report) as follows:

(1) On page 1, line 7, strike "CERTAIN" and substitute "SPECIAL".

(2) On page 1, lines 9-11, strike "conservation and reclamation district organized or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution," and substitute "special district".

(3) On page 1, line 24, strike "conservation and".

(4) On page 2, lines 1-2, strike "reclamation district organized or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution," and substitute "special district".

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 1411**.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodriguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Hancock, Williams.

Absent-excused: Carona.

### SENATE BILL 429 WITH HOUSE AMENDMENT

Senator Nelson called **SB 429** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 429** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the dismissal or nonsuit of a suit to terminate the parent-child relationship filed by the Department of Family and Protective Services.

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

SECTION 1. The heading to Chapter 263, Family Code, is amended to read as follows:

CHAPTER 263. REVIEW OF PLACEMENT OF CHILDREN UNDER CARE OF  
DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~]  
SERVICES

SECTION 2. Subchapter E, Chapter 263, Family Code, is amended by adding Section 263.408 to read as follows:

Sec. 263.408. REQUIREMENTS BEFORE DISMISSAL OR NONSUIT. (a) Before approving a dismissal or nonsuit of a suit to terminate the parent-child relationship filed by the department, the court shall consider:

(1) whether the dismissal or nonsuit is in the best interest of each child affected by the suit; and

(2) whether any orders for the conservatorship, possession of or access to, or support of each child affected by the suit continue in effect after the dismissal or nonsuit.

(b) Before approving a dismissal or nonsuit of a suit to terminate the parent-child relationship filed by the department, the court may render an order for the conservatorship, possession of or access to, or support of each child affected by the suit that will continue in effect after the dismissal or nonsuit of the suit to terminate the parent-child relationship.

SECTION 3. Section 263.408, Family Code, as added by this Act, applies only to a motion for the dismissal or nonsuit of a suit to terminate the parent-child relationship that is made on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2013.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 429**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 1058 WITH HOUSE AMENDMENTS**

Senator Nelson called **SB 1058** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 1058** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of the practice of nursing.

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

SECTION 1. Subsection (a), Section 301.004, Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) gratuitous nursing care of the sick that is provided by a friend;  
(2) nursing care provided during a disaster under the state emergency management plan adopted under Section 418.042, Government Code, if the person providing the care does not hold the person out as a nurse unless the person is licensed in another state;

(3) nursing care in which treatment is solely by prayer or spiritual means;

(4) an act performed by a person under the delegated authority of a person licensed by the Texas Medical Board;

(5) an act performed by a person licensed by another state agency if the act is authorized by the statute under which the person is licensed except that if the person also holds a license under this chapter and the act is within the practice of nursing, the board may take action against that license based on that act;

(6) the practice of nursing that is incidental to a program of study by a student enrolled in a nursing education program approved under Section 301.157(d) leading to an initial license as a nurse; or

(7) the practice of nursing by a person licensed in another state who is in this state on a nonroutine basis for a period not to exceed 72 hours to:

(A) provide care to a patient being transported into, out of, or through this state;

(B) provide nursing consulting services; or

(C) attend or present a continuing nursing education program.

SECTION 2. Subchapter D, Chapter 301, Occupations Code, is amended by adding Section 301.1546 to read as follows:

Sec. 301.1546. RULES REGARDING PAIN MANAGEMENT. The board shall adopt rules regarding the provision of pain management services by advanced practice nurses.

SECTION 3. Subsection (c), Section 301.2511, Occupations Code, is amended to read as follows:

(c) The board by rule shall ~~may~~ develop a system for ~~[initiating the process of]~~ obtaining criminal history record information for a person accepted for enrollment in a nursing ~~[applicants for a license under this chapter by requiring persons who enroll or plan to enroll in an]~~ educational program that prepares the ~~[a]~~ person for initial licensure [a license] as a registered or vocational nurse by requiring the person to submit to the board a set of fingerprints that meets the requirements of Subsection (a). The board may develop a similar system for an applicant for enrollment in a nursing educational program. The board may require payment of a fee by a person who is required to submit a set of fingerprints under this subsection.

SECTION 4. Section 301.257, Occupations Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) The board may file a petition under this section based on the results of a criminal history record information check conducted under Section 301.2511. The board by rule shall adopt requirements for the petition and determination under this subsection. The rules must:

(1) identify the criminal offenses that constitute grounds for the board to file the petition; and

(2) describe the documents required by the board to make a determination of license eligibility.

(k) The board shall make a determination of license eligibility under Subsection (j) not later than the 120th day after the date the person submits the required documents to the board under that subsection.

SECTION 5. Subchapter G, Chapter 301, Occupations Code, is amended by adding Sections 301.305 and 301.307 to read as follows:

Sec. 301.305. CONTINUING EDUCATION IN NURSING JURISPRUDENCE AND NURSING ETHICS. (a) As part of a continuing competency program under Section 301.303, a license holder shall complete at least two hours of continuing education relating to nursing jurisprudence and nursing ethics before the end of every third two-year licensing period.

(b) The board shall adopt rules implementing the requirement under Subsection (a) in accordance with the guidelines for targeted continuing education under Section 301.303(g).

(c) The board may not require a license holder to complete more than four hours of continuing education under this section.

Sec. 301.307. CONTINUING EDUCATION IN OLDER ADULT OR GERIATRIC CARE. (a) As part of a continuing competency program under Section 301.303, a license holder whose practice includes older adult or geriatric populations shall complete at least two hours of continuing education relating to older adult or geriatric populations or maintain certification in an area of practice relating to older adult or geriatric populations.

(b) The board shall adopt rules implementing the requirement under Subsection (a) in accordance with the guidelines for targeted continuing education under Section 301.303(g).

(c) The board may not require a license holder to complete more than six hours of continuing education under this section.

SECTION 6. Subsection (b), Section 301.452, Occupations Code, is amended to read as follows:

(b) A person is subject to denial of a license or to disciplinary action under this subchapter for:

(1) a violation of this chapter, a rule or regulation not inconsistent with this chapter, or an order issued under this chapter;

(2) fraud or deceit in procuring or attempting to procure a license to practice professional nursing or vocational nursing;

(3) a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude;

(4) conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;

(5) use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;

(6) impersonating or acting as a proxy for another person in the licensing examination required under Section 301.253 or 301.255;

(7) directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of nursing;

(8) revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction or under federal law;

(9) intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient;

(10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public;

(11) adjudication of mental incompetency;

(12) lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or

(13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the board's opinion, exposes a patient or other person unnecessarily to risk of harm.

SECTION 7. Subsection (b), Section 301.453, Occupations Code, is amended to read as follows:

(b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:

(1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;

(2) participate in a program of education or counseling prescribed by the board, including a program of remedial education;

(3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the board; ~~or~~

(4) perform public service the board considers appropriate; or

(5) abstain from the consumption of alcohol or the use of drugs and submit to random periodic screening for alcohol or drug use.

SECTION 8. Subsection (a), Section 301.454, Occupations Code, is amended to read as follows:

(a) Except in the case of a temporary suspension authorized under Section 301.455 or 301.4551 or an action taken in accordance with an agreement between the board and a license holder, the board may not take any ~~initiate a~~ disciplinary action relating to a license unless:

(1) the board has served notice to the license holder of the facts or conduct alleged to warrant the intended action; and

(2) the license holder has been given an opportunity, in writing or through an informal meeting, to show compliance with all requirements of law for the retention of the license.

SECTION 9. Subsection (a), Section 301.458, Occupations Code, is amended to read as follows:

(a) Unless there is an agreed disposition of the complaint under Section 301.463, ~~and~~ if probable cause is found under Section 301.457(e)(2), the board or the board's authorized representative shall file ~~initiate proceedings by filing~~ formal charges against the nurse.

SECTION 10. Subsection (a), Section 301.465, Occupations Code, is amended to read as follows:

(a) Notwithstanding Section 2001.089, Government Code, the ~~The~~ board may request issuance of a subpoena to be served in any manner authorized by law, including personal service by a board investigator or ~~and service~~ by certified mail.

SECTION 11. Section 301.466, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A complaint and investigation concerning a nurse under this subchapter, ~~and~~ all information and material compiled by the board in connection with the complaint and investigation, and the information described by Subsection (d) are:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or a board employee or agent involved in license holder discipline.

(d) Notwithstanding Subsection (c), if the board orders a nurse to participate in a peer assistance program approved by the board under Section 467.003, Health and Safety Code, the complaint, filing of formal charges, nature of those charges, final board order, and disciplinary proceedings are subject to disclosure:

(1) only to the same extent as information regarding a complaint is subject to disclosure under Subsection (b); or

(2) in a subsequent matter relating to the board order or a subsequent violation of this chapter or a board rule.

SECTION 12. The heading to Subchapter N, Chapter 301, Occupations Code, is amended to read as follows:

SUBCHAPTER N. CORRECTIVE ACTION PROCEEDING AND DEFERRED ACTION

SECTION 13. Section 301.651, Occupations Code, is amended to read as follows:

Sec. 301.651. DEFINITIONS ~~DEFINITION~~. In this subchapter:

(1) "Corrective ~~corrective~~ action" means a fine or remedial education imposed under Section 301.652.

(2) "Deferred action" means an action against a person licensed or regulated under this chapter that is deferred by the board as provided by this subchapter.

SECTION 14. Subsection (b), Section 301.655, Occupations Code, is amended to read as follows:

(b) If the person does not accept the executive director's determination and recommended corrective action as originally proposed or as modified by the board or fails to respond in a timely manner to the executive director's notice as provided by Section 301.654, the executive director shall:

- (1) terminate corrective action proceedings [~~under this subchapter~~]; and
- (2) dispose of the matter as a complaint under Subchapter J.

SECTION 15. Subchapter N, Chapter 301, Occupations Code, is amended by adding Section 301.6555 to read as follows:

Sec. 301.6555. DEFERRED ACTION. (a) For any action or complaint for which the board proposes to impose on a person a sanction other than a reprimand or a denial, suspension, or revocation of a license, the board may:

(1) defer the final action the board has proposed if the person conforms to conditions imposed by the board, including any condition the board could impose as a condition of probation under Section 301.468; and

(2) if the person successfully meets the imposed conditions, dismiss the complaint.

(b) Except as provided by this subsection, a deferred action by the board is not confidential and is subject to disclosure in accordance with Chapter 552, Government Code. If the person successfully meets the conditions imposed by the board in deferring final action and the board dismisses the action or complaint, the deferred action of the board is confidential to the same extent as a complaint is confidential under Section 301.466.

SECTION 16. Section 301.656, Occupations Code, is amended to read as follows:

Sec. 301.656. REPORT TO BOARD. The executive director shall report periodically to the board on the corrective or deferred actions imposed under this subchapter, including:

- (1) the number of [~~corrective~~] actions imposed; and
- (2) the types of violations for which [~~corrective~~] actions were imposed [~~and~~];
- ~~(3) whether affected nurses accepted the corrective actions.~~

SECTION 17. Section 301.657, Occupations Code, is amended to read as follows:

Sec. 301.657. EFFECT ON ACCEPTANCE OF CORRECTIVE OR DEFERRED ACTION. (a) Except to the extent provided by this section, a person's acceptance of a corrective or deferred action under this subchapter does not constitute an admission of a violation but does constitute a plea of nolo contendere.

(b) The board may treat a person's acceptance of corrective or deferred action as an admission of a violation if the board imposes a sanction on the person for a subsequent violation of this chapter or a rule or order adopted under this chapter.

(c) The board may consider a corrective or deferred action taken against a person to be a prior disciplinary action under this chapter when imposing a sanction on the person for a subsequent violation of this chapter or a rule or order adopted under this chapter.

SECTION 18. Section 301.1607, Occupations Code, is repealed.



SECTION 19. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to Chapter 301, Occupations Code, apply only to a violation that occurs on or after the effective date of this Act. A violation that occurs before that date is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Subchapter N, Chapter 301, Occupations Code, apply to a violation that occurs before, on, or after the effective date of this Act.

(c) Sections 301.305 and 301.307, Occupations Code, as added by this Act, apply only to a licensing period that begins on or after January 1, 2014.

SECTION 20. This Act takes effect September 1, 2013.

### Floor Amendment No. 1

Amend **CSSB 1058** (house committee printing) by striking SECTION 2 of the bill (page 2, lines 11-15) and renumbering subsequent SECTIONS of the bill accordingly.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 1058**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 392 WITH HOUSE AMENDMENT

Senator West called **SB 392** from the President's table for consideration of the House amendment to the bill.

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

### Amendment

Amend **SB 392** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

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

SECTION 1. Section 402.010, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) In an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, the party shall file the form required by Subsection (a-1). The court shall, if the attorney general is not a party to or counsel involved in the litigation, serve notice of the constitutional challenge ~~[question]~~ and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section~~[Notice under this section must identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge]~~.

(a-1) The Office of Court Administration of the Texas Judicial System shall adopt the form that a party challenging the constitutionality of a statute of this state must file with the court in which the action is pending indicating which pleading should be served on the attorney general in accordance with this section.

SECTION 2. Section 402.010, Government Code, as amended by this Act, applies only to a petition, motion, or other pleading filed in litigation on or after the effective date of this Act. A pleading filed in litigation before the effective date of this Act is governed by the law applicable to the pleading immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 392**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 1419 WITH HOUSE AMENDMENT

Senator West called **SB 1419** from the President's table for consideration of the House amendment to the bill.

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

#### Floor Amendment No. 1

Amend **SB 1419** (house committee printing) as follows:

(1) On page 1, line 19, strike "or" and substitute "[~~or~~]".

(2) On page 1, line 20, between "(2)" and "agree", insert the following:  
employ one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3)

(3) On page 1, line 21, between "manager" and the period, insert "to provide services described by Subdivisions (1) and (2)"

(4) Strike page 1, line 22, through page 2, line 10, and substitute the following:

(c) An entity that jointly employs a case manager under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code [A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases].

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1419**.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Birdwell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nichols, Patrick, Paxton, Rodriguez, Schwertner, Seliger, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Campbell, Fraser, Nelson, Taylor.

Absent-excused: Carona.

### SENATE BILL 1630 WITH HOUSE AMENDMENT

Senator West called **SB 1630** from the President's table for consideration of the House amendment to the bill.

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

#### Amendment

Amend **SB 1630** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the protection of defendants against vexatious litigants.

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

SECTION 1. Subdivision (5), Section 11.001, Civil Practice and Remedies Code, is amended to read as follows:

(5) "Plaintiff" means an individual who commences or maintains a litigation pro se.

SECTION 2. Subchapter A, Chapter 11, Civil Practice and Remedies Code, is amended by adding Section 11.002 to read as follows:

Sec. 11.002. APPLICABILITY. (a) This chapter does not apply to an attorney licensed to practice law in this state unless the attorney proceeds pro se.

(b) This chapter does not apply to a municipal court.

SECTION 3. Section 11.054, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 11.054. CRITERIA FOR FINDING PLAINTIFF A VEXATIOUS LITIGANT. A court may find a plaintiff a vexatious litigant if the defendant shows that there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant and that:

(1) the plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion under Section 11.051, has commenced, prosecuted, or maintained [~~in propria persona~~] at least five litigations as a pro se litigant other than in a small claims court that have been:

(A) finally determined adversely to the plaintiff;

(B) permitted to remain pending at least two years without having been brought to trial or hearing; or

(C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;

(2) after a litigation has been finally determined against the plaintiff, the plaintiff repeatedly relitigates or attempts to relitigate, pro se [~~in propria persona~~], either:

(A) the validity of the determination against the same defendant as to whom the litigation was finally determined; or

(B) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined; or

(3) the plaintiff has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts, transition, or occurrence.

SECTION 4. Section 11.101, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A court may, on its own motion or the motion of any party, enter an order prohibiting a person from filing, pro se [~~in propria persona~~], a new litigation in a court to which the order applies under this section without permission of the appropriate local administrative judge described by Section 11.102(a) to file the litigation [~~in this state~~] if the court finds, after notice and hearing as provided by Subchapter B, that[-

~~(1) the person is a vexatious litigant[- and~~

~~(2) the local administrative judge of the court in which the person intends to file the litigation has not granted permission to the person under Section 11.102 to file the litigation].~~

(d) A prefiling order entered under Subsection (a) by a justice or constitutional county court applies only to the court that entered the order.

(e) A prefiling order entered under Subsection (a) by a district or statutory county court applies to each court in this state.

SECTION 5. Section 11.102, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 11.102. PERMISSION BY LOCAL ADMINISTRATIVE JUDGE. (a) A vexatious litigant subject to a prefiling order under Section 11.101 is prohibited from filing, pro se, new litigation in a court to which the order applies without seeking the permission of:

(1) the local administrative judge of the type of court in which the vexatious litigant intends to file, except as provided by Subdivision (2); or

(2) the local administrative district judge of the county in which the vexatious litigant intends to file if the litigant intends to file in a justice or constitutional county court.

(b) A vexatious litigant subject to a prefiling order under Section 11.101 who files a request seeking permission to file a litigation shall provide a copy of the request to all defendants named in the proposed litigation.

(c) The appropriate local administrative judge described by Subsection (a) may make a determination on the request with or without a hearing. If the judge determines that a hearing is necessary, the judge may require that the vexatious litigant filing a request under Subsection (b) provide notice of the hearing to all defendants named in the proposed litigation.

(d) The appropriate [A] local administrative judge described by Subsection (a) may grant permission to a ~~[person found to be a]~~ vexatious litigant subject to a prefiling order under Section 11.101 to file a litigation only if it appears to the judge that the litigation:

- (1) has merit; and
- (2) has not been filed for the purposes of harassment or delay.

(e) ~~[(b)]~~ The appropriate local administrative judge described by Subsection (a) may condition permission on the furnishing of security for the benefit of the defendant as provided in Subchapter B.

(f) ~~[(e)]~~ A decision of the appropriate [a] local administrative judge described by Subsection (a) denying a litigant permission to file a litigation under Subsection (d) ~~[(e)]~~, or conditioning permission to file a litigation on the furnishing of security under Subsection (e) ~~[(b)]~~, is not grounds for appeal, except that the litigant may apply for a writ of mandamus with the court of appeals not later than the 30th day after the date of the decision. The denial of a writ of mandamus by the court of appeals is not grounds for appeal to the supreme court or court of criminal appeals.

SECTION 6. The heading to Section 11.103, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 11.103. DUTIES OF CLERK~~[-MISTAKEN FILING]~~.

SECTION 7. Subsections (a), (c), and (d), Section 11.103, Civil Practice and Remedies Code, are amended to read as follows:

(a) Except as provided by Subsection (d), a clerk of a court may not file a litigation, original proceeding, appeal, or other claim presented, pro se, by a vexatious litigant subject to a prefiling order under Section 11.101 unless the litigant obtains an order from the appropriate local administrative judge described by Section 11.102(a) permitting the filing.

(c) If the appropriate local administrative judge described by Section 11.102(a) issues an order permitting the filing of the litigation ~~[under Subsection (b)]~~, the litigation remains stayed and the defendant need not plead until the 10th day after the date the defendant is served with a copy of the order.

(d) A clerk of a court of appeals may file an appeal from a prefiling order entered under Section 11.101 designating a person a vexatious litigant or a timely filed writ of mandamus under Section 11.102 ~~[11.102(e)]~~.

SECTION 8. Subchapter C, Chapter 11, Civil Practice and Remedies Code, is amended by adding Section 11.1035 to read as follows:

Sec. 11.1035. MISTAKEN FILING. (a) If the clerk mistakenly files litigation presented, pro se, by a vexatious litigant subject to a prefiling order under Section 11.101 without an order from the appropriate local administrative judge described by Section 11.102(a), any party may file with the clerk and serve on the plaintiff and the other parties to the litigation a notice stating that the plaintiff is a vexatious litigant required to obtain permission under Section 11.102 to file litigation.

(b) Not later than the next business day after the date the clerk receives notice that a vexatious litigant subject to a prefiling order under Section 11.101 has filed, pro se, litigation without obtaining an order from the appropriate local administrative judge described by Section 11.102(a), the clerk shall notify the court that the litigation was mistakenly filed. On receiving notice from the clerk, the court shall immediately

stay the litigation and shall dismiss the litigation unless the plaintiff, not later than the 10th day after the date the notice is filed, obtains an order from the appropriate local administrative judge described by Section 11.102(a) permitting the filing of the litigation.

(c) An order dismissing litigation that was mistakenly filed by a clerk may not be appealed.

SECTION 9. Section 11.104, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) The Office of Court Administration of the Texas Judicial System may not remove the name of a vexatious litigant subject to a prefiling order under Section 11.101 from the agency's Internet website unless the office receives a written order from the court that entered the prefiling order or from an appellate court. An order of removal affects only a prefiling order entered under Section 11.101 by the same court. A court of appeals decision reversing a prefiling order entered under Section 11.101 affects only the validity of an order entered by the reversed court.

SECTION 10. Subdivision (3), Section 11.001, and Subsection (b), Section 11.103, Civil Practice and Remedies Code, are repealed.

SECTION 11. The change in law made by this Act applies only to an action commencing on or after the effective date of this Act. An action commencing before the effective date of this Act is governed by the law as it existed on the date when the action commenced, and that law is continued in effect for that purpose.

SECTION 12. This Act takes effect September 1, 2013.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1630**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1908 WITH HOUSE AMENDMENT**

Senator West called **SB 1908** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1908** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to a study conducted by the Office of Court Administration of the Texas Judicial System and the repeal of certain court fees and costs.

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

SECTION 1. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.031 to read as follows:

Sec. 72.031. STUDY TO REPEAL CERTAIN COURT FEES AND COSTS.

(a) Not later than September 1, 2014, the office shall:

(1) conduct a study on court fees and costs that identifies each statutory law imposing a court fee or cost in a court in this state;

(2) determine whether each identified fee or cost is necessary to accomplish the stated statutory purpose;

(3) compile a list of the identified fees and costs and of each fee or cost the office determines is necessary;

(4) publish the list on the office's Internet website and in the Texas Register;  
and

(5) provide a copy of the list and determinations to the governor, lieutenant governor, and speaker of the house of representatives.

(b) In conducting the study required under Subsection (a), the office shall consult with local government representatives as the office determines appropriate.

(c) The Texas Legislative Council shall prepare for consideration by the 84th Legislature, Regular Session, a revision of the statutes of this state as necessary to reflect the court fees and costs identified by the office as not necessary in the study conducted under Subsection (a).

(d) This section expires January 1, 2016.

SECTION 2. This Act takes effect September 1, 2013.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1908**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1916 WITH HOUSE AMENDMENT**

Senator West called **SB 1916** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1916** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the authority of the Dallas County Hospital District or a nonprofit corporation formed by the district regarding certain technology or intellectual property owned by or licensed to the district or corporation.

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

SECTION 1. Subchapter C, Chapter 281, Health and Safety Code, is amended by adding Section 281.0518 to read as follows:

Sec. 281.0518. DALLAS COUNTY HOSPITAL DISTRICT; AUTHORITY TO SELL OR LICENSE INTELLECTUAL PROPERTY. (a) The Dallas County Hospital District or a nonprofit corporation formed by the district may:

(1) sell or license technology or intellectual property that is owned by or licensed to the district or a nonprofit corporation formed by the district;

(2) enter into a contract to provide services related to technology or intellectual property sold or licensed under Subdivision (1);

(3) contract, collaborate, or enter into a joint venture or other agreement with a public or private entity to engage in an activity authorized under Subdivision (1) or (2); or

(4) take any other action necessary to protect or benefit from the exclusivity of technology and intellectual property owned by or licensed to the district or a nonprofit corporation formed by the district, including applying for, acquiring, registering, securing, holding, protecting, and renewing under applicable provisions of state, federal, or international law:

(A) a patent;

(B) a copyright;

(C) a trademark, service mark, collective mark, or certification mark; or

(D) any other form of protection of intellectual property provided by

law.

(b) Information prepared or compiled by or for the Dallas County Hospital District or a nonprofit corporation formed by the district relating to the development of technology or intellectual property to which this section applies is exempt from public disclosure under Chapter 552, Government Code.

SECTION 2. 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, 2013.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1916**.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Schwertner.

Absent-excused: Carona.

### **SENATE BILL 107 WITH HOUSE AMENDMENT**

Senator West called **SB 107** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 107** (House Committee Printing) as follows:

(1) On page 1, strike lines 5 through 7 and substitute the following:

SECTION 1. Section 411.081, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (f-1) and (g-3) to read as follows:

(2) On page 1, between lines 21 and 22, insert the following:

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court for an order of nondisclosure ~~[under this subsection]~~ regardless



of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state, an opportunity for [and] a hearing, and a determination that [on whether] the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure [on payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The payment may be made] only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) may file the petition in person, electronically, or by mail. The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that:

(A) the defendant is entitled to file the petition; and

(B) the order is in the best interest of justice.

(3) On page 2, strike line 12 and substitute the following:

SECTION 2. (a) Section 411.081(a), Government Code, as amended by this Act, and Section 411.081(g-3), Government Code, as added by this Act, apply to the

(4) On page 2, between lines 16 and 17, insert the following:

(b) Section 411.081(d), Government Code, as amended by this Act, and Section 411.081(f-1), Government Code, as added by this Act, apply to a person who petitions the court for an order of nondisclosure on or after the effective date of this Act, regardless of whether the person is placed on deferred adjudication community supervision before, on, or after that date.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 107**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1877 WITH HOUSE AMENDMENT**

Senator Estes called **SB 1877** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1877** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the creation of the Venable Ranch Municipal Utility District No. 1 of Denton County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8469 to read as follows:

#### CHAPTER 8469. VENABLE RANCH MUNICIPAL UTILITY DISTRICT NO. 1 OF DENTON COUNTY SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8469.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Aubrey, Texas.
- (3) "Commission" means the Texas Commission on Environmental Quality.
- (4) "Director" means a board member.
- (5) "District" means the Venable Ranch Municipal Utility District No. 1 of

Denton County.

Sec. 8469.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8469.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8469.004. CONSENT OF CITY REQUIRED. The temporary directors may not hold an election under Section 8469.003 until:

(1) the city has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district; and

(2) the city and an owner or owners of land in the district have entered into a development agreement under Section 212.172, Local Government Code.

Sec. 8469.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8469.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8469.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8469.052, directors serve staggered four-year terms.

Sec. 8469.052. TEMPORARY DIRECTORS. (a) On or after September 1, 2013, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8469.003; or

(2) September 1, 2017.

(c) If permanent directors have not been elected under Section 8469.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8469.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8469.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8469.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8469.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8469.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8469.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8469.106. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8469.151 to authorize the issuance of bonds.

(f) An order dividing the district must:

- (1) name each new district;
- (2) include the metes and bounds description of the territory of each new district;
- (3) appoint temporary directors for each new district; and
- (4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8469.003.

(i) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(j) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

Sec. 8469.107. FIREFIGHTING SERVICES. Notwithstanding Section 49.351(a), Water Code, the district may, as authorized by Section 59(f), Article XVI, Texas Constitution, and Section 49.351, Water Code:

- (1) establish, operate, and maintain a fire department;
- (2) contract with another political subdivision for the joint operation of a fire department; or
- (3) contract with any other person to perform firefighting services in the district and may issue bonds and impose taxes to pay for the department and the activities.

Sec. 8469.108. FEES AND CHARGES. (a) The district may adopt and enforce all necessary charges, mandatory fees, or rentals, in addition to taxes, for providing or making available any district facility or service, including firefighting activities provided under Section 8469.107.

(b) To enforce payment of an unpaid fee or charge due to the district, on the request of the district, a retail public utility, as defined by Section 13.002, Water Code, providing water or sewer service to a customer in the district shall terminate the service.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8469.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
  - (2) contract payments described by Section 8469.153.
- (b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8469.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8469.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8469.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8469.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8469.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8469.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

#### SUBCHAPTER F. ANNEXATION BY CITY

Sec. 8469.251. EFFECT OF ANNEXATION BY CITY. (a) Notwithstanding any other law, if all of the territory of the district is annexed by the city into the corporate limits of the city before the date of the election held to confirm the creation of the district and the district is confirmed at that election, the district may not be dissolved and continues in existence following annexation until:

(1) water, sanitary sewer, and drainage improvements and roads have been constructed to serve at least 90 percent of the territory of the district capable of development; or

(2) the board adopts a resolution consenting to the dissolution of the district.

(b) After annexation by the city:

(1) the district may not impose an ad valorem tax;

(2) the district may impose a special assessment in the manner provided by

Subchapter F, Chapter 375, Local Government Code; and

(3) Section 375.161, Local Government Code, does not apply to the district.

SECTION 2. The Venable Ranch Municipal Utility District No. 1 of Denton County initially includes all the territory contained in the following area:

**VENABLE PROPERTY DESCRIPTION:**

**TRACT I**

Being a tract of land situated in the George Smith Survey, Abstract No. 1219, the S. Williams Survey, Abstract No. 1333, the M. McBride Survey, Abstract No. 804, the N. McMillan Survey, Abstract No. 841, the J. Cantwell Survey, Abstract No. 282, the T. Chambers Survey, Abstract No. 223, the J. Moses Survey, Abstract No. 894, the J. Wells Survey, Abstract No. 1426, the J. Wilburn Survey, Abstract No. 1427, and the W. Boydston Survey, Abstract No. 117, Denton County, Texas and being all of the following tracts of land conveyed to Venable Royalty, LTD.; a called 10.69 acre tract by deed recorded in Volume 5128, Page 563 of the Real Property Records of Denton County, Texas (R.P.R.D.C.T.); a called 11.00 acre tract by deed recorded in Volume 5144, Page 2973, R.P.R.D.C.T.; a called a called 29.089 acre tract by deed recorded in Volume 4077, Page 1372, R.P.R.D.C.T.; a called 27.20 acre tract by deed recorded in Volume 5076, Page 822, R.P.R.D.C.T. (50% interest); a called 54.08 acre tract by deed recorded in Volume 4867, Page 3255, R.P.R.D.C.T.; a called 7.000 acre tract, called Parcel One, Tract I, a called 0.228 acre tract, called Parcel One, Tract II, and a called 14.586 acre tract, called Parcel Two by deed recorded in Volume 4506, Page 1340 of the Deed Records of Denton County, Texas (D.R.D.C.T.); all of Lots 16 and 17 of Scenic Acres by deed recorded in Volume 4399, Page 1845, R.P.R.D.C.T., said Scenic Acres being an addition to Denton County, Texas according to the plat recorded in Cabinet B, Page 379 of the Map Records of Denton County, Texas (M.R.D.C.T.); all of the following tracts of land conveyed to Venable Estate, LTD.; a called 4.02 acre tract by deed recorded in Instrument No. 2008-41088 of the Official Records of Denton County, Texas (O.R.D.C.T.); a called 27.20 acre tract by deed recorded in Instrument No. 2004-101157, O.R.D.C.T. (50% interest); all of the following recorded in Instrument No. 2005-43578, O.R.D.C.T.; of Exhibit "A-1"; a called 48.9 acre tract, called First Tract; a called 70 acre tract, called Second Tract; a called 40 acre tract, called Third Tract; a called 30 acre tract, called Fourth Tract; a called 70.80 acre tract, called Fifth Tract; a called 70.62 acre tract, called Sixth Tract; a called 53.83 acre tract, called Seventh Tract; a called 88 acre tract, called Eighth Tract; a called 40 acre tract, called Ninth Tract; a called 40 acre tract, called Tenth Tract; a called 54 acre tract, called Eleventh Tract; a called 63 acre tract, called Twelfth Tract; a called 55 acre tract, called Thirteenth Tract; a called 50 acre tract, called Fourteenth Tract; a called 3 acre tract, called Fifteenth Tract; a called 6 acre tract, called Sixteenth Tract; a called 100 acre tract, called Seventeenth Tract; a called 58 acre tract, called Eighteenth Tract; a called 29.37 acre tract, called Nineteenth Tract; the remainder of a called 20 acre tract, called Twentieth Tract; a called 80 acre tract, called Twenty-First Tract; a called 3.5 acre tract, called Twenty-Second Tract; a called 114.8 acre tract, called Twenty-Third Tract; a called 412 acre tract, called Twenty-Fourth Tract; a called 40 acre tract, called Twenty-Fifth Tract; a called 40 acre tract, called Twenty-Sixth Tract; a called 65.93 acre tract, called Twenty-Seventh Tract; of Exhibit "A-2"; First Tract; Second Tract; and a called 118.3 acre tract, called Third Tract; all of Exhibit "A-3", called 24 acres; all of Exhibit "A-6", called 70 acres;

of Exhibit "A-7"; a called 63 acre tract, called First Tract; and a called 80 acre tract, called Second Tract; and all of Exhibit "A-8", called 54.089 acres, and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for the northeast corner of said Venable 10.69 acre tract, said corner being in the west line of the Texas and Pacific Railway Company right-of-way (80 foot wide right-of-way);

THENCE along the west line of said Texas and Pacific Railway Company right-of-way the following courses and distances:

South  $07^{\circ}41'12''$  West, a distance of 3421.85 feet to the beginning of a tangent curve to the right;

Southwesterly along said tangent curve to the right having a central angle of  $18^{\circ}23'37''$ , a radius of 5679.58 feet, a chord bearing of South  $16^{\circ}53'01''$  West, a chord distance of 1815.49 feet, and an arc length of 1823.31 feet to a point at the end of said curve;

South  $26^{\circ}04'49''$  West, a distance of 3713.98 feet to the southeast corner of said Venable Exhibit "A-1" Twenty-Fourth Tract, said point being in the approximate centerline of Black Jack Road;

THENCE with the approximate centerline of Black Jack Road and along the south lines of said Venable Exhibit "A-1" Twenty-Fourth Tract and Twentieth Tract, the following courses and distances:

North  $89^{\circ}23'03''$  West, passing at a distance of 88.61 feet the northeast corner of Quail Ridge Estates, an addition to the City of Aubrey, Texas according to the plat recorded in Cabinet T, Page 40, M.R.D.C.T., and continuing for a total distance of 1122.68 feet to the most northerly northwest corner of said Quail Ridge Estates;

North  $89^{\circ}59'13''$  West, a distance of 2643.79 feet to the northwest corner of a called 15.000 acre tract of land, called Tract Eight, conveyed to Old south Royalty Company by deed recorded in Volume 2138, Page 809, R.P.R.D.C.T. and the northeast corner of a called 15.28 Acre tract of land conveyed to Robert A. Foster and Etta J. Luongo, by deed recorded in Document No. 2007-88559, O.R.D.C.T.;

South  $89^{\circ}49'29''$  West, passing at a distance of 39.40 feet a mag nail found, and continuing for a total distance of 368.29 feet to the southwest corner of said Venable Exhibit "A-1" Twentieth Tract, said point being in the west line of Wilson Cemetery Road;

THENCE North  $01^{\circ}18'58''$  West, along the west line of said Venable Exhibit "A-1" Twentieth Tract and the west line of said Wilson Cemetery Road, passing at a distance of 8.98 feet a mag nail found for the southeast corner of a called 25.196 acre tract of land conveyed to Russell W. Streng and Truly W. Streng, by deed recorded in Volume 4326, Page 1990, R.P.R.D.C.T., and continuing along said west lines and the east line of said 25.196 acre tract for a total distance of 224.04 feet to a point in a fence line at the southerly corner of a called 0.100 acre tract of land conveyed to Russell W. Streng and Truly W. Streng by deed recorded in Document No. 2012-53458, O.R.D.C.T.;

THENCE North  $00^{\circ}08'42''$  West, with said fence line along the west line of said Wilson Cemetery Road, and along the east line of said 0.100 acre tract, a distance of 653.39 feet to the northeast corner of said 0.100 acre tract and the southeast corner of



a called 0.422 acre tract of land conveyed to Rodney Ivan Streng and Judith Ann Streng, Trustees, or Their Successor Trustees Under The Rodney I. Streng and Judith A. Streng Living Trust, by deed recorded in Document No. 2012-53328, O.R.D.C.T.; THENCE continuing along said fence line along the west line of said Wilson Cemetery Road, and along the east line of said 0.422 acre tract, the following courses and distances:

North 00°10'08" West, a distance of 816.15 feet to a point for corner;

North 15°07'16" West, a distance of 23.99 feet to a point for corner;

North 54°47'59" West, a distance of 29.83 feet to the most northerly corner of said 0.422 acre tract, said point being in the west line of said Venable Exhibit "A-1" Twentieth Tract and east line of a called 25.196 acre tract of land conveyed to Rodney I. Streng and Judith A. Streng Family Trust, by deed recorded in Instrument Number 2010-59229, O.R.D.C.T.;

THENCE North 01°18'58" West, a distance of 12.03 feet to a mag nail found for the northwest corner of said Venable Exhibit "A-1" Twentieth Tract and the northeast corner of said Streng Family Trust 25.196 acre tract, said corner being in the south line of said Venable Exhibit "A-1" Eighth Tract;

THENCE North 89°45'07" West, with said Wilson Cemetery Road, and along the south line of said Venable Exhibit "A-1" Eighth Tract and the north line of said Streng Family Trust 25.196 acre tract, a distance of 1254.71 feet to a 1/2 inch iron rod found for the southwest corner of said Venable Exhibit "A-1" Eighth Tract and the northwest corner of said Streng Family Trust 25.196 acre tract, said corner being in the east line of a called 5.30 acre tract of land, called Tract Three, conveyed to Cedars Development, Inc. by deed recorded in Instrument Number 2011-95252, O.R.D.C.T.; THENCE North 01°20'47" West, with said Wilson Cemetery Road, and along the west line of said Venable Exhibit "A-1" Eighth Tract and the east line of said 5.30 acre tract, a distance of 573.91 feet to a 1/2 inch iron rod found for the northeast corner of said 5.30 acre tract and the southeast corner of said Venable Exhibit "A-1" Fourteenth Tract, said corner being at the intersection of Wilson Cemetery Road with Grubbs Road;

THENCE North 88°33'37" West, with said Grubbs Road, and along the south lines of said Venable Exhibit "A-1" Fourteenth Tract and Fifteenth Tract, a distance of 1429.54 feet to a mag nail found for the southwest corner of said Venable Exhibit "A-1" Fifteenth Tract, and the southeast corner of a called 0.743 acre tract of land, called Tract One, conveyed to Old South Royalty Company by deed recorded in Volume 2138, Page 809, R.P.R.D.C.T.;

THENCE North 00°16'29" East, along the west line of said Venable Exhibit "A-1" Fifteenth Tract and the east line of said 0.743 acre tract, passing at a distance of 1078.75 feet the northeast corner of said 0.743 acre tract and the most southerly southeast corner of a called 352.393 acre tract of land, called Tract Three, conveyed to Old South Royalty Company by deed recorded in Volume 2138, Page 809, R.P.R.D.C.T., and continuing along said west line and the east line of said 352.393 acre tract, for a total distance of 2079.16 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for the northwest corner of said Venable Exhibit "A-1" Fifteenth Tract and an ell corner of said 352.393 acre tract;

THENCE South  $89^{\circ}57'36''$  East, along the north line of said Venable Exhibit "A-1" Fifteenth Tract and a south line of said 352.393 acre tract, a distance of 69.55 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for the northeast corner of said Venable Exhibit "A-1" Fifteenth Tract, the northwest corner of said Venable Exhibit "A-1" Fourteenth Tract, the southwest corner of said Venable Exhibit "A-1" Twelfth Tract, and the most easterly southeast corner of said 352.393 acre tract; THENCE North  $00^{\circ}07'55''$  West, along the west line of said Venable Exhibit "A-1" Twelfth Tract and the east line of said 352.393 acre tract, a distance of 1866.24 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for the northeast corner of said 352.393 acre tract and the southeast corner of said Venable Exhibit "A-1" Nineteenth Tract;

THENCE along the south line of said Venable Exhibit "A-1" Nineteenth Tract and the north line of said 352.393 acre tract the following courses and distances:

South  $84^{\circ}01'58''$  West, a distance of 569.60 feet to a point for corner;

South  $89^{\circ}43'26''$  West, a distance of 841.22 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for the corner;

South  $51^{\circ}33'10''$  West, a distance of 179.90 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for corner;

South  $87^{\circ}42'24''$  West, a distance of 225.93 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found for corner;

South  $62^{\circ}36'29''$  West, a distance of 502.48 feet to a 1/2 inch iron rod with plastic cap stamped "J E Smith 3700" found the southwest corner of said Venable Exhibit "A-1" Nineteenth Tract and the southeast corner of said Venable Exhibit "A-1" Fifth Tract;

THENCE North  $89^{\circ}55'15''$  West, continuing along the north line of said 352.393 acre tract and the south lines of said Venable Exhibit "A-1" Fifth Tract and Seventh Tract, passing at a distance of 4118.63 feet a Corps. of Engineers concrete monument with brass disk found for the northeast corner of Tract No. 2512E, conveyed to the United States of America by deed recorded in County Clerk's File No. 95-R0068092, D.R.D.C.T., and continuing along the south line of said Venable Exhibit "A-1" Seventh Tract and the north line of said Tract No. 2512E, for a total distance of 4768.62 feet to a 5/8 inch iron rod found for the northwest corner of said Tract No. 2512E, said corner being in the east line of Tract No. 2512, conveyed to the United States of America by deed recorded in County Clerk's File No. 95-R0068092, D.R.D.C.T.;

THENCE North  $14^{\circ}20'32''$  East, along the east line of said Tract No. 2512, a distance of 116.96 feet to a 5/8 inch iron rod found for the northeast corner of said Tract No. 2512;

THENCE South  $89^{\circ}21'47''$  West, along the north line of said Tract No. 2512, passing at a distance of 63.04 feet the northwest corner of said Tract No. 2512 and a northeast corner of Tract No. 2510, conveyed to the United States of America by deed recorded in County Clerk's File No. 97-R0083048, D.R.D.C.T., and continuing along a north line of said Tract No. 2510, for a total distance of 325.98 feet to a 5/8 inch iron rod found for an ell corner of said Tract No. 2510, said corner being in the west line of

said Venable Exhibit "A-1" Sixth Tract and the east line of a called 2.73 acre tract of land conveyed to Venable Estate, LTD., by deed recorded in Instrument No. 2005-43578, O.R.D.C.T.;

THENCE North  $00^{\circ}37'33''$  West, along the east lines of said Tract No. 2510 and said Venable Exhibit "A-4", 2.73 acre tract and the west line of said Venable Exhibit "A-1" Sixth Tract, a distance of 2548.77 feet to a Corps. of Engineers concrete monument with brass disk found for the northeast corners of said Tract No. 2510 and said Venable Exhibit "A-4", 2.73 acre tract, the Northwest corner of said Venable Exhibit "A-1" Sixth Tract, the southwest corner of said Venable Exhibit "A-1" Fourth Tract, and the southeast corner of a called 331.388 acre tract of land conveyed to Robert G. McGraw and Helen McGraw, by deed recorded in County Clerk's File No. 97-R0089771, D.R.D.C.T.;

THENCE North  $00^{\circ}44'14''$  West, along the west line of said Venable Exhibit "A-1" Fourth Tract and the east line of said 331.388 acre tract, a distance of 750.63 feet to a Corps. of Engineers concrete monument with brass disk found for the northwest corner of said Venable Exhibit "A-1" Fourth Tract and a northeast corner of said 331.388 acre tract, being in the south line of a called 119.83 acre tract of land conveyed to Helen McGraw, by deed recorded in Volume 4407, Page 1179, R.P.R.D.C.T.;

THENCE South  $89^{\circ}47'07''$  East, along the north lines of said Venable Exhibit "A-1" Fourth Tract and Third Tract, and the south line of said 119.83 acre tract, a distance of 1787.66 feet to a 1/2 inch iron rod found for a southeast corner of said 119.83 acre tract and the southwest corner of said Venable Parcel Two, 14.586 acre tract, said corner being in the approximate centerline of McKinney Bridge Road;

THENCE with the approximate centerline of McKinney Bridge Road, and with the northwesterly line of said Venable Parcel Two, 14.586 acre tract, and the southeasterly line of said 119.83 acre tract, the following courses and distances:

North  $67^{\circ}10'55''$  East, a distance of 1377.39 feet to a 1/2 inch iron rod found for corner;

North  $36^{\circ}16'40''$  East, a distance of 261.33 feet to a 1/2 inch iron rod with yellow plastic cap stamped "THROUGH CAP" found for corner;

North  $49^{\circ}01'29''$  East, passing at a distance of 270.75 feet a 1/2 inch iron rod found, and continuing for a total distance of 273.58 feet to the most northerly corner of said Venable Parcel Two, 14.586 acre tract, and the most easterly southeast corner of said 119.83 acre tract, said corner being in the west line of the aforesaid Scenic Acres;

THENCE South  $00^{\circ}22'24''$  West, along the east line of said Venable Parcel Two, 14.586 acre tract, and the west line of said Scenic Acres, a distance of 714.48 feet to the northwest corner of Lot 17 of said Scenic Acres;

THENCE South  $89^{\circ}37'31''$  East, along the north line of said Lot 17, a distance of 206.82 feet to the most northerly northeast corner of said Lot 17, said corner being in a 60 foot radius cul-de-sac right-of-way line of Scenic Drive and being at the beginning of a non-tangent curve to the left;

THENCE, southeasterly along said cul-de-sac right-of-way line and with said non-tangent curve to the left having a central angle of  $165^{\circ}08'50''$ , a radius of 60.00 feet, a chord bearing of South  $82^{\circ}18'25''$  East, a chord distance of 118.99 feet, passing

at an arc length of 72.26 feet the most easterly northeast corner of said Lot 17 and the most westerly northwest corner of Lot 16 of said Scenic Acres, and continuing for a total arc length of 172.94 feet to the most easterly northwest corner of said Lot 16, being in the south right-of-way line of Scenic Drive (a 60 foot wide right-of-way);  
THENCE North  $74^{\circ}55'19''$  East, along the south right-of-way line of said Scenic Drive, a distance of 18.10 feet to the northeast corner of said Lot 16;  
THENCE South  $05^{\circ}05'59''$  West, along the east line of said Lot 16, a distance of 422.16 feet to the southeast corner of said Lot 16, said corner being in the south line of said Scenic Acres and the north line of said Venable Exhibit "A-1" Third Tract;  
THENCE South  $89^{\circ}37'50''$  East, along the south line of said Scenic Acres and the north lines of said Venable Exhibit "A-1" Third Tract and Second Tract, a distance of 667.01 feet to a 1/2 inch iron rod found for the southeast corner of said Scenic Acres and the southwest corner of a called 39.04 acre tract of land conveyed to Pete Kenny, by deed recorded in Instrument No. 2010-28786, O.R.D.C.T.;  
THENCE North  $89^{\circ}55'56''$  East, along the north lines of said Venable Exhibit "A-1" Second Tract and Seventeenth Tract, and the south line of said 39.04 acre tract, a distance of 958.70 feet to a wood corner post found for the southeast corner of said 39.04 acre tract and an ell corner of said Venable Exhibit "A-1" Seventeenth Tract;  
THENCE North  $00^{\circ}47'57''$  West, along the east line of said 39.04 acre tract and the west lines of said Venable Exhibit "A-1" Seventeenth Tract and Venable Exhibit "A-7" First Tract, a distance of 1748.72 feet to a 1/2 inch iron rod found for the northeast corner of said 39.04 acre tract and the southeast corner of said Venable Parcel One, Tract I, 7.000 acre tract;  
THENCE South  $89^{\circ}17'34''$  West, along the south line of said Venable Parcel One, Tract I, and the north line of said 39.04 acre tract, a distance of 72.46 feet to a 1/2 inch iron rod found for the southwest corner of said Venable Parcel One, Tract I, and the southeast corner of a called 7.000 acre tract of land conveyed to Ronald G. Johnson and Wife, Hester L. Johnson, by deed recorded in Volume 1191, Page 694, D.R.D.C.T.;  
THENCE North  $52^{\circ}27'48''$  West, along the southwesterly line of said Venable Parcel One, Tract I and the northeasterly line of said Johnson 7.000 acre tract, a distance of 989.37 feet to the northwest corner of said Venable Parcel One, Tract I, the southwest corner of said Venable Parcel One, Tract II, 0.228 acre tract, the northeast corner of said Johnson 7.000 acre tract, and the southeast corner of a called 0.110 acre tract of land conveyed to Ronald G. Johnson et ux, Hester L. Johnson, by deed recorded in Volume 1197, Page 860, D.R.D.C.T.;  
THENCE North  $04^{\circ}02'10''$  West, along the west line of said Venable Parcel One, Tract II and the east line of said 0.110 acre tract, a distance of 104.40 feet to the northwest corner of said Venable Parcel One, Tract II and the northeast corner of said 0.110 acre tract, said point being in the approximate centerline of McKinney Bridge Road;  
THENCE with the approximate centerline of said McKinney Bridge Road, and along the northwesterly line of said Venable Parcel One, Tract II the following courses and distances:  
North  $39^{\circ}51'20''$  East, a distance of 56.10 feet to a point for corner;

North 20°28'10" East, a distance of 132.92 feet to the northeast corner of said Venable Parcel One, Tract II, said corner being in the west line of a called 103.4117 acre tract of land conveyed to E E Ranches of Texas, Inc., by deed recorded in Volume 2256, Page 840, R.P.R.D.C.T.;

THENCE South 00°18'17" East, along the east line of said Venable Parcel One, Tract II and the west line of said 103.4117 acre tract, a distance of 266.23 feet to the southeast corner of said Venable Parcel One, Tract II and the most westerly southwest corner of said 103.4117 acre tract, said point being in the north line of said Venable Parcel One, Tract I;

THENCE North 85°40'16" East, along the north line of said Venable Parcel One, Tract I and a south line of said 103.4117 acre tract, a distance of 774.60 feet to a concrete monument found for the northeast corner of said Venable Parcel One, Tract I and an ell corner of said 103.4117 acre tract;

THENCE South 00°41'49" East, along the east line of said Venable Parcel One, Tract I and a west line of said 103.4117 acre tract, a distance of 427.62 feet to the northwest corner of said Venable Exhibit "A-7" First Tract and the most southerly southwest corner of said 103.4117 acre tract;

THENCE North 89°37'44" East, along the north line of said Venable Exhibit "A-7" First Tract and the south line of said 103.4117 acre tract, passing at a distance of 25.00 a concrete monument found, and continuing for a total distance of 1995.90 feet to a concrete monument found for the northeast corner of said Venable Exhibit "A-7" First Tract and the southeast corner of said 103.4117 acre tract, said corner being in the west line of said Venable Exhibit "A-7" Second Tract;

THENCE North 00°17'05" East, along the west line of said Venable Exhibit "A-7" Second Tract and the east line of said 103.4117 acre tract, a distance of 788.98 feet to a wood corner post found for the northwest corner of said Venable Exhibit "A-7" Second Tract and an ell corner of said 103.4117 acre tract;

THENCE South 89°29'26" East, along the north line of said Venable Exhibit "A-7" Second Tract and a south line of said 103.4117 acre tract, passing at a distance of 99.73 feet a wood corner post found for the most easterly southeast corner of said 103.4117 acre tract and the southwest corner of a called 51.9010 acre tract of land conveyed to Helen K. McGraw, by deed recorded in County Clerk's File No. 94-R0085683, D.R.D.C.T., and continuing along said north line and the south line of said 51.9010 acre tract, for a total distance of 1357.89 feet to a 1/2 inch iron rod found for the northeast corner of said Venable Exhibit "A-7" Second Tract, the northwest corner of said Venable Exhibit "A-1" Ninth Tract, the southeast corner of said 51.9010 acre tract, and the southwest corner of Lot 28 of Yellow Rose Estates Subdivision, an addition to Denton County, Texas according to the plat recorded in Cabinet L, Page 177, M.R.D.C.T.;

THENCE South 88°46'23" East, along the north line of said Venable Exhibit "A-1" Ninth Tract and the south line of said Yellow Rose Estates Subdivision, a distance of 1323.42 feet to a 1/2 inch iron rod found for the northeast corner of said Venable Exhibit "A-1" Ninth Tract and the northwest corner of Lot 10 of St. John's Place, an addition to Denton County, Texas according to the plat recorded in Cabinet L, Page 119, M.R.D.C.T.;

THENCE South  $00^{\circ}48'05''$  West, along the east line of said Venable Exhibit "A-1" Ninth Tract and the west line of said St. John's Place, a distance of 1315.38 feet to a 1/2 inch iron rod found for the southeast corner of said Venable Exhibit "A-1" Ninth Tract, the northeast corner of said Venable Exhibit "A-1" Tenth Tract, the northwest corner of said Venable Exhibit "A-1" Twenty-Fifth Tract, and the southwest corner of Lot 9 of said St. John's Place;

THENCE South  $88^{\circ}50'34''$  East, along the north line of said Venable Exhibit "A-1" Twenty-Fifth Tract and the south line of said St. John's Place, a distance of 978.68 feet to metal corner post found for the southeast corner of Lot 8 of said St. John's Place, and the southwest corner of a called 129.223 acre tract of land conveyed to Texas Motor Speedway, Inc. d/b/a Texas International Raceways, by deed recorded in County Clerk's File No. 96-R0079309, D.R.D.C.T.;

THENCE South  $88^{\circ}46'04''$  East, along the north lines of said Venable Exhibit "A-1" Twenty-Fifth Tract and Twenty-Sixth Tract and the south line of said 129.223 acre tract, a distance of 1653.96 feet to a metal corner post found for the northeast corner of said Venable Exhibit "A-1" Twenty-Sixth Tract and the southeast corner of said 129.223 acre tract, said corner being in the west line of a called 71.114 acre tract of land, File No. F0072.00, conveyed to The Rudman Partnership, by deed recorded in Volume 2844, Page 42, R.P.R.D.C.T.;

THENCE South  $01^{\circ}46'53''$  West, along the east line of said Venable Exhibit "A-1" Twenty-Sixth Tract and the west line of said 71.114 acre tract, passing at a distance of 789.91 feet a 1/2 inch iron rod found for the southwest corner of said 71.114 acre tract and the northwest corner of a called 61.36 acre tract of land conveyed to Michelle Lynette Roberts, by deed recorded in Instrument No. 2008-40245, O.R.D.C.T., and continuing along said east line and the west line of said 61.36 acre tract, for a total distance of 1296.74 feet to a wood corner post found for the southeast corner of said Venable Exhibit "A-1" Twenty-Sixth Tract and the most westerly southwest corner of said 61.36 acre tract, said corner being in the north line of said Venable Exhibit "A-2" Third Tract;

THENCE along the north line of said Venable Exhibit "A-2" Third Tract and the south line of said 61.36 acre tract, the following courses and distances:

North  $89^{\circ}02'25''$  East, a distance of 1193.53 feet to a wood corner post found for corner;

South  $03^{\circ}32'32''$  West, a distance of 565.50 feet to a wood corner post found for corner;

South  $85^{\circ}40'05''$  East, passing at a distance of 1460.68 feet a wood corner post found for the most northerly northeast corner of said Venable Exhibit "A-2" Third Tract, the northwest corner of said Venable Exhibit "A-3", 24 acre tract, the most southerly southeast corner of said 61.36 acre tract, and the most westerly southwest corner of a called 18.78 acre tract of land conveyed to Zandra Bean, by deed recorded in Volume 4229, Page 2901, R.P.R.D.C.T., and continuing along the south line of said 18.78 acre tract for a total distance of 1552.99 feet to a wood corner post found for and ell corner of said 18.78 acre tract;

THENCE South  $02^{\circ}38'27''$  West, along a west line of said 18.78 acre tract, a distance of 210.21 feet to a wood corner post found for the most southerly southwest corner of said 18.78 acre tract;

THENCE South 87°34'17" East, along the south line of said 18.78 acre tract, a distance of 925.13 feet to a 5/8 inch iron rod found for the southeast corner of said 18.78 acre tract, said corner being in the west line of said Venable 10.69 acre tract, and being in the approximate centerline of Massey Road;

THENCE North 04°51'52" East, with the approximate centerline of said Massey Road, and along the west line of said Venable 10.69 acre tract and east line of said 18.78 acre tract, a distance of 228.51 feet to the northwest corner of said Venable 10.69 acre tract, from which a 1/2 inch iron rod found bears North 87°55'27" West a distance of 6.38 feet;

THENCE South 87°55'27" East, along the north line of said Venable 10.69 acre tract, passing at a distance of 24.76 feet a 1/2 inch iron rod found in the east line of said Massey Road, and continuing for a total distance of 526.66 feet to the POINT OF BEGINNING and containing 2521.094 acres or 109,818,863 square feet of land, more or less.

SAVE AND EXCEPT THE FOLLOWING TRACTS A, B, and C:

TRACT A

Being a tract of land situated in the J. Moses Survey, Abstract No. 894 and the N. McMillan Survey, Abstract No. 841, Denton County, Texas, and consisting of the following; those tracts of land conveyed to Patricia Ann Harmon Brockett, a 105 foot by 210 foot tract, called Tract 1, a called 27.20 acre tract, called Tract 2, and a called 26.23 acre tract, called Tract 3, by deed recorded in Instrument No. 2011-9037, O.R.D.C.T.; a called 27.20 acre tract of land conveyed to Willie Pearlene Harmon Johnson by deed recorded in Volume 5033, Page 3166, R.P.R.D.C.T.; a called 0.5 acre tract of land conveyed to J. R. Johnson and wife, Pearlene Johnson by deed recorded in Volume 400, Page 32, D.R.D.C.T.; a called 1.000 acre tract of land conveyed to Pearlene Johnson, et ux by deed recorded in Volume 794, Page 219, D.R.D.C.T.; a called 1.001 acre tract of land conveyed in deed to J.S. Dubose and/or Lee J. Brookshire, Jr., Trustees, by deed recorded in Volume 2015, Page 147, R.P.R.D.C.T.; a called 3.046 acre tract of land conveyed to Tracy Glenn Henderson and Linda Gail Henderson by deed recorded in Volume 4897, Page 3357, R.P.R.D.C.T.; a called 1.001 acre tract of land conveyed to Michael J. Behrend by deed recorded in Volume 3016, Page 596, R.P.R.D.C.T.; a called 5.061 acre tract of land conveyed to Michael Jon Behrend by deed recorded in County Clerk's File No. 94-R0003414, D.R.D.C.T.; a called 1.000 acre tract of land conveyed to Brad Hines and Margaret Hines by deed recorded in Volume 4991, Page 695, R.P.R.D.C.T.; the remainder of a called 29.553 acre tract of land conveyed to L.Z. Harmon, Sr., by deed recorded in Volume 5033, Page 3143, R.P.R.D.C.T.; a called 2.116 acre tract of land conveyed to Wade Franklin Lewis and Harry Lou Lewis, husband and wife, by deed recorded in County Clerk's File No. 94-R008814, D.R.D.C.T.; a called 1.000 acre tract of land, called Tract 1 and a called 1.00 acre tract of land, called Tract 2, conveyed to Brad Hines and Wife, Margaret Hines, by deed recorded in Volume 4401, Page 1042, R.P.R.D.C.T.; a called 1.000 acre tract of land conveyed to Hugo E. Richter, Jr. and Wife, Jolene J., by deed recorded in Volume 733, Page 574, D.R.D.C.T.; a called 1.01 acre tract of land conveyed to Carol Puckett by deed recorded in Instrument No. 2007-96075, R.P.R.D.C.T.; a called 0.724 acre tract of land conveyed to Marcus Wayne Pierce, et ux, by deed recorded in Instrument No. 2004-104661, O.R.D.C.T.; a tract of land

conveyed to Kenneth W. Wilson and Wife, Carolyn Wilson by deed recorded in Volume 4873, Page 2682, R.P.R.D.C.T.; a called 3.00 acre tract of land conveyed to George Wayne Pierce and Wife, Sue Pierce by deed recorded in Volume 719, Page 602, D.R.D.C.T.; a called 1.269 acre tract of land conveyed to Kenneth W. Wilson and Wife, Carolyn Wilson by deed recorded in Document No. 2011-95837, O.R.D.C.T.; and a called 0.254 acre tract of land conveyed to Black Rock Water Supply Corporation by deed recorded in Volume 1788, Page 989, R.P.R.D.C.T., and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod with yellow plastic cap stamped "H & N 1849" found for the northwest corner of said 27.20 acre Patricia Ann Harmon Brockett tract, called Tract 2, and the southwest corner of the above mentioned 27.20 acre tract of land conveyed to Venable Roaylty, Ltd., by deed recorded in Volume 5076, Page 822, R.P.R.D.C.T. and to Venable Estate, Ltd., by deed recorded in Instrument No. 2004-101157, O.R.D.C.T., said corner being in the east line of the above mentioned Venable Exhibit "A-1" Twenty-First Tract;

THENCE North 89°20'09" East, a distance of 1045.44 feet to a 1/2 inch iron rod with yellow plastic cap stamped "H & N 1849" found for the southeast corner of said Venable 27.20 acre tract, said corner being in the west line of said 26.23 acre Patricia Ann Harmon Brockett tract, called Tract 3;

THENCE North 0°38'15" West, along the east line of said Venable 27.20 acre tract and the west line of said 26.23 acre tract, a distance of 1112.40 feet to the northeast corner of said Venable 27.20 acre tract and northwest corner of said 26.23 acre tract, said corner being in the south line of the above mentioned Venable Exhibit "A-8", 54.089 acre tract, being the same as the above mentioned Venable 54.08 acre tract recorded in Volume 4867, Page 3255, R.P.R.D.C.T.;

THENCE South 88°18'52" East, along the south line of said Venable Exhibit "A-8", 54.089 acre tract and the north line of said 26.23 acre tract, a distance of 907.17 feet to the southeast corner of said Venable Exhibit "A-8", 54.089 acre tract and the northeast corner of said 26.23 acre tract, said corner being in the west line of the above mentioned Venable Exhibit "A-2" Second Tract;

THENCE South 0°33'39" West, along the west line of said Venable Exhibit "A-2" Second Tract and the east line of said 26.23 acre tract, a distance of 1151.30 feet to a wood corner post found for the southwest corner of said Venable Exhibit "A-2" Second Tract and the northwest corner of said Harmon 29.553 acre tract;

THENCE South 88°23'05" East, along the south line of said Venable Exhibit "A-2" Second Tract and the north line of said 29.553 acre tract, a distance of 555.23 feet to a 1/2 inch iron rod found for the most westerly northeast corner of said 29.553 acre tract and the northwest corner of said Pierce 3.00 acre tract;

THENCE South 88°18'08" East, continuing along the south line of said Venable Exhibit "A-2" Second Tract and the north line of said Pierce 3.00 acre tract, a distance of 626.29 feet to a 1/2 inch iron rod found for the northeast corner of said Pierce 3.00 acre tract and the northwest corner of said Wilson 1.269 acre tract;

THENCE South 88°04'56" East, continuing along the south line of said Venable Exhibit "A-2" Second Tract and the north lines of said Wilson 1.269 acre tract and said Black Rock Water Supply Corporation 0.254 acre tract, a distance of 365.79 feet



to a wood corner post found for the northeast corner of said Black Rock Water Supply Corporation 0.254 acre tract and the northwest corner of the above mentioned Venable Exhibit "A-6" 70 acre tract;

THENCE South  $01^{\circ}20'17''$  West, along the west line of said Venable Exhibit "A-6" 70 acre tract and the east lines of said Black Rock Water Supply Corporation 0.254 acre tract, said Harmon 29.553 acre tract, and said Pierce 0.724 acre tract, passing at a distance of 1388.97 feet a 1/2 inch iron rod found in the north line of Richter Road for the southeast corner of said Pierce 0.724 acre tract, and continuing along said west line for a total distance of 1413.97 feet to the southwest corner of said Venable Exhibit "A-6" 70 acre tract, said corner being in the north line of the above mentioned Venable Exhibit "A-1" Twenty-Fourth Tract;

THENCE North  $88^{\circ}16'47''$  West, along the north line of said Venable Exhibit "A-1" Twenty-Fourth Tract, a distance of 1403.72 feet to the most southerly southeast corner of said Lewis 2.116 acre tract, from which a 1/2 inch iron rod found in the north line of Richter Road bears North  $00^{\circ}28'03''$  East a distance of 25.01 feet;

THENCE North  $88^{\circ}01'16''$  West, continuing along the north line of said Venable Exhibit "A-1" Twenty-Fourth Tract and the south lines of said Lewis 2.116 acre tract, said Johnson 0.5 acre tract, and said Johnson 27.20 acre tract, a distance of 2024.03 feet to a wood corner post found for the southwest corner of said Johnson 27.20 acre tract, the northwest corner of said Venable Exhibit "A-1" Twenty-Fourth Tract, the northeast corner of the above mentioned Venable Exhibit "A-1" Eighth Tract, and the southeast corner of said Venable Exhibit "A-1" Twenty-First Tract;

THENCE North  $00^{\circ}39'41''$  West, along the east line of said Venable Exhibit "A-1" Twenty-First Tract and the west lines of said Johnson 27.20 acre tract and said 27.20 acre Patricia Ann Harmon Brockett tract, a distance of 1401.57 feet to the POINT OF BEGINNING and containing 135.931 acres or 5,921,167 square feet of land, more or less.

#### TRACT B

Being a tract of land situated in the George Smith Survey, Abstract No. 1219, Denton County, Texas, and being described as a 210 foot by 210 foot tract of land conveyed to Faith Assembly Church by deed recorded in Instrument No. 2004-26872, O.R.D.C.T., and being more particularly described as follows:

BEGINNING at the northeast corner of said Church tract, from which a wood corner post found bears South  $89^{\circ}52'15''$  East a distance of 130.00 feet;

THENCE South  $00^{\circ}07'45''$  West, along the east line of said Church tract, passing at a distance of 203.40 feet a wood corner post found in the north line of Black Jack Road, and continuing along said east line for a total distance of 210.00 feet to the southeast corner of said Church tract;

THENCE North  $89^{\circ}52'15''$  West, along the south line of said Church tract, a distance of 210.00 feet to the southwest corner of said Church tract, said corner being in the approximate centerline of Harmon Road;

THENCE North  $00^{\circ}07'45''$  East, with the approximate centerline of Harmon Road and along the west line of said Church tract, a distance of 210.00 feet to the northwest corner of said Church tract;

THENCE South  $89^{\circ}52'15''$  East, along the north line of said Church tract, a distance of 210.00 feet to the POINT OF BEGINNING and containing 1.012 acres or 44,100 square feet of land, more or less.

#### TRACT C

Being a tract of land situated in the J. Moses Survey, Abstract No. 894, Denton County, Texas, and being all of a called 2 acre tract of land, conveyed to Trustees of Wilson Cemetery by deed recorded in Volume 57, Page 402, D.R.D.C.T., and being more particularly described as follows:

BEGINNING at a chain link fence corner post found for the northwest corner of said Cemetery tract and the southwest corner of the above mentioned Venable Exhibit "A-1" Twenty-Second Tract, said corner being in the east line of the above mentioned Venable Exhibit "A-1" Fourteenth Tract;

THENCE North  $89^{\circ}39'39''$  East, along the north line of said Cemetery tract and the south line of said Venable Exhibit "A-1" Twenty-Second Tract; passing at a distance of 288.86 feet a chain link fence corner post found and continuing for a total distance of 305.55 feet to the northeast corner of said Cemetery tract, the southwest corner of the above mentioned Venable Exhibit "A-1" Twenty-First Tract, and the northwest corner of the above mentioned Exhibit "A-1" Eighth Tract;

THENCE South  $00^{\circ}20'21''$  East, along the east line of said Cemetery tract and the west line of said Venable Exhibit "A-1" Eighth Tract, a distance of 285.28 feet to the southeast corner of said Cemetery tract and the most easterly northeast corner of said Venable Exhibit "A-1" Fourteenth Tract;

THENCE South  $89^{\circ}39'39''$  West, along the south line of said Cemetery tract and a north line of said Venable Exhibit "A-1" Fourteenth Tract; a distance of 305.55 feet to the southwest corner of said Cemetery tract and an ell corner of said Venable Exhibit "A-1" Fourteenth Tract, from which a chain link fence corner post found bears North  $30^{\circ}04'24''$  East a distance of 9.80 feet;

THENCE North  $00^{\circ}20'21''$  West, along the west line of said Cemetery tract and the east line of said Venable Exhibit "A-1" Fourteenth Tract, a distance of 285.28 feet to the POINT OF BEGINNING and containing 2.001 acres or 87,168 square feet of land, more or less.

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#### VENABLE PROPERTY DESCRIPTION

##### TRACT 2

Being a tract of land situated in the T. Chambers Survey, Abstract No. 223, Denton County, Texas, and being all the following tracts of land conveyed to Venable Royalty, Ltd.; a called 4.37 acre tract of land by deed recorded in Instrument No. 2003-193459 of the Official Records of Denton County, Texas, and all of a called 4.35 acre tract of land by deed recorded in Volume 4952, Page 1406 of the Real Property Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a wood corner post found for the northwest corner of said 4.35 acre tract and the southwest corner of a called 2.726 acre tract of land conveyed to Dennard's Farm Supply Incorporated by deed recorded in Instrument No. 2009-52074 of the Official Records of Denton County, Texas, said corner being in the east line of the Texas and Pacific Railway Company right-of-way (80 foot wide right-of-way); THENCE South  $87^{\circ}59'39''$  East, along the north line of said 4.35 acre tract and the south line of said 2.726 acre tract, a distance of 307.30 feet to the northeast corner of said 4.35 acre tract and the southeast corner of said 2.726 acre tract, said corner being in the west right-of-way line of State Highway 377 (a 120 foot wide right-of-way), from which a metal corner post found bears North  $87^{\circ}59'39''$  West a distance of 1.44 feet, said point also being at the beginning of a non-tangent curve to the right; THENCE along the west right-of-way line of State Highway 377, the following courses and distances:

Southwesterly, along said non-tangent curve to the right having a central angle of  $02^{\circ}03'24''$ , a radius of 5669.58 feet, a chord bearing of South  $03^{\circ}44'56''$  West, a chord distance of 203.52 feet, passing at an arc length of 203.12 feet a wood highway marker found for the southeast corner of said 4.35 acre tract and being at the intersection of the west right-of-way line of State Highway 377 with the northwesterly right-of-way line of Farm to Market 3524 (a 80 foot wide right-of-way), and continuing for a total an arc length of 203.53 feet to the end of said curve;

South  $04^{\circ}46'38''$  West, passing at a distance of 570.19 feet the northeast corner of said 4.37 acre tract, from which a 60d nail found bears South  $85^{\circ}13'22''$  East a distance of 1.33 feet, and continuing for a total distance of 1120.24 feet to the southeast corner of said 4.37 acre tract, from which a 1/2 inch iron rod found bears North  $88^{\circ}16'01''$  West a distance of 1.06 feet;

THENCE North  $88^{\circ}16'01''$  West, along the south line of said 4.37 acre tract, a distance of 387.22 feet to the southwest corner of said 4.37 acre tract, said corner being in the east line of said Texas and Pacific Railway Company right-of-way, from which a 1/2 inch iron rod found bears North  $88^{\circ}16'01''$  West a distance of 1.30 feet, said point also being at the beginning of a non-tangent curve to the left;

THENCE along the west lines of said 4.35 acre tract and said 4.37 acre tract and the east line of said Texas and Pacific Railway Company right-of-way, the following courses and distances:

Northeasterly along said non-tangent curve to the left having a central angle of  $03^{\circ}06'33''$ , a radius of 5779.58 feet, a chord bearing of North  $09^{\circ}14'29''$  East, a chord distance of 313.59 feet, and an arc length of 313.63 feet to the end of said curve;

North  $07^{\circ}41'12''$  East, passing at a distance of 91.78 feet the northwest corner of said 4.37 acre tract in the southeasterly line of said Farm to Market 3524, and passing at a distance of 204.92 feet a 1/2 inch iron rod with red plastic cap stamped "ALLIANCE" found for the most southerly corner of said 4.35 acre tract in the northwesterly right-of-way line of said Farm to Market 3524, and continuing for a total distance of 1018.10 feet to the POINT OF BEGINNING and containing 10.487 acres or 456,819 square feet of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8469, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8469.109 to read as follows:

Sec. 8469.109. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(b) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. This Act takes effect September 1, 2013.

The amendment was read.

Senator Estes moved to concur in the House amendment to **SB 1877**.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nelson.

Absent-excused: Carona.

#### **SENATE BILL 44 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 44** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 44** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to maintaining and reporting certain information regarding certain child abuse or neglect cases and the provision of mental health services for children in those cases.

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

SECTION 1. Section 261.001, Family Code, is amended by adding Subdivision (9) to read as follows:

(9) "Severe emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities.

SECTION 2. Subsection (b), Section 261.004, Family Code, is amended to read as follows:

- (b) The department shall report the following information:
- (1) the number of initial phone calls received by the department alleging abuse and neglect;
  - (2) the number of children reported to the department as having been abused and neglected;
  - (3) the number of reports received by the department alleging abuse or neglect and assigned by the department for investigation;
  - (4) of the children to whom Subdivision (2) applies:
    - (A) the number for whom the report was substantiated;
    - (B) the number for whom the report was unsubstantiated;
    - (C) the number for whom the report was determined to be false;
    - (D) the number who did not receive services from the department under a state or federal program;
    - (E) the number who received services, including preventative services, from the department under a state or federal program; and
    - (F) the number who were removed from the child's home during the preceding year;
  - (5) the number of families in which the child was not removed, but the child or family received services from the department;
  - (6) the number of children who died during the preceding year as a result of child abuse or neglect;
  - (7) of the children to whom Subdivision (6) applies, the number who were in foster care at the time of death;
  - (8) the number of child protective services workers responsible for report intake, assessment, or investigation;
  - (9) the response time by the department with respect to conducting an initial investigation of a report of child abuse or neglect;
  - (10) the response time by the department with respect to commencing services to families and children for whom an allegation of abuse or neglect has been made;
  - (11) the number of children who were returned to their families or who received family preservation services and who, before the fifth anniversary of the date of return or receipt, were the victims of substantiated reports of child abuse or neglect, including abuse or neglect resulting in the death of the child;
  - (12) the number of cases pursued by the department in each stage of the judicial process, including civil and criminal proceedings and the results of each proceeding; ~~and~~

(13) the number of children for whom a person was appointed by the court to represent the best interests of the child and the average number of out-of-court contacts between the person and the child; and

(14) the number of children who suffer from a severe emotional disturbance and for whom the department is appointed managing conservator because a person voluntarily relinquished custody of the child solely to obtain mental health services for the child.

SECTION 3. Chapter 262, Family Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RELINQUISHING CHILD TO OBTAIN CERTAIN SERVICES

Sec. 262.351. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Severe emotional disturbance" has the meaning assigned by Section 261.001.

Sec. 262.352. JOINT MANAGING CONSERVATORSHIP OF CHILD. Before a person relinquishes custody of a child who suffers from a severe emotional disturbance in order to obtain mental health services for the child, the department must, if it is in the best interest of the child, discuss with the person relinquishing custody of the child the option of seeking a court order for joint managing conservatorship of the child with the department.

Sec. 262.353. STUDY TO DEVELOP ALTERNATIVES TO RELINQUISHMENT OF CUSTODY TO OBTAIN MENTAL HEALTH SERVICES.

(a) The department and the Department of State Health Services shall jointly study and develop recommendations to prevent the practice of parents relinquishing custody of children with a severe emotional disturbance and placement of children in the conservatorship of the department solely to obtain mental health services for the child.

(b) As part of the study under Subsection (a), the department and the Department of State Health Services shall consider the advantages of providing mental health services using temporary residential treatment and intensive community-based services options, including:

(1) joint managing conservatorship of the child by the department and the child's parent;

(2) the Youth Empowerment Services waiver program;

(3) systems of care services;

(4) emergency respite services; and

(5) diversion residential treatment center services.

(c) The executive commissioner of the Health and Human Services Commission shall review the recommendations developed under Subsection (a) and may direct the implementation of any recommendation that can be implemented with the department's current resources.

(d) Not later than September 30, 2014, the department and the Department of State Health Services shall file a report with the legislature and the Council on Children and Families on the results of the study required by Subsection (a). The report must include:

(1) each option to prevent relinquishment of parental custody that was considered during the study;

- (2) each option recommended for implementation, if any;
- (3) each option that is implemented using existing resources;
- (4) any policy or statutory change needed to implement a recommended option;
- (5) the fiscal impact of implementing each option, if any;
- (6) the estimated number of children and families that may be affected by the implementation of each option; and
- (7) any other significant information relating to the study.

(e) Not later than September 30 of each even-numbered year after the date the initial report is filed under Subsection (d), the department and the Department of State Health Services shall update the report. The updated report must include the implementation status of each recommended option under Subsection (d).

SECTION 4. Section 531.803, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The council shall:

(1) analyze the biennial legislative appropriations requests of members of the council for services provided to children and their families and identify appropriations that, through the coordination of members of the council, could be modified in the next legislative appropriation request to eliminate waste or increase available services and, not later than May 1 of each even-numbered year, prepare a report recommending those modifications for consideration during the development of the next biennial legislative appropriations request;

(2) investigate opportunities to increase flexible funding for health, education, and human services provided to children and their families;

(3) identify methods to remove barriers to local coordination of health, education, and human services provided to children and their families;

(4) identify methods to ensure that children and youth receive appropriate assessment, diagnoses, and intervention services;

(5) identify and develop methods and strategies to coordinate and enhance prevention services for children and their families;

(6) develop methods to prevent unnecessary parental relinquishment of custody of children and make recommendations to the executive commissioner regarding options for improving the system for serving families who relinquish, or are at risk of relinquishing, custody of a child solely to obtain mental health services for the child, after considering whether it would be appropriate to serve those families without a finding of abuse or neglect or without including the finding of abuse or neglect in the central registry of reported cases of child abuse or neglect;

(7) [~~(6)~~] prioritize assisting children in family settings rather than institutional settings;

(8) [~~(7)~~] make recommendations about family involvement in the provision and planning of health, education, and human services for a child, including family partner and liaison models; and

(9) [~~(8)~~] identify technological methods to ensure the efficient and timely transfer of information among state agencies providing health, education, and human services to children and their families.

(a-1) The executive commissioner shall review the council's recommendations under Subsection (a)(6) and direct the implementation of any policy changes the executive commissioner determines necessary that can be implemented using existing resources.

SECTION 5. This Act takes effect September 1, 2013.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 44**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 1116 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1116** from the President's table for consideration of the House amendment to the bill.

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

#### Floor Amendment No. 1

Amend **SB 1116** (house committee printing) as follows:

(1) On page 1, strike lines 11 through 17 and substitute the following:

Sec. 7206.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Corporation" means the Crystal Clear Water Supply Corporation.

(4) "Director" means a board member.

(5) "District" means the Crystal Clear Special Utility District.

(2) On page 3, lines 17 through 18, strike "Texas Commission on Environmental Quality" and substitute "commission".

(3) Strike page 4, line 17, through page 5, line 12, and substitute the following:

Sec. 7206.023. AMENDMENT OF CERTIFICATE OF CONVENIENCE AND NECESSITY; TRANSFER OF ASSETS; DISSOLUTION. (a) On the effective date of the Act enacting this chapter, all the territory described by Section 3 of the Act creating this chapter is removed from the territory covered by Certificate of Convenience and Necessity No. 10297. The commission shall revise its records to reflect the removal of the described territory from that certificate's coverage, effective on that date, without further application, notice, or hearing. A person does not have any right of protest, objection, or administrative review of the revision prescribed by this subsection. The revision to Certificate of Convenience and Necessity No. 10297 is not contingent on the confirmation of the district under Section 7206.022.

(b) If the creation of the district is confirmed under Section 7206.022, the corporation shall transfer the assets, debts, and contractual rights and obligations of the corporation to the district. Following the transfer of assets:

(1) Certificate of Convenience and Necessity No. 10297, as revised in accordance with Subsection (a), is considered to be held by the district;

(2) the board of directors of the corporation shall begin dissolution proceedings of the corporation; and



(3) the board of directors of the corporation shall notify the commission of the transfer of Certificate of Convenience and Necessity No. 10297 to the district.

(c) On receipt of notice under Subsection (b)(3), the commission shall note in its records that Certificate of Convenience and Necessity No. 10297, as revised in accordance with Subsection (a), is held by the district and shall reissue the certificate in the name of the district without further application, notice, or hearing. A person does not have any right of protest, objection, or administrative review of the transfer prescribed by this section.

(4) On page 5, line 26, between "POWERS." and "Except", insert "(a)".

(5) On page 5, line 27, between "by" and "this chapter", insert "Subsection (b) and".

(6) On page 6, between lines 4 and 5, insert the following:

(b) Land included in the territory described by Section 4 of the Act creating this chapter may not be added to the district unless the landowner provides written consent.

(7) On page 6, lines 13 and 14, strike "Texas Commission on Environmental Quality" and substitute "commission".

(8) Strike page 17, line 22, through page 19, line 3, and substitute the following:

SECTION 3. The territory to be removed from Certificate of Convenience and Necessity No. 10297, as provided by Section 7206.023(a), Special District Local Laws Code, as added by this Act, includes all of the territory contained in the following area:

151.846 acres of land located in the Antonio Maria Esnaurizar Eleven League Grant, Survey No. 1, Abstract No. 1, Subdivisions 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 31, Comal County, Texas, and being comprised of the following parcels: a 28.477 acres of land being out of and a part of a 28.632 acre tract as conveyed by SPECIAL WARRANTY DEED from the RESOLUTION TRUST CORPORATION (RTC) to M.W. KRAFT, JR., executed on January 14, 1983, and recorded in Volume 874, Pages 72-76 of the Official Public Records of Comal County, Texas, and being the same 28.477 acres of land conveyed to the State of Texas for use and benefit of the Permanent School fund from RS New Braunfels, Ltd., a Texas limited partnership dated October 14, 2005 and recorded in Document No. 200506039324 of the Official Records of Comal County, Texas, and 27.474 acres of land being out of and a part of a 27.611 acre tract as conveyed by GENERAL WARRANTY DEED from MICHAEL PAYNTER and wife THETA SCHUG PAYNTER, to MARY EVELYN FREEMAN, filed for record on June 10, 1985, and recorded in Volume 451, Pages 695-697 of the Official Public Records of Comal County, Texas, and being the same 27.474 acre tract conveyed to the State of Texas for the use and benefit of the Permanent School Fund from Mary Evelyn Freeman, dealing in her separate property, dated October 14, 2005 and recorded in Document No. 200506045048 of the Official Public Records of Comal County, Texas, and 20.035 acres of land being out of and a part of a 26.6 acre tract as conveyed by WARRANTY DEED WITH VENDOR'S LIEN from EGON KOHLENBERG ET UX to LAWRENCE KOHLENBERG, and filed for record on October 18, 1949, and recorded in Volume 92, Pages 43-44 of the Deed Records of Comal County, Texas, and also being out of and a part of a 103.75 acre tract as conveyed by WARRANTY DEED WITH VENDOR'S LIEN from J.M. SMITH to

EGON KOHLENBERG ET UX, filed for record June 21, 1943, and recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and also being the same 20.035 acres conveyed to the State of Texas for use and benefit of the Permanent School Fund from Doracille Kohlenberg, an unmarried woman, dated October 14, 2005 and recorded in Document No. 200506039319 of the Official Public Records of Comal County, Texas, and 74.803 acres of land being out of and a part of a 74.44 acre tract as conveyed by DEED OF GIFT from DORACILLE KOHLENBERG, a widow, to KAREN WESCH and FAYE COOLEY, and filed for record on March 4, 1993, and recorded in Volume 873, Pages 228-229 of the Official Public Records of Comal County, Texas, and being out of and a part of a 103.75 acre tract as described in a WARRANTY DEED with VENDOR'S LIEN, filed for record June 21, 1943, and recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and being the same 74.803 acre tract conveyed to the State of Texas for the use and benefit of the Permanent School fund from (i) Karen Wesch Hestand, formerly known as Karen Wesch, and (ii) Foye Cooley, each dealing in her separate property, dated October 14, 2005 and recorded in Document No. 200506039321 of the Official Public Records of Comal County, Texas, and 1.002 acres of land being out of and a part of a 74.44 acre tract as conveyed by DEED OF GIFT from DORACHILLE KOHLENBERG, a widow, to KAREN WESCH and FAYE COOLEY and filed for record on March 4, 1993, and recorded in Volume 873, Pages 228-229 of the Official Public Records of Comal County, Texas, and being out of and a part of a 103.75 acre tract as described in a WARRANTY DEED with VENDOR'S LIEN, filed for record June 21, 1943, and recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and being the same parcel designated as TRACT NO. 2 (1.003 acres) by DEED OF GIFT from FAYE COOLEY to KAREN HESTAND, executed on March 14, 1996, and recorded in Document No. 9606005988 of the Official Public Records of Comal County, Texas, and being a portion of said 1.002 acre tract as conveyed to the State of Texas for the use and benefit of the Permanent School Fund from Karen Wesch Hestand and husband, Herbert Hoyt Hestand, dated October 14, 2005 and recorded in Document No. 200506039320 of the Official Public Records of Comal County, Texas, said 151.846 acres of land being more particularly described as follows:

BEGINNING: at a found concrete highway monument (Type I) at the intersection of the Southeast Right of Way Line of I.H. 35 with the Northeast cutback line of Kohlenberg Road and being the Westernmost corner of this parcel and said 20.035 acre; (Grid N = 13,820,305.66, Grid E = 2,267,616.06, Scale factor of 1.00014 for surface adjustment);

THENCE: (1) NORTH 31 deg. 26' 12" East, a distance of 1091.64 feet along the Northwest line of this parcel and the Southeast Right of Way Line of said I.H.35 to a set 1/2" iron pin with plastic cap being the Northernmost corner of this parcel and the Westernmost corner of a 3.560 acre tract as recorded in Document No. 200406003961 of the Official Public Records of Comal County, Texas;

THENCE: (2) SOUTH 45 deg. 19' 36" East, a distance of 610.43 feet along the Northeast line of this parcel and said 103.75 acre tract and the Southwest line of said 3.560 acre tract to a found 1/2" iron pin being the Southernmost corner of said 3.560 acre tract;

THENCE: (3) NORTH 38 deg. 14' 02" East, a distance of 296.28 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast line of said 3.560 acre tract to a found 1/2" iron pin being the Easternmost corner of said 3.560 acre tract;

THENCE: (4) NORTH 53 deg. 45' 08" West, a distance of 631.50 feet along the Northeast line of this parcel and the Southwest line of said 27.611 acre tract and the Northeast line of said 3.560 acre tract to a found 1/2" iron pin in the Southeast Right of Way Line of said I.H. 35, and being the Northernmost corner of said 3.560 acre tract;

THENCE: (5) NORTH 31 deg. 26' 12" East, a distance of 245.64 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast Right of Way Line of said I.H. 35 to a found 1/2" iron pin being the Westernmost corner of the remainder of a 2.35 acre tract as recorded in Volume 293, Pages 371-373 of the Deed Records of Comal County, Texas;

THENCE: (6) SOUTH 41 deg. 20' 52" East, a distance of 507.94 feet along the Northeast line of this parcel and said 27.611 acre tract and the Southwest line of said 2.35 acre tract to a found 1/2" iron pin being the Southernmost corner of said 2.35 acre tract;

THENCE: (7) NORTH 53 deg. 30' 10" East, a distance of 151.22 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast line of said 2.35 acre tract to a found 1/2" iron pin being the Easternmost corner of said 2.35 acre tract and the Southwest line of said 28.632 acre tract;

THENCE: (8) NORTH 41 deg. 10' 27" West, a distance of 567.95 feet along the Southwest line of this parcel and said 28.632 acre tract and the Northeast line of said 2.35 acre tract to a found 1/2" iron pin in the Southeast Right of Way Line of I.H.35;

THENCE: (9) NORTH 31 deg. 26' 12" East, a distance of 249.72 feet along the Northwest line of this parcel and said 28.632 acre tract and the Southeast Right of Way Line of I.H.35 to a set 1/2" iron pin with plastic cap being a point of curvature;

THENCE: (10) 83.60 feet along the arc of a curve to the right, having a radius of 22784.31 feet, and a central angle of 00 deg. 12' 37", and whose chord bears North 31 deg. 32' 30" East, a distance of 83.60 feet to a found 1/2" iron pin being the Northernmost corner of this parcel and said 28.632 acre tract and the Westernmost corner of a 28.500 acre tract as recorded in Document No. 9806027705 of the Official Public Records of Comal County, Texas;

THENCE: (11) SOUTH 42 deg. 31' 00" East, a distance of 3408.67 feet along the Northeast line of this parcel and said 28.632 acre tract and the Southwest line of said 28.500 acre tract to a found 1/2" iron pin in the Northeast line of a 119.882 acre tract as recorded in Volume 1015, Page 444 of the Official Public Records of Comal County, Texas, and being the Easternmost corner of this parcel and said 28.632 acre tract and the Southernmost corner of said 28.500 acre tract;

THENCE: (12) SOUTH 56 deg. 54' 03" West, a distance of 439.45 feet along the Southeast line of this parcel and said 28.632 acre tract and the Northwest line of said 119.882 acre tract to a found 1/2" iron pin being the Southernmost corner, said 28.632 acre tract and the Easternmost corner of a 27.611 acre tract as recorded in Volume 451, Pages 695-697 of the Deed Records of Comal County, Texas;

THENCE: (13) SOUTH 56 deg. 53' 33" West, a distance of 320.67 feet along the Southeast line of this parcel and said 27.611 acre tract and the Northwest line of said 119.882 acre tract to a found 3/8" iron pin in the Northeast line of a 74.44 acre tract as recorded in Volume 873, Pages 228-229 of the Official Public Records of Comal County, Texas, and being the Southernmost corner of this parcel and said 27.611 acre tract;

THENCE: (14) SOUTH 44 deg. 49' 00" East, a distance of 291.65 feet along the Northeast line of this parcel and said 74.44 acre tract and the Southwest line of said 119.882 acre tract to a wood corner post being the Easternmost corner of said 74.44 acre tract;

THENCE: (15) SOUTH 45 deg. 08' 03" West, a distance of 1414.62 feet along the Southeast line of this parcel and said 74.44 acre tract and the Northwest line of a 49.18 acre tract as recorded in Document No. 200006018425 of the Official Public Records of Comal County, Texas, and a 3.00 acre tract as recorded in Volume 512, Page 254 of the Deed Records of Comal County, Texas, to a set 1/2" iron pin with plastic cap in the Northeast Right of Way Line of Kohlenberg Road, and being the Southernmost corner of this parcel and said 74.44 acre tract and the Westernmost corner of said 3.000 acre tract;

THENCE: (16) NORTH 44 deg. 37' 29" West, a distance of 1423.84 feet along the Southwest line of this parcel and said 74.44 acre tract and said 103.75 acre tract and the Northeast Right of Way Line of Kohlenberg Road to a set 1/2" iron pin with plastic cap being the Southernmost corner of a 1.736 acre tract and designated as TRACT NO. 1, and recorded in Document No. 9606005988 of the Official Public Records of Comal County, Texas;

THENCE: (17) NORTH 33 deg. 57' 40" East, a distance of 411.84 feet along the Northwest line of this parcel and the Southeast line of said 1.736 acre tract to a found 3/8" iron pin being the Easternmost corner of this parcel;

THENCE: (18) NORTH 68 deg. 19' 31" West, a distance of 242.07 feet along the Southwest line of this parcel and the Northeast line of said 1.736 acre tract to a found 1/2" iron pin being the Northernmost corner of said 1.736 acre tract; and

THENCE: (19) SOUTH 22 deg. 37' 45" West, a distance of 332.23 feet along the Southeast line of this parcel and the Northwest line of said 1.736 acre tract to a found 1/2" iron pin in the Northeast Right of Way Line of Kohlenberg Road, and being the Westernmost corner of said 1.736 acre tract;

THENCE: the following courses along the Southwest line of this parcel and said 74.44 acre tract and the Northeast Right of Way Line of said Kohlenberg Road, and the cutback Right of Way Line to I.H.35:

(20) NORTH 44 deg. 37' 29" West, a distance of 399.53 feet to a found concrete highway monument (Type I) and being an angle point;

(21) NORTH 34 deg. 38' 01" West, a distance of 102.61 feet to a found concrete highway monument (Type I) being an angle point;

(22) NORTH 44 deg. 39' 10" West, a distance of 149.81 feet to a found concrete highway monument (Type I) being an angle point;

(23) NORTH 32 deg. 12' 31" West, a distance of 223.04 feet to a found concrete highway monument (Type I) being an angle point;

(24) NORTH 17 deg. 45' 14" West, a distance of 210.69 feet to a found concrete highway monument (Type I) being an angle point;

(25) NORTH 06 deg. 34' 20" West, a distance of 302.39 feet to a found concrete highway monument (Type I) being an angle point; and

(26) NORTH 58 deg. 18' 56" West, a distance of 173.56 feet to a found concrete highway monument (Type I) at the intersection of the Southeast Right of Way Line of I.H. 35 with the Northeast cutback line of Kohlenberg Road and being the Westernmost corner of this parcel and said 19.31 acre tract being the POINT OF BEGINNING, containing 151.846 acres of land.

SECTION 4. The territory that may not be added to the district without written consent of the landowner, as provided by Section 7206.101, Special District Local Laws Code, as added by this Act, includes all of the territory contained in the following area:

1252.958 acres of land located in the Antonio Maria Esnaurizar Eleven League Grant, Survey No. 1, Abstract No. 1, Subdivisions 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 31, Comal County, Texas, and being comprised of the following parcels: 1015.410 acre tract as described as a 1015.701 acre tract by a SPECIAL WARRANTY DEED from NORMANDY TERRACE, INC., a Texas Corporation, JAMES C. NORMAN, NANCY NORMAN and SUSAN N. SMITH to LAMROCK 3-2001 LIMITED, a Texas limited partnership, executed on April 30, 2001, and recorded in Document No. 200106014380 of the Official Public Records of Comal County, Texas, and an 85.763 acre tract comprised of a 57.133 acre tract as described in a PARTITION DEED between LEE E. JOHNSON and wife JEN MEI JOHNSON, executed on September 7, 1983, and recorded in Volume 351, Pages 931-939 of the Deed Records of Comal County, Texas, and a 28.500 acre tract as conveyed by SPECIAL WARRANTY DEED dated November 3, 1998, and recorded in Document No. 9806027705 of the Official Public Records of Comal County, Texas, and 28.477 acres of land being out of and a part of a 28.632 acre tract as conveyed by SPECIAL WARRANTY DEED from the RESOLUTION TRUST CORPORATION (RTC) to M.W. KRAFT, JR., executed on January 14, 1983, and recorded in Volume 874, Pages 72-76 of the Official Public Records of Comal County, Texas, and 27.474 acres of land being out of and a part of a 27.611 acre tract as conveyed by GENERAL WARRANTY DEED from MICHAEL PAYNTER and wife THETA SCHUG PAYNTER, to MARY EVELYN FREEMAN, filed for record on June 10, 1985, and recorded in Volume 451, Pages 695-697 of the Official Public Records of Comal County, Texas, and 20.035 acres of land being out of and a part of a 26.6 acre tract as conveyed by WARRANTY DEED WITH VENDOR'S LIEN from EGON KOHLENBERG ET UX to LAWRENCE KOHLENBERG, and filed for record on October 18, 1949, and recorded in Volume 92, Pages 43-44 of the Deed Records of Comal County, Texas, and also being out of and a part of a 103.75 acre tract as conveyed by WARRANTY DEED WITH VENDOR'S LIEN from J.M. SMITH to EGON KOHLENBERG ET UX, filed for record June 21, 1943, and Recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and 74.803 acres of land being out of and a part of a 74.44 acre tract as conveyed by DEED OF GIFT from DORACILLE KOHLENBERG, a widow, to KAREN WESCH and FAYE COOLEY, and filed for record on March 4, 1993, and recorded in Volume 873, Pages 228-229 of the Official

Public Records of Comal County, Texas, and being out of and a part of a 103.75 acre tract as described in a WARRANTY DEED with VENDOR'S LIEN, filed for record June 21, 1943, and recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and 1.002 acres of land being out of and a part of a 74.44 acre tract as conveyed by DEED OF GIFT from DORACHILLE KOHLENBERG, a widow, to KAREN WESCH and FAYE COOLEY and filed for record on March 4, 1993, and recorded in Volume 873, Pages 228-229 of the Official Public Records of Comal County, Texas, and being out of and a part of a 103.75 acre tract as described in a WARRANTY DEED with VENDOR'S LIEN, filed for record June 21, 1943, and recorded in Volume 77, Pages 442-443 of the Deed Records of Comal County, Texas, and being the same parcel designated as TRACT NO. 2 (1.003 acres) by DEED OF GIFT from FAYE COOLEY to KAREN HESTAND, executed on March 14, 1996, and recorded in Document No. 9606005988 of the Official Public Records of Comal County, Texas, said 1252.958 acres of land being more particularly described as follows:

BEGINNING: at a set 1/2" iron pin with plastic cap in the Southeast Right of Way Line of I.H.35 and being the Northernmost corner of this parcel and said 1015.701 acre tract and the Westernmost corner of a 69.569 acre tract as recorded in Document No. 9506481804 of the Official Public Records of Comal County, Texas; and

THENCE: (1) SOUTH 45 deg. 00' 03" East, (all bearings in this description are based on Grid North of the Texas Coordinate System, NAD 83 (93) Zone 4204), a distance of 2148.79 feet along the Northwest line of this parcel and said 1015.701 acre tract and the Southwest line of said 69.569 acre tract to a found 2" iron pipe being the Southernmost corner of said 69.569 acre tract;

THENCE: the following courses along the Northeast line of this parcel and said 1015.701 acre tract and the Southwest line of an 18.092 acre tract as recorded in Volume 972, Page 676 of the Official Public Records of Comal County, Texas, and the CUATRO AMIGOS SUBDIVISION as recorded in Volume 11, Page 100 of the Map and Plat Records of Comal County, Texas, and an 18.062 acre tract as recorded in Document No. 9906009211 of the Official Public Records of Comal County, Texas, and a 35.370 acre tract as recorded in Volume 85, Pages 564-565 of the Deed Records of Comal County, Texas, and a 27.00 acre tract as recorded in Volume 433, Page 473 of the Deed Records of Comal County, Texas, and a 27.00 acre tract as recorded in Volume 433, Page 475 of the Deed Records of Comal County Texas, and a 27.00 acre tract as recorded in Volume 433, Page 471 of the Deed Records of Comal County, Texas, and a 15.00 acre tract as recorded in Volume 862, Page 417 of the Official Public Records of Comal County, Texas:

(2) SOUTH 44 deg. 45' 25" East, a distance of 1675.16 feet to a found 60d nail being an angle point;

(3) SOUTH 44 deg. 16' 57" East, a distance of 243.82 feet to a found 60d nail being an angle point;

(4) SOUTH 46 deg. 04' 58" East, a distance of 1040.03 feet to a found 60d nail being an angle point; and

(5) SOUTH 45 deg. 39' 04" East, a distance of 2159.39 feet to a found 1/2" iron pin being the Northernmost corner of a 125.571 acre tract as recorded in Volume 744, Page 126 of the Official Public Records of Comal County, Texas;

THENCE: the following courses along the Southeast line of this parcel and said 1015.701 acre tract and the Northwest line of said 125.571 acre tract:

(6) SOUTH 47 deg. 05' 12" West, a distance of 1402.22 feet to a found 1/2" iron pin being an angle point;

(7) SOUTH 41 deg. 11' 48" East, a distance of 52.89 feet to a set 1/2" iron pin with plastic cap being an angle point; and

(8) SOUTH 29 deg. 55' 10" West, a distance of 3.91 feet to a set 1/2" iron pin with plastic cap, being an interior corner of this parcel and said 1015.701 acre tract and the Westernmost corner of said 125.571 acre tract;

THENCE:(9) SOUTH 44 deg. 18' 16" East, a distance of 759.93 feet along the Northeast line of this parcel and said 1015.701 acre tract and the Southwest line of said 125.571 acre tract to a set 1/2" iron pin with plastic cap being an angle point; and

(10) SOUTH 44 deg. 50' 59" East, a distance of 2402.27 feet along the Northeast line of this parcel and said 1015.701 acre tract and the Southwest line of said 125.571 acre tract to a found 1/2" iron pin being the Northernmost corner of a 2.301 acre tract as recorded in Volume 341, Page 63 of the Deed Records of Comal County, Texas;

THENCE: the following courses along the Southeast line of this parcel and said 1015.701 acre tract and the Northwest line of said 2.301 acre tract and a 2.00 acre tract as recorded in Volume 62, Page 862 of the Deed Records of Comal County, Texas:

(11) SOUTH 44 deg. 34' 13" West, a distance of 633.91 feet to a found 1/2" iron pin being an angle point; and

(12) SOUTH 02 deg. 51' 44" East, a distance of 89.86 feet to a set 1/2" iron pin with plastic cap being the Southeast corner of this parcel and said 1015.701 acre tract and the Southwest corner of said 2.00 acre tract and being in the North Right of Way Line of F.M. 1101, and being a point of curvature;

THENCE: the following courses along the South line of this parcel and said 1015.701 acre tract and the North Right of Way Line of F.M. 1101:

(13) 493.60 feet along the arc of a curve to the right, having a radius of 3769.80 feet, and a central angle of 07 deg. 30' 07", and whose chord bears South 84 deg. 31' 13" West, a distance of 493.25 feet to a found concrete highway monument (Type I);

(14) SOUTH 88 deg. 19' 44" West, a distance of 800.02 feet to a found concrete highway monument (Type I) being an angle point;

(15) SOUTH 88 deg. 19' 51" West, a distance of 1598.80 feet to a found concrete highway monument (Type I) being an angle point;

(16) NORTH 86 deg. 11' 44" West, a distance of 295.61 feet to a found concrete monument (Type I) being an angle point;

(17) SOUTH 88 deg. 44' 07" West, a distance of 169.63 feet to a found concrete highway monument (Type I) being an angle point; and

(18) SOUTH 79 deg. 04' 08" West, a distance of 298.47 feet to a found steel fence post being the Southwest corner of said 1015.701 acre tract and the Easternmost corner of an 119.882 acre tract as recorded in Volume 1015, Page 444 of the Official Public Records of Comal County, Texas;

THENCE: the following courses along the Southwest line of this parcel and said 1015.701 acre tract and the Northeast line of said 119.882 acre tract:

(19) NORTH 45 deg. 28' 52" West, a distance of 1565.19 feet to a found 1/4" iron pin being an interior corner of this parcel and said 1015.701 acre tract;

(20) SOUTH 57 deg. 43' 21" West, a distance of 155.81 feet to a found fence post being an angle point;

(21) SOUTH 57 deg. 21' 38" West, a distance of 836.82 feet to a found 3/8" iron pin being an exterior corner of this parcel and said 1015.701 acre tract;

(22) NORTH 44 deg. 02' 14" West, a distance of 507.09 feet to a found fence post being an angle point; and

(23) NORTH 45 deg. 03' 47" West, a distance of 469.71 feet to a found 3/8" iron pin being the Easternmost corner of a 57.133 acre tract as recorded in Volume 351, Pages 931-939 of the Deed Records of Comal County, Texas; and

THENCE: (24) SOUTH 56 deg. 54' 03" West, a distance of 1110.45 feet along the Southeast line of this parcel and said 57.133 acre tract and said 28.500 acre tract and the Northeast line of said 119.882 acre tract to a found 1/2" iron pin being the Southernmost corner of said 28.500 acre tract and the Easternmost corner of a 28.632 acre tract as recorded in Volume 874, Pages 72-76 of the Deed Records of Comal County, Texas;

THENCE: (25) SOUTH 56 deg. 54' 03" West, a distance of 439.45 feet along the Southeast line of this parcel and said 28.632 acre tract and the Northwest line of said 119.882 acre tract to a found 1/2" iron pin being the Southernmost corner of said 28.632 acre tract and the Easternmost corner of a 27.611 acre tract as recorded in Volume 451, Pages 695-697 of the Deed Records of Comal County, Texas;

THENCE: (26) SOUTH 56 deg. 53' 33" West, a distance of 320.67 feet along the Southeast line of this parcel and said 27.611 acre tract and the Northwest line of said 119.882 acre tract to a found 3/8" iron pin in the Northeast line of a 74.44 acre tract as recorded in Volume 873, Pages 228-229 of the Official Public Records of Comal County, Texas, and being the Southernmost corner of this parcel and said 27.611 acre tract;

THENCE: (27) SOUTH 44 deg. 49' 00" East, a distance of 291.65 feet along the Northeast line of this parcel and said 74.44 acre tract and the Southwest line of said 119.882 acre tract to a wood corner post being the Easternmost corner of said 74.44 acre tract;

THENCE: (28) SOUTH 45 deg. 08' 03" West, a distance of 1414.62 feet along the Southeast line of this parcel and said 74.44 acre tract and the Northwest line of a 49.18 acre tract as recorded in Document No. 200006018425 of the Official Public Records of Comal County, Texas, and a 3.00 acre tract as recorded in Volume 512, Page 254 of the Deed Records of Comal County, Texas, to a set 1/2" iron pin with plastic cap in the Northeast Right of Way Line of Kohlenberg Road, and being the Southernmost corner of said 74.44 acre tract and the Westernmost corner of said 3.000 acre tract;

THENCE: (29) NORTH 44 deg. 37' 29" West, a distance of 1423.84 feet along the Southwest line of this parcel and said 74.44 acre tract and said 103.75 acre tract and the Northeast Right of Way Line of Kohlenberg Road to a set 1/2" iron pin with



plastic cap being the Southernmost corner of a 1.736 acre tract and designated as TRACT NO. 1, and recorded in Document No. 9606005988 of the Official Public Records of Comal County, Texas;

THENCE: (30) NORTH 33 deg. 57' 40" East, a distance of 411.84 feet along the Northwest line of this parcel and the Southeast line of said 1.736 acre tract to a found 3/8" iron pin being the Easternmost corner of this parcel;

THENCE: (31) NORTH 68 deg. 19' 31" West, a distance of 242.07 feet along the Southwest line of this parcel and the Northeast line of said 1.736 acre tract to a found 1/2" iron pin being the Northernmost corner of said 1.736 acre tract; and

THENCE: (32) SOUTH 22 deg. 37' 45" West, a distance of 332.23 feet along the Southeast line of this parcel and the Northwest line of said 1.736 acre tract to a found 1/2" iron pin in the Northeast Right of Way Line of Kohlenberg Road, and being the Westernmost corner of said 1.736 acre tract;

THENCE: the following courses along the Southwest line of this parcel and said 74.44 acre tract and the Northeast Right of Way Line of said Kohlenberg Road, and the cutback Right of Way Line to I.H.35:

(33) NORTH 44 deg. 37' 29" West, a distance of 399.53 feet to a found concrete highway monument (Type I) and being an angle point;

(34) NORTH 34 deg. 38' 01" West, a distance of 102.61 feet to a found concrete highway monument (Type I) being an angle point;

(35) NORTH 44 deg. 39' 10" West, a distance of 149.81 feet to a found concrete highway monument (Type I) being an angle point;

(36) NORTH 32 deg. 12' 31" West, a distance of 174.23 feet to said 74.44 acre tract and the Southernmost corner of a 19.31 acre tract as recorded in Volume 92, Pages 43-44 of the Deed Records of Comal County, Texas;

(37) NORTH 32 deg. 12' 31" West, a distance of 48.81 feet to a found concrete highway monument (Type I) being an angle point;

(38) NORTH 17 deg. 45' 14" West, a distance of 210.69 feet to a found concrete highway monument (Type I) being an angle point;

(39) NORTH 06 deg. 34' 20" West, a distance of 302.39 feet to a found concrete highway monument (Type I) being an angle point; and

(40) NORTH 58 deg. 18' 56" West, a distance of 173.56 feet to a found concrete highway monument (Type I) at the intersection of the Southeast Right of Way Line of I.H. 35 with the Northeast cutback line of Kohlenberg Road and being the Westernmost corner of this parcel and said 19.31 acre tract;

THENCE: (41) NORTH 31 deg. 26' 12" East, a distance of 1091.64 feet along the Northwest line of this parcel and the Southeast Right of Way Line of said I.H.35 to a set 1/2" iron pin with plastic cap being the Northernmost corner of this parcel and the Westernmost corner of a 3.560 acre tract as recorded in Document No. 200406003961 of the Official Public Records of Comal County, Texas;

THENCE: (42) SOUTH 45 deg. 19' 36" East, a distance of 610.43 feet along the Northeast line of this parcel and said 19.31 acre tract and said 103.75 acre tract and the Southwest line of said 3.560 acre tract to a found 1/2" iron pin being the Southernmost corner of said 3.560 acre tract;

THENCE: (43) NORTH 38 deg. 14' 02" East, a distance of 296.28 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast line of said 3.560 acre tract to a found 1/2" iron pin being the Easternmost corner of said 3.560 acre tract;

THENCE: (44) NORTH 53 deg. 45' 08" West, a distance of 631.50 feet along the Southwest line of this parcel and said 27.611 acre tract and the Northeast line of said 3.560 acre tract to a found 1/2" iron pin in the Southeast Right of Way Line of said I.H. 35, and being the Northernmost corner of said 3.560 acre tract;

THENCE: (45) NORTH 31 deg. 26' 12" East, a distance of 245.64 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast Right of Way Line of said I.H. 35 to a found 1/2" iron pin being the Westernmost corner of the remainder of a 2.35 acre tract as recorded in Volume 293, Pages 371-373 of the Deed Records of Comal County, Texas;

THENCE: (46) SOUTH 41 deg. 20' 52" East, a distance of 507.94 feet along the Northeast line of this parcel and said 27.611 acre tract and the Southwest line of said 2.35 acre tract to a found 1/2" iron pin being the Southernmost corner of said 2.35 acre tract;

THENCE: (47) NORTH 53 deg. 30' 10" East, a distance of 151.22 feet along the Northwest line of this parcel and said 27.611 acre tract and the Southeast line of said 2.35 acre tract to a found 1/2" iron pin being the Easternmost corner of said 2.35 acre tract and the Southwest line of said 28.632 acre tract;

THENCE: (48) NORTH 41 deg. 10' 27" West, a distance of 567.95 feet along the Southwest line of this parcel and said 28.632 acre tract and the Northeast line of said 2.35 acre tract to a found 1/2" iron pin in the Southeast Right of Way Line of I.H.35;

THENCE: (49) NORTH 31 deg. 26' 12" East, a distance of 249.72 feet along the Northwest line of this parcel and said 28.632 acre tract and the Southeast Right of Way Line of I.H.35 to a set 1/2" iron pin with plastic cap being a point of curvature;

THENCE: (50) 152.44 feet along the arc of a curve to the right, having a radius of 22784.31 feet, and a central angle of 00 deg. 23' 00", and whose chord bears North 31 deg. 37' 42" East, a distance of 152.44 feet to a found concrete highway monument being a point of tangency;

THENCE: (51) NORTH 31 deg. 50' 19" East, a distance of 263.09 feet along the Northwest line of this parcel and said 28.500 acre tract and the Southeast Right of Way Line of I.H.35 to a found 1/2" iron pin being the Northernmost corner of said 28.500 acre tract and the Westernmost corner of said 57.133 acre tract;

THENCE: (52) NORTH 31 deg. 50' 19" East, a distance of 663.99 feet along the Northwest line of this parcel and said 57.133 acre tract and the Southeast Right of Way Line of I.H.35 to a found 1/2" iron pin being the Northernmost corner of said 57.133 acre tract and the Westernmost corner of said 1015.707 acre tract;

THENCE: the following courses along the Northwest line of this parcel and said 1015.707 acre tract and the Southeast Right of Way Line of I.H.35:

(53) NORTH 31 deg. 50' 19" East, a distance of 1855.01 feet to a found concrete highway monument (Type I) being an angle point;

(54) NORTH 35 deg. 26' 30" East, a distance of 301.34 feet to a found concrete highway monument (Type I) being an angle point;

THENCE: (55) NORTH 32 deg. 05' 44" East, a distance of 72.07 feet to a found concrete highway monument (Type I) being a point of curvature;

THENCE: (56) 543.39 feet along the arc of a curve to the left, having a radius of 23072.30 feet, and a central angle of 01 deg. 20' 58", and whose chord bears North 31 deg. 12' 58" East, a distance of 543.37 feet to a found concrete highway monument (Type I) being a point of tangency;

THENCE: (57) NORTH 30 deg. 26' 03" East, a distance of 789.05 feet to a found concrete highway monument (Type I) being an angle point;

THENCE: (58) NORTH 26 deg. 48' 12" East, a distance of 299.65 feet to a found concrete highway monument (Type I) being an angle point; and

THENCE: (59) NORTH 30 deg. 29' 02" East, a distance of 2033.01 feet to a set 1/2" iron pin with plastic cap being the POINT OF BEGINNING, containing 1252.958 acres of land.

PART 1:

635.060 acres (27,663,214 sq. ft.) of land out of the NANCY KENNER LEAGUE survey No. 3, Abstract No. 306, Comal County, Texas and being designated as a 236.949 acre tract (McDONOUGH) tract as conveyed by SPECIAL WARRANTY DEED from NATIONSBANK OF TEXAS, N.A. TRUSTEE to JAMES P. McDONOUGH, JR., dated December 31, 1996 and recorded in Document No. 9706001893 of the Official Public Records of Comal County, Texas and also being comprised of TRACT I (63.024 acre tract) and TRACT III (164.150 acre tract) as conveyed by a SPECIAL WARRANTY DEED from Bank of America, N.A., as Successor Trustee to Nations / Bank of Texas, N.A., Trustee of the Bill and Darolyn Worth Living Trust under Agreement dated January 9, 1987 and as Trustee under Agreement of the Irvin Management Trust and Larry Irvin to James P. McDonough, Jr., dated April 14, 2006 and recorded in Document No. 200606016820 of the Official Public Records of Comal County, Texas, and also being all of a 170.902 acre tract described in a SUBSTITUTE TRUSTEE'S DEED from CECIL W. TALLEY, Trustee to CECIL EARL HILLBURN, dated August 6, 1991 and recorded in Volume 777, Pages 581-586 of the Official Public Records of Comal County, Texas said 635.060 acres (27,663,214 sq. ft.) of land being more particularly described as follows:

BEGINNING: at a set 1/2" iron pin with plastic cap "stamped 4233" in the Northwest Right of Way Line of I.H. 35 and being Easternmost corner of a 9.785 acre tract conveyed by Archie Ladshaw, et al to John Ladshaw by Deed dated March 28, 1984 and recorded in Volume 378, Pages 799-801 of the Official Public Records of Comal County, Texas, and the Southernmost corner of this parcel and said 236.949 acre tract (Grid N = 13,826,036.7772, Grid E = 2,270,776.7688, Scale factor of 1.00014 for surface adjustment);

THENCE: (1) NORTH 46 deg 00'07" West, (all bearings in this descriptions are referenced to Grid North of the Texas Coordinate System, Zone 4204, NAD 83 (93)), a distance of 3310.77 feet along the Southwest line of this parcel and the Northeast line of said 9.785 acre tract to a found 1/2" iron pin being the Northernmost corner of said 9.785 acre tract and an interior corner of this parcel;

THENCE: the following courses along the Southeast line of this parcel and said 236.949 acre tract and the Northwest line of said 9.785 acre tract and a 240.485 acre tract conveyed by Elizabeth Wagner, a widow to Archie Ladshaw, et al by Deed dated

January 14, 1967 and recorded in Volume 153, Pages 331-333 of the Deed Records of Comal County, Texas and the Northwest line of a 44.290 acre tract conveyed by HARVEY PAPE and wife, LEORA PAPE to PAPE'S FAMILY FARM, LTD, a Texas Limited Partnership, dated February 27, 2004 and recorded in Document No. 200406007834 of the Official Public Records of Comal County, Texas:

(2) SOUTH 44 deg 34'57" West, a distance of 1355.26 feet to a found 1/2" iron pin being an angle point;

(3) SOUTH 45 deg 11'30" East, a distance of 43.65 feet to a found 1/2" iron pin being an angle point; and

(4) SOUTH 44 deg 30'57" West, a distance of 1742.25 feet to a found 1/2" iron pin being the Easternmost corner of a 70.688 acre tract conveyed by ALAN ROMPLE also known as ALAN E. ROMPEL, SR. and wife LINDA ROMPEL to CONRADS ROAD, LTD, dated January 9, 2004, and recorded in Document No. 200406000885 of the Official Public Records of Comal County, Texas;

THENCE: (5) NORTH 45 deg 23'39" West, a distance of 3537.43 feet along the Southwest line of this parcel and said 236.949 acre tract and the Northeast line of said 70.688 acre tract to a set 1/2" iron pin with plastic cap "stamped 4233" in the Southeast Right of Way of the Union Pacific Railroad (formerly known as the INTERNATIONAL & GT NORTHERN RY. CO.) and being the Westernmost corner of this parcel and said 236.949 acre tract and the Northernmost corner of said 70.688 acre tract; and being a point of curvature;

THENCE: the following courses along the Northwest line of this parcel and the Southeast Right of Way line of the Union Pacific Railroad:

(6) 1319.73 feet along the arc of a curve to the right, having a radius of 5679.65 feet, and a central angle of 13 deg 18'48", and whose chord bears North 56 deg 11'48" East, a distance of 1316.76 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of tangency;

(7) NORTH 62 deg 51'12" East, a distance of 1677.18 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of curvature; and

(8) 1022.68 feet along the arc of a curve to the left, having a radius of 2914.93 feet and a central angle of 20 deg 06'06", and whose chord bears North 52 deg 48'09" East, a distance of 1017.43 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of tangency; and

(9) NORTH 42 deg. 45' 06" East, a distance of 385.90 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being the Northernmost corner of this parcel and said 63.024 acre tract and the Westernmost corner of a 200.240 acre tract as conveyed by SPECIAL WARRANTY DEED WITH VENDOR'S LIEN from MARTIN MARIETTA MATERIALS SOUTHWEST, LTD. to BLUEGREEN SOUTHWEST ONE, L.P., A Delaware Limited Partnership, executed July 19, 2005 and recorded in Document No. 200506026533 of the Official Public Records of Comal County, Texas;

THENCE: (10) SOUTH 45 deg. 58' 46" East, a distance of 2471.01 feet along the Northeast line of this parcel and said 63.024 acre tract and the Southwest line of said 200.240 acre tract to a found 1/2" iron pin being an interior corner of this parcel and the Westernmost corner of said 170.902 acre tract and the Southernmost of said 200.240 acre tract;

THENCE: the following courses along the Northwest line of this parcel and said 170.902 acre tract and the Southeast line of said 200.240 acre tract and a 7.46 acre tract conveyed by MCDONOUGH BROTHER'S, INCORPORATED to CITY OF NEW BRAUNFELS (UTILITIES) executed June 8, 1979 and recorded in Volume 283, Pages 775-776 of the Deed Records of Comal County, Texas;

(11) NORTH 43 deg 09'01" East, a distance of 2596.32 feet to a wood fence post being an angle point; and

(12) NORTH 42 deg 57'44" East, a distance of 1556.85 feet to a found 1/2" iron pin with plastic cap stamped "OVERBY-DESCAMPS" being the Northernmost corner said 170.902 acre tract and an interior corner of said 200.240 acre tract;

THENCE: the following courses along the Northeast line of this parcel and said 170.902 acre tract and the Southwest line of said 200.240 acre tract:

(13) SOUTH 46 deg 50'12" East, a distance of 702.27 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point;

(14) SOUTH 46 deg 29'50" East, a distance of 817.93 feet to a wood fence post being an angle point; and

(15) SOUTH 47 deg 00'31" East, a distance of 722.97 feet to a set 1/2" iron pin with plastic cap "stamped 4233" in the Northwest Right of Way Line of I.H. 35 and being the Easternmost corner of this parcel and said 170.902 acre tract and a re-entrant corner of said 200.240 acre tract;

THENCE: (16) SOUTH 32 deg 08'27" West, a distance of 1684.15 feet along the Southeast line of this parcel and said 170.902 acre tract and the Northwest Right of Way Line of I.H. 35 to a set 1/2" iron pin with plastic cap "stamped 4233" being a re-entrant corner to said 170.902 acre tract and the Easternmost corner of a 164.150 acre tract (designated TRACT III) conveyed by SPECIAL WARRANTY DEED to James P. McDonough, Jr., dated April 14, 2006 and recorded in Document No. 200606016820 of the Official Public Records of Comal County, Texas;

THENCE: the following courses along the Southeast line of this parcel and said 164.150 acre tract and the Northwest Right of Way Line of I.H. 35:

(17) SOUTH 32 deg. 08' 27" West, a distance of 704.69 feet to a found Type I TxDOT concrete monument being a point of curvature;

(18) 338.16 feet along the arc of a curve to the left, having a radius of 11,625.15 feet, and a central angle of 01 deg. 40' 00", and whose chord bears South 31 deg. 15' 06" West, a distance of 338.15 feet to a found Type I TxDOT concrete monument being a point of tangency;

(19) SOUTH 30 deg. 29' 02" West, a distance of 1147.92 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point;

(20) SOUTH 34 deg. 18' 02" West, a distance of 300.46 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point;

(21) SOUTH 30 deg. 29' 02" West, a distance of 1000.00 feet to a found Type I TxDOT concrete monument being an angle point; and

(22) SOUTH 26 deg. 39' 57" West, a distance of 266.94 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being the Southernmost corner of said 164.150 acre tract and the Easternmost corner of a 236.949 acre tract as conveyed by SPECIAL

WARRANTY DEED from NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH JR., dated December 31, 1996, and recorded in Document No. 9706001893 of the Official Public Records of Comal County, Texas;

THENCE: the following courses along the Southeast line of this parcel and said 236.949 acre tract and the Northwest Right of Way Line of said I.H. 35:

(23) SOUTH 26 deg 39'57" East, a distance of 33.42 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point; and

(24) SOUTH 30 deg 29'02" East, a distance of 49.00 feet to a set 1/2" iron pin with plastic cap "STAMPED 4233" being the POINT OF BEGINNING, containing 635.060 acres (27,663,214 sq. ft.) of land.

PART 2:

96.074 acres (4,184,983 sq. ft.) of land out of the NANCY KENNER LEAGUE SURVEY NO. 3, Abstract No. 306, Comal County, Texas, and comprising of TRACT II (0.529 of an acre tract), TRACT IV (53.350 acre tract) and TRACT V (14.423 acre tract) as conveyed by said SPECIAL WARRANTY DEED dated April 14, 2006, and recorded in Document No. 200606016820 of the Official Public Records of Comal County, Texas, and also being all of a 27.593 acre tract as conveyed NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH, JR., dated December 31, 1996 and recorded in Document No. 9706001893 of the Official Public Records of Comal County, Texas, said 96.074 acres (4,184,983 sq. ft.) of land being more particularly described as follows:

BEGINNING: at a found 1" diameter iron pipe in the Southeast Right of Way Line of F.M. Road 1102 and being the Northernmost corner of this parcel and said 14.423 acre tract and being the Westernmost corner of an 88.193 acre tract (designated as TRACT 3) conveyed by SPECIAL WARRANTY DEED WITH VENDOR'S LIEN, to BLUEGREEN SOUTHWEST ONE, L.P., a Delaware Partnership, executed on July, 19, 2005 and recorded in Document No. 200506026533 of the Official Public Records of Comal County, Texas (Grid N = 13,832,027.6173, Grid E = 2,266,296.3350, Scale factor of 1.00014 for surface adjustment);

THENCE: (1) SOUTH 46 deg. 01' 39" East, a distance of 1319.31 feet along the Northeast line of this parcel and said 14.423 acre tract and the Southwest line of said 88.193 acre tract to a found 1/2" iron pin in the Northwest Right of Way Line of the Union Pacific Railroad (formerly known as the Missouri Kansas and Texas Railroad) and being the Easternmost corner of this parcel and said 14.423 acre tract and the Southernmost corner of said 88.193 acre tract;

THENCE: the following courses along the Southeast line of this parcel and said TRACT V, TRACT II and TRACT IV and the Northwest Right of Way Line of said Union Pacific Railroad:

(2) SOUTH 42 deg. 45' 06" West, a distance of 365.33 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of curvature;

(3) 986.76 feet along the arc of a curve to the right, having a radius of 2814.90 feet, and a central angle of 20 deg. 05' 06", and whose chord bears South 52 deg. 47' 39" West, a distance of 981.71 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of tangency;

(4) SOUTH 62 deg. 50' 12" West, a distance of 832.41 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point;

(5) NORTH 45 deg. 03' 04" West, a distance of 52.54 feet to a found 1/2" iron pin being an angle point, and

(6) SOUTH 62 deg. 50' 12" West, a distance of 799.35 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being the Southernmost corner said 53.350 acre tract and the Easternmost corner of a 27.593 acre tract as conveyed by SPECIAL WARRANTY DEED from NATIONSBANK OF TEXAS, N.A., TRUSTEE to JAMES P. McDONOUGH, JR., dated December 31, 1996 and recorded in Document No. 9706001893 of the Official Public Records of Comal County, Texas;

THENCE: the following courses along the Southeast line of this parcel and said 27.593 acre tract and the Northwest Right of Way of said Union Pacific Railroad:

(7) SOUTH 62 deg 50'12" West, a distance of 113.44 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of curvature

(8) 293.35 feet along the arc of a curve to the left having a radius of 5829.65 feet and a central angle of 02 deg 52'59", and whose chord bears South 61 deg 23'42" West, a distance of 293.32 feet to a found 1/2" iron pin being an angle point;

(9) SOUTH 30 deg 16'22" East, a distance of 50.00 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of curvature;

(10) 417.76 feet along the arc of a curve to the left, having a radius of 5779.65 feet, and a central angle of 04 deg 08'29", and whose chord bears South 57 deg 53'05" West, a distance of 417.67 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being an angle point

(11) NORTH 44 deg 21'29" West, a distance of 30.48 feet to a found 1/2" iron pin being a point of curvature

(12) 736.56 feet along the arc of a curve to the left, having a radius of 5809.65 feet, and a central angle of 07 deg 15'51", and whose chord bears South 52 deg 07'44" West, a distance of 736.07 feet to found 1/2" iron pin being an angle point;

(13) SOUTH 43 deg 16'40" East, a distance of 30.01 feet to set 1/2" iron pin with plastic cap "stamped 4233" being a point of curvature;

(14) 66.71 feet along the arc of a curve to the left, having a radius of 5779.65 feet, and a central angle of 00 deg 39'41", and whose chord bears South 48 deg 10'31" West, a distance of 66.71 feet to a set 1/2" iron pin with plastic cap "stamped 4233" being a point of tangency; and

(15) SOUTH 47 deg 50'41" West, a distance of 437.51 feet to a found 1/2" iron pin being the Southernmost corner of the parcel and said 27.593 acre tract and the Easternmost corner of a 3 acre tract conveyed by SHERMAN W. WEST ET UX TO CLAUDIO MENDEZ ET UX executed on May 17, 1962, and recorded in Volume 128, Pages 374-376 of the Deed Records of Comal County, Texas.

THENCE: (16) NORTH 45 deg 40'16" West, a distance of 654.40 feet along the Southwest line of this parcel and said 27.593 acre tract and the Northeast line of said 3 acre tract to a found 1/2" iron pin in the Southeast Right of Way Line of F.M. Road 1102 and being the Westernmost corner of this parcel and said 27.593 acre tract and the Northernmost corner of said 3 acre tract.

THENCE: the following courses along the Northwest line of this parcel and said 27.593 acre tract and the Southeast Right of Way Line of said F.M. Road 1102:

(17) NORTH 44 deg 22'56" East, a distance of 133.92 feet to a found 1/2" iron pin being a point of curvature;

(18) 645.06 feet along the arc of a curve to the right, having a radius of 2824.90 feet, and a central angle of 13 deg 05'00", and whose chord bears north 50 deg 57'36" East, a distance of 643.66 feet to a found 1/2" iron pin being a point of tangency;

(19) NORTH 57 deg 26'58" East, a distance of 149.84 feet to a found 1/2" iron pin being an angle point;

(20) NORTH 61 deg 11'34" East, a distance of 365.34 feet to a found 1/2" iron pin being an angle point;

(21) NORTH 64 deg 42'33" East, a distance of 388.56 feet to a found 1/2" iron pin being a point of curvature; and

(22) 470.90 feet along the arc of a curve to the left, having a radius of 1472.70 feet, and a central angle of 18 deg 19'14", and whose chord bears North 55 deg 55'39" East, a distance of 468.90 feet to a found 1/2" iron pin being the Northernmost corner of said 27.593 acre tract and the Westernmost corner of said 53.350 acre tract (designated as TRACT IV) of said SPECIAL WARRANTY DEED;

THENCE: the following courses along the Northwest line of this parcel and said 53.350 acre tract, said 0.529 of an acre tract, and said 14.423 acre tract and the Southeast Right of Way Line of said F.M. 1102:

(23) NORTH 46 deg. 34' 14" East, a distance of 419.44 feet to a found 1/2" iron pin being a point of curvature;

(24) 296.68 feet along the arc of a curve to the left, having a radius of 1950.10 feet, and a central angle of 08 deg. 43' 00", and whose chords bears North 42 deg. 13' 24" East, a distance of 296.39 feet to a found 1/2" iron pin being a point of tangency;

(25) NORTH 37 deg. 52' 39" East, a distance of 625.38 feet to a found 1/2" iron pin being a point of curvature;

(26) 392.79 feet along the arc of a curve to the right, having a radius of 5689.70 feet, and a central angle of 03 deg. 57' 19", and whose chord bears North 39 deg. 59' 23" East, a distance of 392.71 feet to a set 1/2" iron pin with plastic cap "stamped 4233' being a point of tangency;

(27) NORTH 40 deg. 31' 03" East, a distance of 46.82 feet to a found 3/8" iron pin being an angle point;

(28) NORTH 41 deg. 54' 40" East, a distance of 651.39 feet to a found 1/2" iron pin being an angle point;

(29) NORTH 47 deg. 13' 29" East, a distance of 350.23 feet to a found 1/2" iron pin being an angle point; and

(30) NORTH 52 deg. 37' 59" East, a distance of 47.66 feet to a found 1" diameter iron pipe being the POINT OF BEGINNING, and containing 96.074 acres (4,184,983 sq. ft.) of land.

SECTION 5. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.



(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. (a) Section 7206.103, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7206, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7206.103 to read as follows:

Sec. 7206.103. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

(d) If another state agency, including the Public Utility Commission of Texas, succeeds to the power, authority, duties, or jurisdiction of the Texas Commission on Environmental Quality for any matter addressed by this Act, then any reference in this Act to the Texas Commission on Environmental Quality as to those matters means the successor agency. All compensation owed to the Crystal Clear Water Supply Corporation under Section 13.254, Water Code, whether liquidated or not, for the area decertified by order of the Texas Commission on Environmental Quality under Application No. 37192-C, and all claims, causes of action, choses in action, rights, benefits, and interest are considered an asset of the corporation, and on transfer of the assets of the corporation to the district, such claims, causes of action, choses in action, rights, benefits, interest, and compensation is owed to, and accrues to, the district.

SECTION 7. 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, 2013.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1116**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

#### **SENATE BILL 1210 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1210** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1210** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to conditions on the receipt of tuition and fee exemptions and waivers at public institutions of higher education.

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

SECTION 1. Subchapter D, Chapter 54, Education Code, is amended by adding Sections 54.2001 and 54.2002 to read as follows:

Sec. 54.2001. CONTINUED RECEIPT OF EXEMPTIONS OR WAIVERS CONDITIONAL. (a) Notwithstanding any other law but subject to Subsection (f), after initially qualifying under this subchapter for a mandatory or discretionary exemption or waiver from the payment of all or part of the tuition or other fees for enrollment during a semester or term at an institution of higher education, a person may continue to receive the exemption or waiver for a subsequent semester or term only if the person:

(1) as a graduate or undergraduate student, maintains a grade point average that satisfies the institution's grade point average requirement for making satisfactory academic progress toward a degree or certificate in accordance with the institution's policy regarding eligibility for financial aid; and

(2) as an undergraduate student, has not completed as of the beginning of the semester or term a number of semester credit hours that is considered to be excessive under Section 54.014, unless permitted to complete those hours by the institution on a showing of good cause.

(b) In determining whether a person has completed a number of semester credit hours that is considered to be excessive for purposes of Subsection (a)(2), semester credit hours completed include transfer credit hours that count toward the person's undergraduate degree or certificate program course requirements but exclude:

(1) hours earned exclusively by examination;

(2) hours earned for a course for which the person received credit toward the person's high school academic requirements; and

(3) hours earned for developmental coursework that an institution of higher education required the person to take under Section 51.3062 or under the former provisions of Section 51.306.

(c) If on the completion of any semester or term a person fails to meet any requirement of Subsection (a), for the next semester or term in which the person enrolls the person may not receive the exemption or waiver described by Subsection (a). A person may become eligible to receive an exemption or waiver in a subsequent semester or term if the person:

(1) completes a semester or term during which the person is not eligible for an exemption or waiver; and

(2) meets each requirement of Subsection (a), as applicable.

(d) Each institution of higher education shall adopt a policy to allow a student who fails to maintain a grade point average as required by Subsection (a)(1) to receive an exemption or waiver in any semester or term on a showing of hardship or other good cause, including:

(1) a showing of a severe illness or other debilitating condition that could affect the student's academic performance;

(2) an indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care could affect the student's academic performance;

(3) the student's active duty or other service in the United States armed forces or the student's active duty in the Texas National Guard; or

(4) any other cause considered acceptable by the institution.

(e) An institution of higher education shall maintain documentation of each exception granted to a student under Subsection (d).

(f) If a requirement imposed by this section for the continued receipt of a specific exemption or waiver conflicts with another requirement imposed by statute for that exemption or waiver, the stricter requirement prevails.

(g) This section does not apply to:

(1) the waiver provided by Section 54.216 or any other reduction in tuition provided to a high school student for enrollment in a dual credit course or other course for which the student may earn joint high school and college credit;

(2) the exemption provided by Section 54.341(a-2)(1)(A), (B), (C), or (D) or (b)(1)(A), (B), (C), or (D);

(3) the exemption provided by Section 54.342 or 54.366; or

(4) any provision of this code that authorizes or requires the payment of tuition or fees at the rates provided for residents of this state by a person who is not a resident of this state for purposes of Subchapter B.

Sec. 54.2002. EXEMPTIONS AND WAIVERS FOR STATE-FUNDED COURSES ONLY. Notwithstanding any other law, a mandatory or discretionary exemption or waiver from the payment of tuition or other fees under this subchapter or another provision of this code applies only to courses for which an institution of higher education receives formula funding.

SECTION 2. The change in law made by this Act applies to a person's eligibility for an exemption or waiver from the payment of all or part of tuition or other fees beginning with tuition and fees charged for the 2014 fall semester.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1210**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1599 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1599** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1599** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to county and municipal land development regulation.

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

SECTION 1. Section 405.021, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) A system described by Subsection (g):

(1) must include a method for a municipality or county, on a form prescribed by the secretary of state, to nominate an area for identification as a colonia; and

(2) may provide for the review of a nominated area by the Texas Water Development Board, the office of the attorney general, or any other appropriate state agency as determined by the secretary of state.

SECTION 2. Section 232.022(d), Local Government Code, is amended to read as follows:

(d) This subchapter does not apply if all ~~each~~ of the lots of the subdivision are more than ~~is~~ 10 ~~or more~~ acres.

SECTION 3. Section 232.023, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A subdivider of land must have a plat of the subdivision prepared if at least one of the lots of the subdivision is five acres or less. A commissioners court by order may require each subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section ~~[subsection]~~ includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION 4. Section 232.072, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The owner of a tract of land that divides the tract in any manner that creates at least one lot ~~[lots]~~ of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A commissioners court by order may require each subdivider of land to prepare a plat if none of the lots is five acres or less but at least one of the lots of the subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION 5. Section 16.343, Water Code, is amended by adding Subsection (f) and amending Subsection (g) to read as follows:

(f) The model rules may impose a platting or replatting requirement pursuant to Subsection (b)(2), (c)(2), or (d). Except as may be required by an agreement developed under Chapter 242, Local Government Code, a municipality that has

adopted the model rules may impose the applicable platting requirements of Chapter 212, Local Government Code, and a county that has adopted the model rules may impose the applicable platting requirements of Chapter 232, Local Government Code, to real property that is required to be platted or replatted by the model rules under this section.

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, if the applicant is located:

(1) in a municipality, the municipality must adopt and enforce the model rules in accordance with this section;

(2) in the extraterritorial jurisdiction of a municipality, the applicant must demonstrate that the model rules have been adopted and are enforced in the extraterritorial jurisdiction by the municipality or the county; or

(3) outside the extraterritorial jurisdiction of a municipality, the county must adopt and enforce the model rules in accordance with this section [a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules].

SECTION 6. The changes in law made by this Act to Chapter 232, Local Government Code, apply only to a subdivision plat application submitted for approval on or after the effective date of this Act. A subdivision plat application submitted for approval before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2013.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1599**.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Paxton.

Absent-excused: Carona.

### **SENATE BILL 1601 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1601** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1601** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of the Central Laredo Municipal Management District; providing authority to impose a tax, levy an assessment, impose a fee, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3862 to read as follows:

CHAPTER 3862. CENTRAL LAREDO MUNICIPAL MANAGEMENT DISTRICT  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3862.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Laredo, Texas.
- (3) "Director" means a board member.
- (4) "District" means the Central Laredo Municipal Management District.

Sec. 3862.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3862.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) The district is created to supplement and not to supplant city services provided in the district.

Sec. 3862.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment;
- (3) developing or expanding transportation and commerce; and
- (4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping, removing graffiti, and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3862.005. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3862.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project. A project may not receive public funds under Section 380.002(b), Local Government Code, unless the project has been approved by the governing body of the city.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006(b), Tax Code.

Sec. 3862.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3862.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3862.051. GOVERNING BODY; TERMS. The district is governed by a board of nine directors who serve staggered terms of four years expiring June 1 of each odd-numbered year.

Sec. 3862.052. QUALIFICATIONS OF DIRECTORS APPOINTED BY CITY.

(a) To be qualified to serve as a director appointed by the governing body of the city, a person must be:

- (1) a resident of the district who is also a registered voter of the district;
- (2) an owner of property in the district;
- (3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;
- (4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district; or
- (5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3862.053. APPOINTMENT OF DIRECTORS. The governing body of the city shall appoint directors from persons recommended by the board.

Sec. 3862.054. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3862.055. DIRECTOR'S OATH OR AFFIRMATION. (a) A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

(b) A director shall file a copy of the director's oath or affirmation with the secretary of the city.

Sec. 3862.056. QUORUM. A vacant director position is not counted for purposes of establishing a quorum.

Sec. 3862.057. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3862.058. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation for each director in one year may not exceed \$2,000.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3862.059. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

- (1) actions taken by the director in the director's capacity as a member of the board;
- (2) actions and activities taken by the district; or



(3) the actions of others acting on behalf of the district.

Sec. 3862.060. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3862.061. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3862.062. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Jorge Verduzco</u>
<u>2</u>	<u>Raul Perales</u>
<u>3</u>	<u>Rick Norton</u>
<u>4</u>	<u>Larry Friedman</u>
<u>5</u>	<u>Roque Haynes</u>
<u>6</u>	<u>Viviana Frank</u>
<u>7</u>	<u>Rafael Torres</u>
<u>8</u>	<u>Javier B. Santos</u>
<u>9</u>	<u>Anselmo Robledo</u>

(b) The terms of the initial directors expire June 1, 2015.

(c) Of the directors who replace an initial director, the terms of directors serving in positions 1, 2, 3, 4, and 5 expire June 1, 2017, and the terms of directors serving in positions 6, 7, 8, and 9 expire June 1, 2019.

(d) Section 3862.052 does not apply to this section.

(e) This section expires September 1, 2019.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3862.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3862.102. IMPROVEMENT PROJECTS AND SERVICES. (a) The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) An improvement project described by Subsection (a) may be located:

(1) in the district; or

(2) in an area outside but adjacent to the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Sec. 3862.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3862.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3862.105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3862.106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including Webb County or the city, to provide law enforcement services in the district for a fee.

Sec. 3862.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3862.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3862.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3862.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3862.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3862.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain an improvement project or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3862.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Webb County; or

(2) at least 25 persons who own real property in the district subject to assessment, if more than 25 persons own real property in the district subject to assessment as determined by the most recent certified tax appraisal roll for Webb County.

Sec. 3862.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3862.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3862.156. LIMITATION ON AMOUNT OF CERTAIN ASSESSMENTS. An assessment based on the taxable value of real property may not exceed 20 cents per \$100 of assessed valuation of taxable property in the district, according to the most recent certified tax appraisal roll for Webb County.

Sec. 3862.157. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3862.201. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Sec. 3862.202. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3862.203. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Sec. 3862.204. ELECTIONS REGARDING TAXES. The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax.

SUBCHAPTER F. DISSOLUTION

Sec. 3862.251. DISSOLUTION BY CITY ORDINANCE. (a) The city by ordinance may dissolve the district.

(b) The city may not dissolve the district until the district's outstanding debt or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the city has affirmatively assumed the obligation to pay the outstanding debt from city revenue.

Sec. 3862.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3862.253. CONCURRENCE ON ADDITIONAL POWERS. If the legislature grants the district a power that is in addition to the powers approved by the initial resolution of the governing body of the city consenting to the creation of the district, the district may not exercise that power unless the governing body of the city consents to that change by resolution.

Sec. 3862.254. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Central Laredo Municipal Management District initially includes all territory contained in the following area:

The Central Laredo Municipal Management District is approximately 918 acres (1.43 sq. mi.) and is situated in the central business district of Laredo with the beginning point being at north right-of-way (ROW) of Park St. and east ROW of San Dario Ave. and described by the following:

Then east along north ROW of Park St. to east ROW of San Eduardo Ave.;

Then south along east ROW of San Eduardo Ave. to south ROW of Washington St.;

Then east along south ROW of Washington St to east ROW of San Jorge Ave.;

Then north along east ROW of San Jorge Ave. to north ROW of Moctezuma St.;

Then east along north ROW of Moctezuma St.; to southwest corner of 0.797 ac. parcel (LOT 1,3,5,7 BLK 221 WD ZACATE CREEK PROJECT);

Then north along west boundary of said 0.797 ac. parcel, and 0.797 ac. parcel (LOTS 1,3,5,7 BLK 239 WD ZACATE CREEK PROJECT) to north ROW of Coke St;

Then east along north ROW of Coke St to west ROW of San Enrique Ave.;

Then north along west ROW of San Enrique Ave. to south ROW of Garcia St.;

Then east along south ROW of Garcia St. to centerline of Zacate Creek drainage easement;

Then north along centerline of drainage easement to a point west of south ROW of W. Fremont St. and northwest corner of 1.7716 acre parcel (ALL BLK 259 ED ZACATE CREEK PROJECT);

Then east along north boundary of said 1.7716 acre parcel and south ROW of W. Fremont St. to east ROW McDonell Ave.;

Then south along east ROW of McDonell Ave. to north ROW of W. Guerrero St.;

Then east along north ROW of W. Guerrero St. to east ROW of Monterrey Ave.;

Then south along east ROW of Monterrey Ave. to north ROW of Galveston St.;

Then east along north ROW of Galveston St. to east ROW of Marcella Ave.;

Then south along east ROW of Marcella Ave. to south ROW of Mier St.;

Then west along south ROW of Mier St. to east ROW of Monterrey Ave.;

Then south along east ROW of Monterrey Ave. to north ROW of Garfield St.;

Then east along north ROW of Garfield Ave. to east ROW of Sanders Ave.;

Then south along east ROW of Sanders Ave. to northwest corner of 0.666 ac. Parcel (LOT 6, 7, 8, PT 1 BLK 85 ED (NON OPER));

Then east along north boundary of said 0.666 ac. parcel, and LOT 5 BLK 85 ED, and BLK 59 ED Lots 1-6, LOTS 1-6 BLK 80 ED, LOTS 1-6 BLK 81 ED to east ROW of Lexington Ave. and southwest corner of 0.4429 ac. Parcel (LOTS 10-11-12 BLK 82 ED);

Then north along east ROW of Lexington Ave. to south ROW of Garfield St.;

Then east along south ROW of Garfield St. to west ROW of Cedar Ave.;

Then south along west ROW of Cedar Ave. to point west of northwest corner of 0.1107 ac. Parcel (N1/2 OF LOT 8 BLK 83 ED);

Then east across ROW of Cedar Ave. and along north boundary of Blk 83 ED Lots 5-8, across ROW of Logan Ave., and along north boundary of Blk 91 ED Lots 7-8 and to southwest corner of 0.2214 ac. Parcel (LOT 3 BLK 91 ED);

Then north along west boundary of said 0.2214 ac. parcel to south ROW of Garfield St.;

Then east along south ROW of Garfield St. to east ROW of Hendricks Ave.;

Then south along east ROW of Hendricks Ave. to northwest corner of 0.558 ac. Parcel (LOTS 1-2-3-4 BLK 598 ED OFFICE BLDS AT 1002 CORPUS CHRISTI);

Then east along north boundary of said 0.558 ac. parcel, and 0.277 ac. Parcel (LOTS 5-6 BLK 598 ED 1020 CORPUS CHRISTI), Lots 7-12 BLK 632 ED, Lots 7-12 BLK 693 ED, Lots 1-6 BLK 727 ED, Lots 4-9 BLK 788 ED to west ROW of Seymour Ave.;

Then north along west ROW of Seymour Ave. to a point west of northwest corner of 0.356 ac. parcel (LOTS 7-8 BLK 823 ED);

Then east across ROW of N. Seymour Ave. and along north boundary to said 0.356 ac. parcel and northeast corner of said parcel ;

Then south along east boundary of said 0.356 ac. parcel to coincident northwest corner of 0.178 ac. Parcel (LOT 3 BLK 823 ED);

Then east along north boundary of said 0.178 ac. parcel to east ROW of N. Meadow Ave.;

Then south along east ROW of N. Meadow Ave. to a point due east of southeast corner of 0.3366 acre parcel (LOTS 5-6 & E20.78' OF 4 BLK 822 ED) and Lots 1-6 BLK 822 ED.;

Then west across ROW of N. Meadow Ave. and along south boundary of Lots 1-6 BLK 822 ED, Lots 1-6 BLK 789 ED, Lots 1-4 BLK 726 ED, Lots 1-6 BLK 694 ED to east boundary of 0.88 ac. parcel (LOTS 4-5-6-7-8-9 AKA REPLAT LOT 1A BLK 631 ED 0.88 ACRE) and west ROW of McPherson Ave.;

Then south along west ROW of McPherson Ave. to north ROW of Laredo St.;

Then west along north ROW of Laredo St. and south boundary of said 0.88 ac. parcel to southwest corner of said parcel;

Then north along west boundary of said 0.88 ac. parcel to coincident southeast corner of 0.2047 ac. parcel (REPLAT LOT 2A BLK 631 ED);

Then west along south boundary of said 0.2047 ac. parcel, and REPLAT LOT 1A BLK 631 ED to west ROW of McClelland Ave. and east boundary of 0.63 ac. parcel (LOTS 7-8-9-10 & N20' OF LOTS 5-6 BLK 599 ED);

Then south along east boundary of said 0.63 ac. parcel to southeast corner of said parcel;

Then west along south boundary of said 0.63 acre parcel to southwest corner of said parcel;

Then north and west along boundary of said 0.63 acre parcel, and Lots 11-12 BLK 599 ED, 0.4425 ac. parcel (Lots 3-4 BLK 555 ED) to southwest corner of said 0.4425 ac. parcel and coincident east boundary of 0.2718 ac. parcel (REPLAT LOT 9-A & 619.45 SQ FT OUT OF LOT 2 BLK 555 ED);

Then south along east boundary of said 0.2718 ac. parcel to southeast corner of said parcel;

Then west along south boundary of said 0.2718 ac. parcel to west ROW of Tilden Ave.;

Then north along west ROW of Tilden Ave to southeast corner of 0.442723 ac. parcel (LOT 3 BLK 93 ED);

Then west along south boundary said 0.442723 ac. parcel, and Lots 1-3 BLK 93 ED, Lots 7-12 BLK 92 ED, Lots 7-12 BLK 45 ED, Lots 7-12 BLK 44 ED to east ROW of N. Maryland Ave.;

Then south along east ROW of N. Maryland Ave. to northwest corner of 0.051 ac. parcel (N40' OF LOT 10 BLK 38 ED);

Then east along north boundary of said 0.051 ac. parcel, Lots 6-10 BLK 38 ED, Lots 6-10 BLK 37 ED, Lots 5-8 BLK 36 ED, to east ROW of Logan Ave.;

Then north along east ROW of Logan Ave. to south ROW of Laredo St.;

Then east along south ROW of Laredo St. to west ROW of Tilden Ave.;

Then south along west ROW of Tilden Ave. to a point west of northwest corner of 0.526 (LOTS 5-8 & S8' OF 1 & S8' OF W23.21' OF 2 & E46.23' OF S55.2' OF 2 & W23.4' OF S55.2' OF 3 & E45.96' OF S8' OF 3 & S8' OF 4 BLK 556 ED);

Then east across ROW of Tilden Ave. and along north boundary of said 0.526 ac. parcel (LOTS 5-8 & S8' OF 1 & S8' OF W23.21' OF 2 & E46.23' OF S55.2' OF 2 & W23.4' OF S55.2' OF 3 & E45.96' OF S8' OF 3 & S8' OF 4 BLK 556 ED), E37-W74.82-N30 OF L4;S16.5 OF W54.32 OF L4;W54.32'-5&6 E37.68-W92' OF LT4-5&6; W39.32' OF N30'LT 4 BLK 600 ED, E46' OF LOTS 4-5 & W18' OF LOT7-8-9 BLK 600 ED to west boundary of 0.84 ac. parcel (PT OF LOTS 7,8 & 9, ALL OF 10, 11 & 12 BLK 600 ED);

Then north along west boundary of said 0.84 ac. parcel to northwest boundary of said parcel and south ROW of Laredo St.;

Then east along south ROW of Laredo St., across ROW of McClellan Ave. to northeast corner of 0.77125 ac. parcel (LOTS 1,2,3 & W1/2 OF 10,11 &12 BLK 630 ED);

Then south along east boundary of said 0.77125 ac. parcel to north boundary of 0.484 ac. parcel (LOTS 7-8-9 & E1/2 OF 10 BLK 630 ED);

Then east along north boundary of said 0.484 ac. parcel, and W19' OF 11 & ALL 12 BLK 695 ED, and LOT 10-A BLK 695 ED, and east across LOTS 4 TO 9 BLK 695 ED, WELLS FARGO BANK - LAREDO EAST BRANCH, and LOTS 7-12 BLK 725 ED to east ROW of N. Loring Ave.;

Then north along east ROW of N. Loring Ave. to south ROW of Laredo St.;

Then east along south ROW of Laredo St. to west ROW of N. Seymour Ave.;

Then south along west ROW of N. Seymour Ave. to a point west of northwest corner of 0.418 ac. parcel (LOTS 10-11-12 BLK 821 ED);

Then east along north boundary of said 0.418 ac. parcel, and REPLAT LOT 7-A BLK 821 ED, and N1/2 OF 7-8 BLK 821 ED to east ROW of N. Meadows Ave.;

Then south along east ROW of N. Meadows Ave. to a point east of southeast corner of 0.266676 acre parcel (REPLAT 5A (PREV-E7' OF N88.6' OF 4 & N88.6' OF 5 & N88.2 OF 6) BLK 819 ED);

Then west across the ROW of N. Meadows Ave. and along south boundary of LOTS 1-5 BLK 819 ED, and LOTS 1-6 BLK 792 ED, to east ROW of N. Loring Ave.;

Then north along east ROW of N. Loring Ave. to a point west of north boundary of 0.383344 ac. parcel (N90' OF 7 TO 10 BLK 723 ED);

Then west across ROW of N. Loring Ave. and along south boundary of said 0.383344 ac. parcel to northeast corner of 0.093226 ac. parcel (S48' OF 10 & SW38' OF 9 BLK 723 ED);

Then south along east boundary of said 0.093226 ac. parcel to southeast corner of said parcel;

Then west along south boundary of said 0.093226 ac. parcel, and LOTS 11-12 BLK 723 ED, and LOTS 7-12 BLK 697 ED, and LOTS 1-6 BLK 628 ED, and LOTS 7-12 BLK 602 ED, and LOT 7-12 BLK 558 ED, and LOTS 7-12 BLK 96 ED, and LOTS 7-12 BLK 26 ED, and LOTS 2-5 BLK 27 ED, and LOTS 1-5 BLK 28 ED, to east ROW of Maryland Ave.;

Then south along east ROW of Maryland Ave. to northwest corner of 0.221551 ac. parcel (LOT 8 BLK 23 ED);

Then east along north boundary of said 0.221551 ac. parcel, and LOTS 5-7 BLK 23 ED to southwest corner of 0.332134 ac. parcel (E1/2 OF LOT 3 & ALL OF LOT 4 BLK 23 ED);

Then north along west boundary of said 0.332134 ac. parcel to northwest corner of said parcel and south ROW of Rosario St.;

Then east along south ROW of Rosario St. to east ROW of Cedar Ave.;

Then south along east ROW of Cedar Ave. to northwest corner of 0.28292 ac. parcel (LOTS 1-2 BLK 25 ED);

Then east along north boundary of said 0.28292 ac. parcel, and LOT 3-6 BLK 25 ED, and LOTS 7-12 BLK 97 ED, and LOTS 7-12 BLK 559 ED, and LOTS 7-12 BLK 603 ED, LOTS 7-12 BLK 627 ED, to east ROW of McPherson Ave.;

Then north along east ROW of McPherson Ave.; to south ROW of Rosario St.;

Then east along south ROW of Rosario St. to west ROW of N. Stone Ave.;

Then south along west ROW of N. Stone Ave. to a point west of northwest corner of 0.2796 ac. parcel (LOTS 11-12 BLK 722 ED);



Then east across ROW of N. Stone Ave. and along north boundary of said 0.2796 ac. parcel, and LOTS 7-12 BLK 722 ED, and LOTS 7-12 BLK 793 ED, and LOTS 7-12 BLK 818 ED to east ROW of N. Meadow Ave.;

Then south along east ROW of N. Meadow Ave. to a point east of southeast corner of 0.2746 acre parcel (LOTS 5 & 6 BLK 817 ED AT 1519 MARKET ST);

Then west across ROW of N. Meadow Ave. and along said 0.2746 acre parcel and LOTS 1-6 BLK 817 ED, and LOTS 1-6 BLK 794 ED to west ROW of N. Loring Ave.;

Then north along west ROW of N. Loring Ave. to south ROW of Market St.;

Then west along south ROW of Market St. to east ROW of N. Stone Ave.;

Then south along east ROW of N. Stone Ave. to a point east of southeast corner 0.293361 ac. parcel (LOT 7-8 BLK 699 ED);

Then west across ROW of N. Stone Ave. and along south boundary of said 0.293361 ac. parcel, and LOTS 9-10 BLK 699 ED, and REPLAT LOT 12-A BLK 699 ED, and LOTS 7-12 BLK 626 ED, and LOTS 1-6 BLK 604 ED, and LOTS 1-6 BLK 560 ED, and LOTS 1-6 BLK 98 ED, and LOTS 3-4 BLK 10 ED, and E53.44' OF LOT 2 BLK 10 ED, and LOT 1 & W16' OF 2 & N13X69.4 OF 8 BLK 10 ED to west ROW of Cedar Ave.;

Then north along west ROW of Cedar Ave. to south ROW of Market St.;

Then west along south ROW of Market St. to northeast corner of 1.78 ac. parcel (ALL OF BLK 20 ED);

Then south along east boundary of said 1.78 ac. parcel, and 1.77 ac. parcel (ALL OF BLK 53 ED) to northeast corner of 0.53 ac. parcel (PT OF BLK 79 ED);

Then southwest along east boundary of said 0.53 ac. parcel to a point east of northeast corner of 0.198242 ac. parcel (E29.0' OF 4 & W8.7' OF 5 (BY METES & BOUNDS) BLK 360 WD);

Then west across Zacate Creek drainage to northeast corner of said 0.198242 ac. parcel and coincident south ROW of Ventura St.;

Then generally west along south ROW of Ventura St. (Santa Ursula Ave.) and north bank of Rio Grande River to west ROW of Convent Ave and south ROW of Pedregal St (River Rd.);

Then generally west along south ROW of Pedregal St (River Rd.) to east ROW of San Francisco Javier Ave;

Then northwest along across ROW of San Francisco Javier Ave and along south ROW of Pedregal St. (River Rd.) to west ROW of Santa Isabel Ave.;

Then north along west ROW of Santa Isabel Ave. to north ROW of Scott St.;

Then east along north ROW of Scott St. to southwest corner of 0.312733 ac. parcel (LOT 3 & W1/2 OF 1 BLK 233 WD);

Then north along west boundary of said 0.312733 ac. parcel, and LOTS 5 & 7 BLK 233 WD, and LOTS 1-3-5-7 BLK 248 WD, and LOTS 1-3-5-7 BLK 267 WD, and LOTS 1-3-5-7 BLK 310 WD, and LOTS 1-3-5-7-9 BLK 349 WD, and LOTS 1-3-5-7-9 BLK 368 WD, and LOTS 1-3-5-7 BLK 479 WD CONDO 2B to north ROW of Park St.;

Then east along north ROW of Park St. to west ROW of San Bernardino Ave.;

Then north along west ROW of San Bernardino to south ROW of Garden St.;

Then west along south ROW of Garden St. to east ROW of San Agustin Ave.;

Then north along east ROW of San Agustin Ave. to south ROW of Constantinople St.; Then east along south ROW of Constantinople St. to a point south of southwest corner of 0.405613 ac. parcel (LOTS 8, 10 & 12 BLK 572 WD);

Then generally north along west boundary of said 0.405613 ac. parcel, and LOT 2-4-6 BLK 572 WD, and ALL BLK 575 WD, and LOTS 1-7 BLK 766 WD, and LOTS 1-6 BLK 775 WD, and LOTS 1-6 BLK 678 WD, and LOTS 1-6 BLK 816 WD, and LOTS 1-6, 9, 11 & 12 BLK 849 WD, and LOTS 1 TO 4 BLK 858 WD, and LOTS 5-7 & E12 1/2' OF LOTS 6 & 8 BLK 858 WD, and LOTS 7-9-11 BLK 891 WD, and LOT 3-A BLK 891 WD, and LOTS 7-8-9-11 BLK 900 WD LAS ASADAS, and LOTS 1-3-5 BLK 900 WD, LOTS 3 TO 10 BLK 933 WD, and LOTS 1-2-11-12 BLK 933 WD @ 3620 SAN BERNARDO AVE, and S41.4'-1 BLK 942 WD, N28.4'-1 & S23.1'-3 BLK 942 WD, and N46.5'-3 & S46.3'-5 BLK 942 WD, and LOTS 7-8 & N PT OF 5-6 BLK 942 WD, and LOTS 7-8 BLK 976 WD, and LOTS 4 & 9 BLK 976 WD, and LOTS 10-12 BLK 976 WD, LOTS 7-12 BLK 985 WD, and LOTS 1 TO 4 & S2/3-5-6 BLK 1016 WD, and LOT 7 & N1/3-5 BLK 1016 WD to north ROW of Pace St.;

Then west along north ROW of Pace St. to east ROW of Flores Ave.;

Then north along east ROW of Flores Ave. to south ROW of Chicago St.;

Then east along south ROW of Chicago St. to east ROW of Santa Ursula Ave.;

Then south along east ROW of Santa Ursula Ave. to north ROW of Park St.;

Then east along north ROW of Park St. to east ROW of San Dario Ave. and beginning point of 918 ac. district.

Save and Except LOTS 1 & 2 BLK 601 ED;

Save and Except LOTS 3-4 BLK 601 ED;

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1601**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 21 WITH HOUSE AMENDMENTS

Senator Williams called **SB 21** from the President's table for consideration of the House amendments to the bill.

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

#### Amendment

Amend **SB 21** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to drug screening or testing as a condition for the receipt of unemployment compensation benefits by certain individuals.

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

SECTION 1. Section 207.021, Labor Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) An individual for whom suitable work is available only in an occupation designated by United States Department of Labor regulation as an occupation that regularly conducts preemployment drug testing is available for work for purposes of Subsection (a)(4) only if the individual complies with the applicable requirements of the drug screening and testing program administered by the commission under Section 207.026. The commission shall adopt rules for determining the type of work that is suitable for an individual for purposes of this subsection.

SECTION 2. Subchapter B, Chapter 207, Labor Code, is amended by adding Section 207.026 to read as follows:

Sec. 207.026. DRUG SCREENING OR TESTING AS CONDITION OF BENEFIT ELIGIBILITY FOR CERTAIN APPLICANTS AND RECIPIENTS.

(a) The commission by rule shall adopt a drug screening and testing program as part of the requirements for the receipt of benefits under this subtitle by an individual to whom Section 207.021(b-1) applies. The program must:

(1) comply with the drug testing requirements of 49 C.F.R. Part 382 or other similar national requirements for drug testing programs recognized by the commission; and

(2) be designed to protect the rights of benefit applicants and recipients.

(b) Under the program, each individual to whom Section 207.021(b-1) applies who files an initial claim must submit to and pass a drug screening assessment developed and administered by or on behalf of the commission for purposes of this subsection as a prerequisite to receiving benefits under this subtitle. The assessment tool used under this subsection must consist of a written questionnaire to be completed by the individual applying for benefits and must be designed to accurately determine the reasonable likelihood that an individual is using a substance that is subject to regulation under Chapter 481, Health and Safety Code. An individual whose drug screening assessment indicates a reasonable likelihood of use by the individual of a substance subject to regulation under that chapter must submit to and pass a drug test administered by or on behalf of the commission to establish the

individual's eligibility for benefits under this subtitle. An individual who fails a drug test required under this subsection under a final determination or decision under this section is not eligible to receive benefits under this subtitle until the individual has passed a subsequent drug test administered by or on behalf of the commission not earlier than four weeks after the date the individual submitted to the failed drug test.

(c) Notwithstanding Subsection (b), an individual is not ineligible to receive benefits based on the individual's failure to pass a drug test if, on the basis of evidence presented by the individual, the commission determines that, subject to Section 207.021(a)(4):

(1) the individual is participating in a treatment program for drug abuse;

(2) the individual enrolls in and attends a treatment program for drug abuse not later than the seventh day after the date initial notice of the failed drug test is sent to the individual; or

(3) the failure to pass the test is caused by the use of a substance that was prescribed by a health care practitioner as medically necessary for the individual.

(d) The commission shall prescribe procedures for providing initial notice to an individual who fails a drug test under Subsection (b), for an appeal under Chapter 212, and for the retaking of a failed drug test by an individual under this section. The procedures must provide:

(1) for prompt initial notice by mail to an individual who fails a drug test under Subsection (b) regarding:

(A) the fact of the individual's failure of the drug test;

(B) the manner in which the individual may notify the commission that the individual has enrolled in and is attending a treatment program for drug abuse;

(C) the manner in which the individual may appeal and retake the failed drug test; and

(D) common potential causes of a false positive test result;

(2) for privacy with regard to the individual's drug test result until not later than the 14th day after the date the initial notice of the failed drug test was mailed to the individual during which time the individual may appeal and retake the failed drug test; and

(3) that a determination or decision that an individual has failed a drug test under this section becomes final on:

(A) the 15th day after the date the initial notice of the failed drug test was mailed to the individual if the individual does not appeal and retake the individual's failed drug test as provided by this section; or

(B) the date that a retest conducted pursuant to an appeal by the individual as provided by this section confirms the positive drug test result.

(e) The commission shall administer the program under this section using existing administrative funds and any funds appropriated to the commission for the purposes of this section.

SECTION 3. The changes in law made by this Act apply only to a claim for unemployment compensation benefits that is filed with the Texas Workforce Commission on or after February 1, 2014.

SECTION 4. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 5. This Act takes effect September 1, 2013.

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

Amend **SB 21** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly: SECTION \_\_\_\_\_. This Act shall be known as the Ken Legler Act.

The amendments were read.

Senator Williams moved to concur in the House amendments to **SB 21**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 227 WITH HOUSE AMENDMENT**

Senator Williams called **SB 227** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 227** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the dispensing of aesthetic pharmaceuticals by physicians and therapeutic optometrists; imposing fees.

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

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. DISPENSING OF AESTHETIC PHARMACEUTICALS

Sec. 116.001. DEFINITIONS. In this chapter:

(1) "Aesthetic pharmaceutical" means:

(A) a drug listed in the aesthetic pharmaceutical group under Section 116.005; or

(B) a drug that:

(i) is not a controlled substance;

(ii) requires a prescription for dispensation;

(iii) has been listed with the federal Food and Drug Administration;

and

(iv) is prescribed for the enhancement of an individual's

appearance.

(2) "Physician" means a person licensed to practice medicine under Subtitle

B.

(3) "Therapeutic optometrist" means a person licensed to practice therapeutic optometry under Chapter 351.

Sec. 116.002. DISPENSING PERMITTED; FEE AUTHORIZED. (a) A physician or therapeutic optometrist may dispense to the physician's or therapeutic optometrist's patients an aesthetic pharmaceutical in excess of the patient's immediate needs without obtaining a license under Chapter 558. The physician or therapeutic optometrist may charge a fee for dispensing the pharmaceutical.

(b) A therapeutic optometrist may not dispense an aesthetic pharmaceutical if that prescription does not fall within the scope of the practice of therapeutic optometry, as defined by Section 351.002.

Sec. 116.003. NOTICE; LABELING; RECORDKEEPING. (a) Before dispensing an aesthetic pharmaceutical to a patient, a physician or therapeutic optometrist must inform the patient that the prescription for the pharmaceutical may be filled at a pharmacy, if available at a pharmacy, or dispensed in the physician's or therapeutic optometrist's office.

(b) Each state and federal labeling and recordkeeping requirement applicable to an aesthetic pharmaceutical must be followed and documented. A record maintained under this section must be accessible as provided under state and federal law.

Sec. 116.004. RULES; FEES. The Texas Medical Board and the Texas State Board of Pharmacy shall jointly adopt rules for physicians, and the Texas Optometry Board and the Texas State Board of Pharmacy shall jointly adopt rules for therapeutic optometrists, to govern the packaging, labeling, and dispensing of aesthetic pharmaceuticals under this chapter. The Texas Medical Board and the Texas Optometry Board shall adopt reasonable fees as necessary to implement this chapter. A fee adopted under this section may not exceed a fee adopted under Section 554.006 for authorizing a pharmacist to dispense pharmaceuticals.

Sec. 116.005. AESTHETIC PHARMACEUTICAL GROUP. The aesthetic pharmaceutical group consists of:

- (1) bimatoprost;
- (2) hydroquinone; and
- (3) tretinoin.

SECTION 2. Subsection (f), Section 157.002, Occupations Code, is amended to read as follows:

(f) Subsections (b) and (c) do not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, other than as authorized under Chapter 116 and Section 158.003, without complying with the applicable laws relating to the dangerous drugs.

SECTION 3. Subsection (d), Section 563.051, Occupations Code, is amended to read as follows:

(d) This section does not authorize a physician or a person acting under the supervision of a physician to keep a pharmacy, advertised or otherwise, for the retail sale of dangerous drugs, other than as authorized under Chapter 116 and Section 158.003, without complying with the applicable laws relating to the dangerous drugs.

SECTION 4. The Texas Medical Board, Texas Optometry Board, and Texas State Board of Pharmacy shall adopt rules for the implementation of Chapter 116, Occupations Code, as added by this Act, not later than March 1, 2014.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

(b) Sections 116.002 and 116.003, Occupations Code, as added by this Act, take effect March 1, 2014.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 227**.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodriguez, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Campbell, Schwertner.

Absent-excused: Carona.

#### **SENATE BILL 320 WITH HOUSE AMENDMENT**

Senator Williams called **SB 320** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 320** (house committee printing) in SECTION 1 of the bill, after added Section 9040.105(d), Special District Local Laws Code, by adding the following:

(e) For any fill or levee project located in the district and in the watershed of the San Jacinto River Basin, the district shall obtain approval for the plan from any state or federal agency with jurisdiction to permit a project of the same type and from any municipality with a right to divert state water from a point located between the district and Lake Houston.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 320**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

#### **SENATE BILL 321 WITH HOUSE AMENDMENT**

Senator Williams called **SB 321** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 321** (house committee printing) in SECTION 1 of the bill, after added Section 9041.105(d), Special District Local Laws Code, by adding the following:

(e) For any fill or levee project located in the district and in the watershed of the San Jacinto River Basin, the district shall obtain approval for the plan from any state or federal agency with jurisdiction to permit a project of the same type and from any municipality with a right to divert state water from a point located between the district and Lake Houston.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 321**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 549 WITH HOUSE AMENDMENTS**

Senator Williams called **SB 549** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 549** (house committee printing), on page 1, line 9, by striking "Section 71.02 or 71.023", and substituting "Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023".

**Floor Amendment No. 2**

Amend **SB 549** (house committee printing) on page 6 by striking lines 3-4 and substituting the following:

(3) an offense that is punishable under Section 481.112(e), 481.112(f), 481.1121(b)(4), 481.115(f), or 481.120(b)(6), Health and Safety Code

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

Amend **SB 549** on third reading as follows:

(1) In the introductory language for the SECTION of the bill amending Section 71.02(b), Penal Code, between "SECTION \_\_\_\_." and "Subsection (b)", insert the following:

"(a) This section shall be known as Chelsea's Law.

(b)"

(2) In amended Section 71.02(b), Penal Code, strike "if the most serious offense is a felony of the first degree," and substitute "~~[if the most serious offense is a felony of the first degree,]~~".

(3) In amended Section 71.02(b), Penal Code, strike "life or for any term of not more than 99 years or less than 15 years" and substitute the following:

":



(1) life without parole, if the most serious offense is an aggravated sexual assault and if at the time of that offense the defendant is 18 years of age or older and:

(A) the victim of the offense is younger than six years of age;

(B) the victim of the offense is younger than 14 years of age and the actor commits the offense in a manner described by Section 22.021(a)(2)(A); or

(C) the victim of the offense is younger than 17 years of age and suffered serious bodily injury as a result of the offense; or

(2) life or for any term of not more than 99 years or less than 15 years if the most serious offense is an offense punishable as a felony of the first degree, other than an offense described by Subdivision (1)"

The amendments were read.

Senator Williams moved to concur in the House amendments to **SB 549**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1289 WITH HOUSE AMENDMENTS**

Senator Williams called **SB 1289** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 1289** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to certain business entities engaged in the publication of mug shots and other information regarding the involvement of an individual in the criminal justice system; providing a civil penalty.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 109 to read as follows:

#### **CHAPTER 109. BUSINESS ENTITIES ENGAGED IN PUBLICATION OF CRIMINAL RECORD INFORMATION**

**Sec. 109.001. DEFINITIONS.** In this chapter:

(1) "Criminal justice agency" has the meaning assigned by Section 411.082, Government Code.

(2) "Criminal record information" means information about a person's involvement in the criminal justice system. The term includes:

(A) a description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges;

(B) a photograph of the person taken pursuant to an arrest or other involvement in the criminal justice system; and

(C) personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

(3) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

(4) "Publish" means to communicate or make information available to another person in writing or by means of telecommunications and includes communicating information on a computer bulletin board or similar system.

Sec. 109.002. APPLICABILITY OF CHAPTER. This chapter applies to a business entity that:

(1) publishes criminal record information, including information:

(A) originally obtained pursuant to a request for public information under Chapter 552, Government Code; or

(B) purchased or otherwise obtained by the entity or an affiliated business entity from the Department of Public Safety under Subchapter F, Chapter 411, Government Code; and

(2) requires the payment:

(A) of a fee in an amount of \$150 or more or other consideration of comparable value to remove criminal record information; or

(B) of a fee or other consideration to correct or modify criminal record information.

Sec. 109.003. DUTY TO PUBLISH COMPLETE AND ACCURATE CRIMINAL RECORD INFORMATION. (a) A business entity must ensure that criminal record information the entity publishes is complete and accurate.

(b) For purposes of this chapter, criminal record information published by a business entity is considered:

(1) complete if the information reflects the notations of arrest or the filing or disposition of criminal charges, as applicable; and

(2) accurate if the information:

(A) reflects the most recent information received by the entity from the Department of Public Safety in accordance with Section 411.0851(b)(1)(B), Government Code; or

(B) was obtained by the entity from a law enforcement agency or criminal justice agency, including the Department of Public Safety, or any other governmental agency or entity within the 60-day period preceding the date of publication.

Sec. 109.004. DISPUTING COMPLETENESS OR ACCURACY OF INFORMATION. (a) A business entity shall clearly and conspicuously publish an e-mail address, fax number, or mailing address to enable a person who is the subject of criminal record information published by the entity to dispute the completeness or accuracy of the information.

(b) If a business entity receives a dispute regarding the completeness or accuracy of criminal record information from a person who is the subject of the information and the person provides a noncertified copy of a court order or other document that supports the dispute, the business entity shall:

(1) verify with the appropriate law enforcement agency or criminal justice agency, including the Department of Public Safety, or any other governmental agency or entity, free of charge the disputed information; and

(2) complete the investigation described by Subdivision (1) not later than the 45th business day after the later of the date the entity receives notice of the dispute or the documentation supporting the dispute.

(c) If a business entity finds incomplete or inaccurate criminal record information after conducting an investigation prescribed by this section, the entity shall promptly remove the inaccurate information from the website or other publication or shall promptly correct the information, as applicable. The entity may not:

(1) charge a fee to remove, correct, or modify incomplete or inaccurate information; or

(2) continue to publish incomplete or inaccurate information.

(d) A business entity shall provide written notice to the person who disputed the completeness or accuracy of information of the results of an investigation conducted under this section not later than the fifth business day after the date on which the investigation is completed.

Sec. 109.005. PUBLICATION OF CERTAIN CRIMINAL RECORD INFORMATION PROHIBITED; CIVIL LIABILITY. (a) A business entity may not publish any criminal record information in the business entity's possession with respect to which the business entity has knowledge or has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d), Government Code.

(b) A business entity that publishes information in violation of Subsection (a) is liable to the individual who is the subject of the information in an amount not to exceed \$500 for each separate violation and, in the case of a continuing violation, an amount not to exceed \$500 for each subsequent day on which the violation occurs.

(c) In an action brought under this section, the court may grant injunctive relief to prevent or restrain a violation of this section.

(d) An individual who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorney's fees.

Sec. 109.006. CIVIL PENALTY; INJUNCTION. (a) A business entity that publishes criminal record information in violation of this chapter is liable to the state for a civil penalty in an amount not to exceed \$500 for each separate violation and, in the case of a continuing violation, an amount not to exceed \$500 for each subsequent day on which the violation occurs. For purposes of this subsection, each criminal record published in violation of this chapter constitutes a separate violation.

(b) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(d) The attorney general may bring an action in the name of the state to restrain or enjoin a violation or threatened violation of this chapter.

(e) The attorney general or an appropriate prosecuting attorney is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this chapter, including court costs and reasonable attorney's fees.

Sec. 109.007. VENUE. An action under this chapter must be brought in a district court:

- (1) in Travis County if the action is brought by the attorney general;
- (2) in the county in which the person who is the subject of the criminal record information resides; or
- (3) in the county in which the business entity is located.

Sec. 109.008. CUMULATIVE REMEDIES. The actions and remedies provided by this chapter are not exclusive and are in addition to any other action or remedy provided by law.

SECTION 2. Chapter 109, Business & Commerce Code, as added by this Act, applies to any publication of criminal record information that occurs on or after the effective date of this Act, regardless of whether:

- (1) the information relates to events or activities that occurred before, on, or after that date; or
- (2) the information was initially published before that date.

SECTION 3. This Act takes effect September 1, 2013.

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

Amend **CSSB 1289** (house committee printing) as follows:

(1) On page 3, line 5, strike "arrest or the filing or disposition of criminal charges" and substitute "arrest and the filing and disposition of criminal charges".

(2) On page 3, lines 23-25, strike "and the person provides a noncertified copy of a court order or other document that supports the dispute".

(3) On page 4, lines 4-5, strike "the later of".

(4) On page 4, lines 5-6, strike "or the documentation supporting the dispute".

The amendments were read.

Senator Williams moved to concur in the House amendments to **SB 1289**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1643 WITH HOUSE AMENDMENTS**

Senator Williams called **SB 1643** from the President's table for consideration of the House amendments to the bill.

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

### **Amendment**

Amend **SB 1643** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the monitoring of prescriptions for certain controlled substances; providing penalties.

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

SECTION 1. Section 481.002, Health and Safety Code, is amended by amending Subdivisions (20) and (32) and adding Subdivision (54) to read as follows:

(20) "Hospital" means:

(A) a general or special hospital as defined by Section 241.003 [~~Texas Hospital Licensing Law~~]; ~~or~~

(B) an ambulatory surgical center licensed under Chapter 243 [~~by the Texas Department of Health~~] and approved by the federal government to perform surgery paid by Medicaid on patients admitted for a period of not more than 24 hours; or

(C) a freestanding emergency medical care facility licensed under Chapter 254.

(32) "Patient" means a human for whom or an animal for which a drug:

(A) is administered, dispensed, delivered, or prescribed by a practitioner; or

(B) is intended to be administered, dispensed, delivered, or prescribed by a practitioner.

(54) "Health information exchange" means an organization that:

(A) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement;

(B) as a primary business function, compiles or organizes health-related information that is designed to be securely transmitted by the organization among physicians, health care providers, or entities within a region, state, community, or hospital system; or

(C) assists in the transmission or receipt of electronic health-related information among physicians, health care providers, or entities within:

(i) a hospital system;

(ii) a physician organization;

(iii) a health care collaborative, as defined by Section 848.001, Insurance Code;

(iv) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid Services; or

(v) an accountable care organization participating in the Medicare shared savings program under 42 U.S.C. Section 1395jii.

SECTION 2. Sections 481.075(e) and (i), Health and Safety Code, are amended to read as follows:

(e) Each official prescription form or electronic prescription used to prescribe a Schedule II controlled substance must contain:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is issued;

(B) the controlled substance prescribed;

(C) the quantity of controlled substance prescribed, shown:

(i) numerically, followed by the number written as a word, if the prescription is written; or

(ii) numerically, if the prescription is electronic;

(D) the intended use of the controlled substance or the diagnosis for which it is prescribed and the instructions for use of the substance;

(E) the practitioner's name, address, and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state;

(F) the name, address, and date of birth or age of the person for whom the controlled substance is prescribed; and

(G) if the prescription is issued to be filled at a later date under Section 481.074(d-1), the earliest date on which a pharmacy may fill the prescription;

(2) information provided by the dispensing pharmacist, including the date the prescription is filled and the method of payment used to pay for the prescription; and

(3) for a written prescription, the signatures of the prescribing practitioner and the dispensing pharmacist or for an electronic prescription, the prescribing practitioner's electronic signature or other secure method of validation authorized by federal law.

(i) Each dispensing pharmacist shall:

(1) fill in on the official prescription form or note in the electronic prescription record each item of information given orally to the dispensing pharmacy under Subsection (h), ~~and~~ the date the prescription is filled, and the method of payment used to pay for the prescription, and:

(A) for a written prescription, fill in the dispensing pharmacist's signature; or

(B) for an electronic prescription, appropriately record the identity of the dispensing pharmacist in the electronic prescription record;

(2) retain with the records of the pharmacy for at least two years:

(A) the official prescription form or the electronic prescription record, as applicable; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) send all information required by the director, including any information required to complete an official prescription form or electronic prescription record, to the director by electronic transfer or another form approved by the director not later than the seventh day after the date the prescription is completely filled.

SECTION 3. Section 481.076, Health and Safety Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The director may not permit any person to have access to information submitted to the director under Section 481.074(q) or 481.075 except:

(1) an investigator for the Texas Medical Board, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas State Board of Pharmacy;

(2) an authorized officer or member of the department engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist or a practitioner who is a physician, dentist, veterinarian, podiatrist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or a nurse licensed under Chapter 301, Occupations Code, acting at the direction of a practitioner and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity.

(a-1) A person authorized to receive information under Subsection (a)(3)(B) or (C) may access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

(a-2) A person authorized to receive information under Subsection (a)(3)(B) may include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. Any information included in a patient's medical or pharmacy record under this subsection is subject to any applicable state or federal confidentiality or privacy laws.

(e) The director shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the director not later than the end of the 36th [~~42th~~] calendar month after the month in which the identity is entered into the system. However, the director may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

SECTION 4. Section 481.127(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly gives, permits, or obtains unauthorized access to information submitted to the director under Section 481.074(q) or 481.075.

SECTION 5. Chapter 481, Health and Safety Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP

Sec. 481.351. INTERAGENCY PRESCRIPTION MONITORING WORK GROUP. The interagency prescription monitoring work group is created to evaluate the effectiveness of prescription monitoring under this chapter and offer recommendations to improve the effectiveness and efficiency of recordkeeping and other functions related to the regulation of dispensing controlled substances by prescription.

Sec. 481.352. MEMBERS. The work group is composed of:

- (1) the director or the director's designee;
- (2) the commissioner of state health services or the commissioner's designee;

(3) the executive director of the Texas State Board of Pharmacy or the executive director's designee;

(4) the executive director of the Texas Medical Board or the executive director's designee; and

(5) the executive director of the Texas Board of Nursing or the executive director's designee.

Sec. 481.353. MEETINGS. (a) The work group shall meet at least quarterly.

(b) The work group is subject to Chapter 551, Government Code.

(c) The work group shall proactively engage stakeholders and solicit and take into account input from the public.

Sec. 481.354. REPORT. Not later than December 1 of each even-numbered year, the work group shall submit to the legislature its recommendations relating to prescription monitoring.

SECTION 6. This Act takes effect September 1, 2013.

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

Amend **CSSB 1643** (house committee printing) on page 7, between lines 21 and 22, by inserting the following:

and (6) the executive director of the Texas Physician Assistant Board or the executive director's designee.

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

Amend **CSSB 1643** (house committee printing) as follows:

(1) On page 3, lines 24 through 25, strike "and the method of payment used to pay for the prescription".

(2) On page 4, lines 8 through 9, strike "and the method of payment used to pay for the prescription".

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

Amend **CSSB 1643** on third reading by adding the appropriately numbered SECTIONS to the bill and renumbering SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 168.102, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If an applicant for a certificate under this chapter is under investigation by the board for a violation of this subtitle, board rules, or other law relating to the prescription, dispensation, administration, supply, or sale of a controlled substance, the board may not make a decision on the application until the board has reached a final decision on the matter under investigation.

SECTION \_\_\_\_\_. Subsection (a), Section 168.202, Occupations Code, is amended to read as follows:

(a) A violation of this chapter or a rule adopted under this chapter is grounds for disciplinary action, including a temporary suspension or restriction under Section 164.059, against a pain management clinic certified under this chapter or an owner or operator of a clinic certified under this chapter.

The amendments were read.

Senator Williams moved to concur in the House amendments to **SB 1643**.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 1159 WITH HOUSE AMENDMENTS

Senator Van de Putte called **SB 1159** from the President's table for consideration of the House amendments to the bill.

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

#### Amendment

Amend **SB 1159** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to higher education for certain military personnel and their dependents.

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

SECTION 1. Subchapter W, Chapter 51, Education Code, is amended by adding Section 51.844 to read as follows:

Sec. 51.844. READMISSION OF CERTAIN MILITARY PERSONNEL TO GRADUATE AND PROFESSIONAL PROGRAMS. (a) This section applies only to a person who:

(1) was previously offered admission to, or was enrolled in, a graduate program or professional program at a general academic teaching institution or medical and dental unit;

(2) did not initially enroll in the program, or withdrew from the program, as applicable, because of the person's deployment as a member of the armed forces of the United States serving on active duty for the purpose of engaging in a combative military operation outside the United States; and

(3) seeks readmission to the program following the person's military deployment under Subdivision (2).

(b) A general academic teaching institution or a medical and dental unit must, regardless of the time since the person was initially offered admission to, or withdrew from, the program, as applicable:

(1) readmit a person to whom this section applies to the applicable graduate or professional program;

(2) apply credit toward the program for any course work previously completed by the person under the program; and

(3) accept a standardized test score previously submitted by that person for admission to the program.

SECTION 2. Section 54.341, Education Code, is amended by amending Subsections (a), (a-2), (b), (e), (k-1), (l), (m), and (n) and adding Subsection (a-4) to read as follows:

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of tuition, dues, fees, and other required charges, including fees for correspondence courses but excluding general deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the person seeking the exemption currently resides in this state or resides outside of this state due to the person's military assignment or the military assignment of the person's

spouse and entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service:

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United States who served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3);

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first;

(F) the national emergency by reason of certain terrorist attacks that began on September 11, 2001; or

(G) any future national emergency declared in accordance with federal law.

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

(A) who was killed in action;

(B) who died while in service;

(C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meets the eligibility requirements for individual unemployability [for purposes of employability] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally and permanently disabled or meets the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(a-4) Subsection (a-2) or (b) applies only if the member of the armed forces of the United States entered the service at a location in this state, declared this state as the person's home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of this state for purposes of Subchapter B at the time the person entered the service. The member is not required to meet any other requirements of Subsection (a).

(b) The exemptions provided for in Subsection (a) also apply to:

(1) the children of members of the armed forces of the United States:

(A) who are or were killed in action;

(B) who die or died while in service;

(C) who are missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; and

(2) the children of members of the Texas National Guard and the Texas Air National Guard who:

(A) were killed since January 1, 1946, while on active duty either in the service of their state or the United States; or

(B) are totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the members are eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(e) The exemption from tuition, fees, and other charges provided for by this section does not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation that may be used only for the payment of tuition and fees 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 that may be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption for the same semester or other term, the person is entitled to receive both those federal benefits and the exemption in the same semester or other term. A person who is entitled for a semester or other term to receive more than one type of federal benefit that may be used only for the payment of tuition and fees may choose which

benefit to apply for that semester or other term. The extent to which an exemption under this section applies to the person shall be based on the value of the federal benefit or benefits the person chooses to use for that semester or other term. The combined amount of the federal benefit or benefits that may be used only for the payment of tuition and fees and that are received in a semester or other term plus the amount of the exemption received in that [a] semester or other term may not exceed the cost of tuition and fees for that semester or other term.

(k-1) The procedures under Subsection (k) must provide:

- (1) the manner in which a person may waive the exemption;
- (2) the manner in which a child may be designated to receive the exemption;
- (3) a procedure permitting the designation of a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; ~~and~~
- (4) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption; and
- (5) a procedure permitting a person who waived the exemption and designated a child to receive the exemption to revoke that designation as to any unused portion of the assigned credit hours.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

- (1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education; ~~and~~
- (2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load; and
- (3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed.

(m) ~~For purposes of this section, a person is the child of another person if [the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and]:~~

- (1) the person is the stepchild or the biological or adopted child of the other person; or
- (2) the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

(n) The Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child designated to receive an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (1)(3) [m] may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

SECTION 3. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.3411 to read as follows:

Sec. 54.3411. STUDY REGARDING TUITION AND FEE EXEMPTIONS FOR CERTAIN MILITARY PERSONNEL AND DEPENDENTS. (a) The Legislative Budget Board, in consultation with the Texas Higher Education Coordinating Board and the Texas Veterans Commission, as the Legislative Budget Board considers necessary, shall study and evaluate the tuition and fee exemptions provided under Section 54.341. In the study, the Legislative Budget Board shall consider any available historical data and the projected data regarding recipients of the exemptions provided under Section 54.341, disaggregated by veteran, dependent, spouse, and legacy recipient, for each of the following categories of information:

(1) the total number of recipients, disaggregated by gender, race and ethnicity, institution, and socioeconomic background as indicated in the Free Application for Federal Student Aid (FAFSA);

(2) the number of undergraduate, graduate, and doctoral credit hours attempted and earned by semester;

(3) the number of degrees attempted and earned, and the associated semester credit hours required for those degrees, per recipient;

(4) the grade point average of recipients after completing the first, second, third, and fourth academic years, and subsequent academic years, as applicable, and to the extent allowed under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) the average time to graduation;

(6) the four-year and six-year graduation rates, retention rates, and noncompletion rates;

(7) the number of semester credit hours of developmental education courses attempted and earned by recipients;

(8) the proportion of federal education benefits, including veteran and non-veteran benefits, and of the exemption provided under Section 54.341, used for undergraduate, graduate, and doctoral semester credit hours attempted and earned by recipients; and

(9) the average cost of tuition and mandatory fees for an undergraduate, graduate, and doctoral recipient enrolled in a full course load at an institution of higher education compared to the average cost for a nonrecipient student enrolled in a full course load at the same institution for the same degree level.

(b) To the greatest extent possible:

(1) the Legislative Budget Board shall:

(A) include in its study a review of all federal education benefits for veterans in order to comprehensively review the sustainability of state and federal benefits for veterans; and

(B) use applicable data from the 2008-2009 academic year or a more recent academic year as a baseline in the study; and

(2) institutions of higher education shall cooperate with the Legislative Budget Board by providing any requested data and ensuring the reliability and validity of the data collected and submitted for the purpose of the study.

(c) Not later than December 1, 2014, the Legislative Budget Board shall submit to the Texas Higher Education Coordinating Board, the Texas Veterans Commission, the governor, the lieutenant governor, and the speaker of the house of representatives

a written report of the results of the study conducted under this section, together with any recommendations for legislative or administrative action, including any changes to eligibility criteria or other changes necessary to promote sustainability, fiscal efficiency, and effectiveness in the use of the exemption provided under Section 54.341. A recommendation included in the report must include an explanation of the basis for that recommendation.

(d) This section expires January 31, 2015.

SECTION 4. (a) The changes in law made by this Act by amending Subsection (a), Section 54.341, Education Code, and by adding Subsection (a-4), Section 54.341, Education Code, apply immediately.

(b) Except as provided by Subsection (a) of this section, the changes in law made by this Act to Section 54.341, Education Code, apply beginning with tuition and fees for the 2013 fall semester. Tuition and fees for a term or semester before the 2013 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.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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

Amend **CSSB 1159** (house committee report) as follows:

(1) On page 2, line 6 through page 8, line 26, strike SECTION 2 of the bill.

(2) On page 9, lines 5 and 6, strike "as the Legislative Budget Board considers necessary".

(3) On page 9, line 7, between "evaluate" and "the tuition" insert "federal educational benefits and".

(4) On page 11, lines 14-24, strike SECTION 4 of the bill.

(5) Renumber the remaining SECTIONS of the bill accordingly.

The amendments were read.

Senator Van de Putte moved to concur in the House amendments to **SB 1159**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

#### **SENATE BILL 709 WITH HOUSE AMENDMENTS**

Senator Lucio called **SB 709** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 709** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to representation of a person in a special education impartial due process hearing.

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

SECTION 1. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.0162 to read as follows:

Sec. 29.0162. REPRESENTATION IN SPECIAL EDUCATION DUE PROCESS HEARING. (a) A person in an impartial due process hearing brought under 20 U.S.C. Section 1415 may be represented by:

(1) an attorney who is licensed in this state; or  
(2) an individual who is not an attorney licensed in this state but who has special knowledge or training with respect to problems of children with disabilities and who satisfies qualifications under Subsection (b).

(b) The commissioner by rule shall adopt additional qualifications required of a representative for purposes of Subsection (a)(2). The rules must:

(1) prohibit an individual from being a representative under Subsection (a)(2) opposing a school district if the individual has prior employment experience with the district; and

(2) include requirements that the representative have knowledge of:

- (A) special education due process rules, hearings, and procedure; and  
(B) federal and state special education laws.

(c) A special education due process hearing officer shall determine whether an individual satisfies qualifications under Subsections (a)(2) and (b).

(d) The agency is not required to license or in any way other than as provided by Subsection (b) regulate representatives described by Subsection (a)(2) in a special education impartial due process hearing.

SECTION 2. Section 29.0162, Education Code, as added by this Act, applies only to representation at an impartial due process hearing brought under 20 U.S.C. Section 1415 that begins on or after the effective date of the Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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

Amend **CSSB 709** (house committee printing) on page 1, lines 19 and 20, by striking "if the individual has prior employment experience with the district; and", and substituting the following:

if:

(A) the individual has prior employment experience with the district;

and

(B) the district raises an objection to the individual serving as a representative; and

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 709**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 454 WITH HOUSE AMENDMENT**

Senator Hegar called **SB 454** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 454** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of the Jackson County Navigation District to file an annual compilation or review report with the executive director of the Texas Commission on Environmental Quality in lieu of filing an annual audit report.

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

SECTION 1. Notwithstanding any provisions of Subchapter G, Chapter 49, Water Code, the Jackson County Navigation District, in a fiscal year in which district net revenues exceed expenditures by \$10,000 or less, may submit to the executive director of the Texas Commission on Environmental Quality a compilation report or a review report instead of an audited financial statement.

SECTION 2. 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, 2013.

The amendment was read.

Senator Hegar moved to concur in the House amendment to **SB 454**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**SENATE BILL 1910 WITH HOUSE AMENDMENT**

Senator Hegar called **SB 1910** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1910** (house committee printing) as follows:

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

SECTION \_\_\_\_\_. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8446 to read as follows:

CHAPTER 8446. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO.

184

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8446.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.



(4) "District" means the Fort Bend County Municipal Utility District No. 184.

Sec. 8446.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8446.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8446.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8446.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8446.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8446.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section \_\_\_ of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section \_\_\_ of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8446.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8446.052, directors serve staggered four-year terms.

Sec. 8446.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8446.003; or

(2) the fourth anniversary of the effective date of the Act enacting this chapter.

(c) If permanent directors have not been elected under Section 8446.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8446.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8446.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8446.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8446.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8446.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8446.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8446.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8446.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8446.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8446.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8446.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8446.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8446.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8446.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION \_\_\_\_. The Fort Bend County Municipal Utility District No. 184 initially includes all the territory contained in the following area:

506.74 acres of land situated in the Wiley Martin Survey, Abstract 56, and the E.P. Everett Survey, Abstract 387, Fort Bend County, Texas, being that certain called 376.1612 acre tract of land as described in deed and recorded in Volume 1934, Page 712 of the Deed Records of Fort Bend County, Texas and being that certain called 130.5756 acre tract of land as described in deed and recorded in the Official Public Records of Real Property of Fort Bend County, Texas under County Clerk's File Number 1999107785, said 506.74 acres of land being more particularly described by metes and bounds as follows, bearing orientation is based on the Texas Coordinate System of 1983, South Central Zone:

BEGINNING at a 1/2 inch iron rod found at the intersection of the centerline of Myers Road (based on a width of 60.00 feet) with the northwesterly right-of-way line of Berdette Road (based on a width of 60.00 feet);

Thence, S 21°34'18" W, with the northwesterly right-of-way line of Berdette Road, a distance of 3266.25 feet to a 3/4 inch iron rod with cap set in the northeasterly line of that certain called 607.75 acre tract of land as described in deed and recorded in Volume 64, Page 109 of the Deed Records of Fort Bend County, Texas, being in the northeasterly line of the Henry Wilcox Survey, Abstract 342;

Thence, N 67°27'46" W, with the northeasterly line of said called 607.75 acre tract and the common line of the Wiley Martin and Henry Wilcox Surveys, a distance of 5698.02 feet to an angle point, from which a found T Rail bears N 08°28' W, a distance of 0.35 feet;

Thence, N 67°36'40" W, a distance of 547.46 feet to a 3/4 inch iron rod with cap set for corner;

Thence, S 42°08'14" W, a distance of 2046.63 feet to a 3/4 inch iron rod with cap set in the northeasterly line of Rice Field Road;

Thence, N 47°59'25" W, with the northeasterly line of Rice Field Road, a distance of 344.35 feet to a T Rail found for corner;

Thence, N 42°05'03" E, a distance of 1924.14 feet to an angle point, from which a found 2 inch iron pipe (bent) bears N 79°02' W, a distance of 2.69 feet;

Thence, N 22°20'28" E, at a distance of 3195.31 feet pass a 1/2 inch iron pipe found in the southwesterly right-of-way line of Myers Road, continuing a total distance of 3225.31 feet to a point for corner;

Thence, S 67°49'42" E, with the centerline of Myers Road, a distance of 6569.03 feet to the POINT OF BEGINNING and containing 506.74 acres of land.

SECTION \_\_\_\_\_. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8446, Special District Local Laws Code, as added by this Act, is amended by adding Section 8446.106 to read as follows:

Sec. 8446.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(b) This section is not intended to be an expression of a legislative interpretation of the requirements of Subsection (c), Section 17, Article I, Texas Constitution.

- (2) Renumber the SECTIONS of the bill appropriately.
- (3) Correct cross-references in the bill accordingly.

The amendment was read.

Senator Hegar moved to concur in the House amendment to **SB 1910**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

#### **SENATE BILL 1853 WITH HOUSE AMENDMENT**

Senator Fraser called **SB 1853** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1853** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the amendment of restrictions affecting real property in certain subdivisions and the authority of the Llano County Municipal Utility District No. 1 to issue bonds.

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

SECTION 1. Subdivision (4), Section 211.001, Property Code, is amended to read as follows:

(4) "Residential real estate subdivision" or "subdivision" means all land encompassed within one or more maps or plats of land that is divided into two or more parts if:

(A) the maps or plats cover land all or part of which is not located within a municipality and:

(i) for a county with a population of less than 65,000, is not located within the extraterritorial jurisdiction of a municipality; ~~or~~

(ii) for a county with a population of at least 65,000 and less than 135,000, is located wholly within the extraterritorial jurisdiction of a municipality; or

(iii) for a county that borders Lake Buchanan and has a population of at least 18,500 and less than 19,500, is located wholly within the extraterritorial jurisdiction of a municipality;

(B) the land encompassed within the maps or plats is or was burdened by restrictions limiting all or at least a majority of the land area covered by the map or plat, excluding streets and public areas, to residential use only; and

(C) all instruments creating the restrictions are recorded in the deed or real property records of a county.

SECTION 2. Subsection (a), Section 211.002, Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision:

(1) all or part of which is located within an unincorporated area of a county if the county has a population of less than 65,000; ~~or~~

(2) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000; or

(3) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that borders Lake Buchanan and has a population of at least 18,500 and less than 19,500.

SECTION 3. Subsection (b), Section 4, Chapter 129, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(b) Bonds may not be issued by the district under this Act except on approval of not less than a majority ~~[two-thirds]~~ of the qualified voters of the district voting at an election called and held for that purpose.

SECTION 4. The change in law made by this Act to Subsection (b), Section 4, Chapter 129, Acts of the 70th Legislature, Regular Session, 1987, applies to an election to authorize the issuance of bonds held on or after the effective date of this

Act. An election to authorize the issuance of bonds held before the effective date of this Act is governed by the law in effect at the time the election was held, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2013.

The amendment was read.

Senator Fraser moved to concur in the House amendment to **SB 1853**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 414 WITH HOUSE AMENDMENT**

Senator Ellis called **SB 414** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 414** (house committee printing) on page 1, line 13, between "programs" and "at public junior colleges" by inserting "in the field of nursing and in the field of applied sciences".

The amendment was read.

Senator Ellis moved to concur in the House amendment to **SB 414**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **SENATE BILL 1702 WITH HOUSE AMENDMENTS**

Senator Taylor called **SB 1702** from the President's table for consideration of the House amendments to the bill.

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

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

Amend **SB 1702** (house committee printing) by striking SECTIONS 1 through 4 of the bill (page 1, line 5, through page 3, line 7), substituting the following appropriately numbered SECTION, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 2210.260(d), Insurance Code, is amended to read as follows:

(d) Except as provided by Sections 2210.251(d), (e), and (f), a person who has an insurable interest in a residential structure that is insured by the association as of August 31, 2012, but for which the person has not obtained a certificate of compliance under Section 2210.251(g), must obtain an alternative certification under this section before the association, on or after August 31, 2015 [~~2013~~], may renew coverage for the structure.

**Floor Amendment No. 2**

Amend **SB 1702** (house committee printing) by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2581 to read as follows:

Sec. 2210.2581. MANDATORY COMPLIANCE WITH BUILDING STANDARDS; CERTAIN STRUCTURES. Notwithstanding Section 2210.251, Section 2210.258, or any other provision of this chapter, after December 31, 2015, the association may not issue or renew insurance coverage under this chapter for a structure with an insurable value of \$250,000 or more unless the structure complies with the applicable building code standards, as set forth in the plan of operation.

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

Amend **SB 1702** on third reading as follows:

(1) Strike the SECTION of the bill amending Section 2210.260(d), Insurance Code, as added by Amendment No. 1 by Eiland (832091).

(2) Strike the SECTION of the bill adding Section 2210.2581, Insurance Code, as added by Amendment No. 2 by Smithee (832089).

(3) Add the following appropriately numbered SECTIONS of the bill and renumber the SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 2210.251(f), Insurance Code, is amended to read as follows:

(f) Notwithstanding any other provision of this section, insurance coverage for a residential structure [insured by the association as of September 1, 2009,] may be issued or renewed [continue coverage] through the association subject to the inspection requirements imposed under Section 2210.258, if applicable. This subsection expires December 31, 2015.

SECTION \_\_\_\_\_. Section 2210.258, Insurance Code, is amended to read as follows:

Sec. 2210.258. ~~[MANDATORY]~~ COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a) Except as provided by Subsection (c) and Section 2210.2581 and notwithstanding [Notwithstanding] any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of Sections 5 through 49, H.B. 4409, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) Except as provided by Subsection (c), the [The] association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

(c) The association may insure a residential structure constructed, altered, remodeled, enlarged, repaired, or added to on or after June 19, 2009, that is not in compliance with the applicable building code standards, as set forth in the plan of operation, provided that:

(1) the structure had been insured on or after June 19, 2009, by an insurer in the private market that canceled or nonrenewed the insurance coverage of the structure before December 31, 2015;

(2) the applicant provides to the association proof that insurance coverage that was issued to the applicant or the previous insured for the structure was canceled or nonrenewed in the private market as described by Subdivision (1); and

(3) no construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure occurred after cancellation or nonrenewal of the coverage and before submission of an application for coverage through the association.

SECTION \_\_\_\_\_. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2581 to read as follows:

Sec. 2210.2581. MANDATORY COMPLIANCE WITH BUILDING STANDARDS; CERTAIN STRUCTURES. Except as provided by Section 2210.251(d) and (e), and notwithstanding Section 2210.258 or any other provision of this chapter, on and after December 31, 2015, the association may not issue or renew insurance coverage for a structure unless the structure complies with the applicable building code standards in effect on the date the construction, alteration, remodeling, enlargement, or repair of, or addition to, the structure begins, as set forth in the plan of operation.

SECTION \_\_\_\_\_. Section 2210.259, Insurance Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), an insurance policy insuring a [A] noncompliant residential structure under Section 2210.251(f) [insured by the association as of September 1, 2009, under Section 2210.251(f) that had been approved for insurability under the approval process regulations in effect on September 1, 2009,] is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of Sections 5 through 49, **HB 4409**, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(a-1) For a policy insuring a noncompliant residential structure eligible for coverage under Section 2210.258(c), the association shall charge:

(1) a premium based on the rate charged in the voluntary market for the portion of the cancelled or nonrenewed policy that provides windstorm and hail insurance coverage for the applicable risk; and

(2) an annual premium surcharge in an amount equal to 10 percent of that premium.

SECTION \_\_\_\_\_. Section 2210.260, Insurance Code, is repealed.

The amendments were read.

Senator Taylor moved to concur in the House amendments to **SB 1702**.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### REMARKS ORDERED PRINTED

On motion of Senator Taylor and by unanimous consent, the remarks by Senators Taylor and Hinojosa regarding **SB 1702** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Hinojosa:** Senator Taylor, reading the House amendment language, I have a question. In new section 2210.258(c)(1), would the exception include the sale of a home?

**Senator Taylor:** Yes, Senator. C.S.S.B. 1702 creates an exception to allow structures insured in the voluntary market after June 19, 2009, to obtain TWIA coverage if the insurer cancels or nonrenews the coverage. This would include situations where the insured sells the home and directs the insurer to cancel the coverage, but the purchaser cannot obtain wind coverage in the private market.

### SENATE BILL 1317 WITH HOUSE AMENDMENT

Senator Whitmire called **SB 1317** from the President's table for consideration of the House amendment to the bill.

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

#### Floor Amendment No. 1

Amend **SB 1317** as follows:

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

SECTION \_\_\_\_\_. Section 2.201, Family Code, is amended to read as follows:

Sec. 2.201. EXPIRATION OF LICENSE. If a marriage ceremony has not been conducted before the 90th [~~31st~~] day after the date the license is issued, the marriage license expires.

SECTION \_\_\_\_\_. Section 2.201, Family Code, as amended by this Act, applies only to a marriage license that is issued on or after the effective date of this Act. A marriage license issued before the effective date of this Act is governed by the law in effect on the date the license was issued, and the former law is continued in effect for that purpose.

(2) On page 2, line 11, strike "The change in law made by this Act" and substitute "Section 2.202, Family Code, as amended by this Act,".

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 1317**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### SENATE BILL 1720 WITH HOUSE AMENDMENT

Senator Patrick called **SB 1720** from the President's table for consideration of the House amendment to the bill.

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

### Floor Amendment No. 1

Amend **SB 1720** (house committee report) by striking page 1, line 17, through page 2, line 23, and substituting the following:

(a) To be eligible to receive loan repayment assistance under this subchapter, a person must:

(1) apply annually for the loan repayment assistance in the manner prescribed by the board;

(2) be a United States citizen;

(3) have completed an undergraduate or graduate program in mathematics or science;

(4) have a cumulative grade point average of at least 3.5 on a four-point scale or the equivalent;

(5) be certified under Subchapter B, Chapter 21, to teach mathematics or science in a public school in this state or be enrolled in an educator preparation program to obtain that certification that is accredited by the State Board for Educator Certification and is provided by an institution of higher education or by a private or independent institution of higher education in this state;

(6) have been employed for at least one year as a teacher teaching mathematics or science at a public school located in a school district that receives funding under Title I, Elementary and Secondary Education Act of 1965 (20 U.S.C. Section 6301 et seq.);

(7) not be in default on any other education loan;

(8) not receive any other state or federal loan repayment assistance, including a Teacher Education Assistance for College and Higher Education (TEACH) Grant or teacher loan forgiveness;

(9) enter into an agreement with the board under Subsection (c); and

(10) comply with any other requirement adopted by the board under this subchapter.

The amendment was read.

Senator Patrick moved to concur in the House amendment to **SB 1720**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 396 ADOPTED

Senator Hegar called from the President's table the Conference Committee Report on **SB 396**. The Conference Committee Report was filed with the Senate on Thursday, May 23, 2013.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 700 ADOPTED**

Senator Hegar called from the President's table the Conference Committee Report on **SB 700**. The Conference Committee Report was filed with the Senate on Thursday, May 23, 2013.

On motion of Senator Hegar, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1106 ADOPTED**

Senator Schwertner called from the President's table the Conference Committee Report on **SB 1106**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Schwertner, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 971 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **SB 971**. The Conference Committee Report was filed with the Senate on Wednesday, May 22, 2013.

On motion of Senator Williams, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 213 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **SB 213**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Whitmire, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 396 ADOPTED**

Senator Huffman called from the President's table the Conference Committee Report on **HB 396**. The Conference Committee Report was filed with the Senate on Thursday, May 23, 2013.

On motion of Senator Huffman, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 429 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 429**. The Conference Committee Report was filed with the Senate on Wednesday, May 22, 2013.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 4.

Yeas: Birdwell, Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Garcia, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Paxton, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Campbell, Estes, Hancock, Patrick.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 578 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 578**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1.

Nays: Garcia.

Absent-excused: Carona.

**SENATE BILL 1620 WITH HOUSE AMENDMENT**

Senator Paxton called **SB 1620** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1620** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to certified communication access realtime translation providers.

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

SECTION 1. Section 57.001, Government Code, is amended by adding Subdivisions (8) and (9) to read as follows:

(8) "Communication access realtime translation" or "CART" means the immediate verbatim translation of the spoken word into English text by a certified CART provider.

(9) "Certified CART provider" means an individual who holds a certification to provide communication access realtime translation services at an advanced or master level issued by the Texas Court Reporters Association or another certification association selected by the department.

SECTION 2. The heading to Section 57.002, Government Code, is amended to read as follows:

Sec. 57.002. APPOINTMENT OF INTERPRETER OR CART PROVIDER; CART PROVIDER LIST.

SECTION 3. Section 57.002, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (f) to read as follows:

(a) A court shall appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English if a motion for the appointment of an interpreter or provider is filed by a party or requested by a witness in a civil or criminal proceeding in the court.

(b) A court may, on its own motion, appoint a certified court interpreter or a certified CART provider for an individual who has a hearing impairment or a licensed court interpreter for an individual who can hear but does not comprehend or communicate in English.

(f) The department shall maintain a list of certified CART providers and, on request, may send the list to a person or court.

SECTION 4. Sections 57.001(6) and 57.021(d), Government Code, are repealed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The amendment was read.

Senator Paxton moved to concur in the House amendment to **SB 1620**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **BILLS AND RESOLUTIONS SIGNED**

The Presiding Officer, Senator Eltife in Chair, announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 17, SB 123, SB 141, SB 209, SB 220, SB 247, SB 289, SB 351, SB 357, SB 369, SB 485, SB 495, SB 499, SB 503, SB 514, SB 553, SB 562, SB 605, SB 606, SB 628, SB 691, SB 697, SB 701, SB 736, SB 893, SB 913, SB 939, SB 946, SB 948, SB 958, SB 976, SB 987, SB 1035, SB 1044, SB 1053, SB 1063, SB 1066, SB 1200, SB 1221, SB 1224, SB 1237, SB 1367, SB 1386, SB 1406, SB 1437, SB 1451, SB 1459, SB 1475, SB 1484, SB 1542, SB 1556, SB 1567, SB 1672, SB 1705, SB 1759, SB 1769, SB 1803, SB 1812, SB 1821, SB 1832, SB 1835, SB 1838, SB 1841, SB 1846, SB 1861, SB 1864, SB 1901, SCR 36, SJR 18,**

**SJR 42, HB 48, HB 326, HB 394, HB 642, HB 674, HB 709, HB 789, HB 800, HB 842, HB 1009, HB 1093, HB 1097, HB 1245, HB 1349, HB 1511, HB 1545, HB 1755, HB 1846, HB 1931, HB 2021, HB 2233, HB 2304, HB 2446, HB 2447.**

**CONFERENCE COMMITTEE ON  
SENATE BILL 64 DISCHARGED**

On motion of Senator Nelson and by unanimous consent, the Senate conferees on **SB 64** were discharged.

Question—Shall the Senate concur in the House amendment to **SB 64**?

Senator Nelson moved to concur in the House amendment to **SB 64**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3142 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **HB 3142**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Estes, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 2.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Rodríguez, Watson.

Absent-excused: Carona.

**CONFERENCE COMMITTEE ON  
SENATE BILL 1678 DISCHARGED**

On motion of Senator Deuell and by unanimous consent, the Senate conferees on **SB 1678** were discharged.

Question—Shall the Senate concur in the House amendments to **SB 1678**?

Senator Deuell moved to concur in the House amendments to **SB 1678**.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Birdwell, Campbell, Deuell, Duncan, Eltife, Estes, Fraser, Hancock, Hinojosa, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Van de Putte, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Garcia, Hegar, Lucio, Rodríguez, Watson, West.

Absent: Uresti.

Absent-excused: Carona.

**SENATE RESOLUTION 1067**

Senator Duncan offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 83rd Legislature, Regular Session, 2013, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1458 (contributions to, benefits from, and the administration of systems and programs administered by the Teacher Retirement System of Texas) to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text not in disagreement in proposed SECTION 2 of the bill, in added Section 824.702(c), Government Code, to read as follows:

(c) If the annuitant:

(1) is a retiree, or is a beneficiary under an optional retirement payment plan, to be eligible for the adjustment under this section:

(A) the annuitant must be living on the effective date of the adjustment;  
and

(B) the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before August 31, 2004;

(2) is a beneficiary under Section 824.402(a)(3) or (4) or 824.502, to be eligible for the adjustment:

(A) the annuitant must be living on the effective date of the adjustment;  
and

(B) the date of death of the member of the retirement system must have been on or before August 31, 2004; or

(3) is an alternate payee under Section 804.005, the annuitant is eligible for the adjustment only if the effective date of the election to receive the annuity payment was on or before August 31, 2004.

Explanation: The change is necessary to ensure that the date used to determine eligibility for a cost-of-living adjustment across different categories of annuitants under Section 824.702, Government Code, is August 31, 2004, instead of August 31, 1999.

(2) Senate Rules 12.03(1) and (3) are suspended to permit the committee to change, alter, or amend text and to add text on a matter not in disagreement in proposed SECTION 15 of the bill, the effective date provision of the bill, to read as follows:

SECTION 15. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2014.

(b) Section 824.702, Government Code, as added by this Act, Section 825.402, Government Code, as amended by this Act, and the repeal by this Act of Section 1579.103, Insurance Code, take effect September 1, 2013.

Explanation: The change in the effective date provision is a technical change necessary to ensure that Section 824.702, Government Code, adding a cost-of-living adjustment for certain annuitants under the Teacher Retirement System of Texas, takes effect in time to provide the adjustment provided for under that section.

**SR 1067** was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1458 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1458**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**BILL SIGNED**

The Presiding Officer announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **HB 2975**.

**SENATE RESOLUTION 1056**

Senator Paxton offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 83rd Legislature, Regular Session, 2013, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 1534 (the designation of certain segments of highway in Collin County and Jim Wells County) to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following text to SECTION 1 of the bill:

Sec. 225.092. LT. GENERAL MARC CISNEROS HIGHWAY.

(a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 281 in Jim Wells County between its intersection with Farm-to-Market Road 716 and its intersection with County Road 422 is designated as the Lt. General Marc Cisneros Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Lt. General Marc Cisneros Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Explanation: This addition is necessary to designate a portion of U.S. Highway 281 in Jim Wells County as the Lt. General Marc Cisneros Highway.

**SR 1056** was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1534 ADOPTED**

Senator Paxton called from the President's table the Conference Committee Report on **HB 1534**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.



On motion of Senator Paxton, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### BILLS AND RESOLUTIONS SIGNED

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

**HB 2500, HB 2621, HB 2712, HB 2781, HB 2913, HB 2918, HB 2972, HB 3015, HB 3042, HB 3126, HB 3276, HB 3314, HB 3566, HB 3643, HB 3761, HB 3952, HCR 57, HCR 116, HCR 121, HJR 62, HJR 133.**

### SENATOR ANNOUNCED PRESENT

Senator Carona, who had previously been recorded as "Absent-excused," was announced "Present."

### SENATE RESOLUTION 1059

Senator Hinojosa offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 83rd Legislature, Regular Session, 2013, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 1768 (identification requirements for certain fire hydrants and flush valves) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (2) are suspended to permit the committee to change and omit text not in disagreement in proposed SECTION 1 of the bill, in amended Section 341.0357, Health and Safety Code, to read as follows:

SECTION 1. Section 341.0357, Health and Safety Code, is amended to read as follows:

Sec. 341.0357. IDENTIFICATION REQUIREMENT FOR CERTAIN ~~[DEVICE WITH APPEARANCE OF]~~ FIRE HYDRANTS AND FLUSH VALVES ~~[HYDRANT THAT IS NONFUNCTIONING OR UNAVAILABLE FOR USE IN FIRE EMERGENCY]~~. (a) In this section, "hydrant" means:

- (1) a fire hydrant; or
- (2) a metal flush valve that:

(A) has [The owner of any device having] the appearance of a fire hydrant; and

(B) [that] is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located.

(b) This section applies only to a county, or a municipality in a county, that:

(1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;

(2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and

(3) is within 200 miles of the Gulf of Mexico.

(c) Each water utility responsible for any hydrant shall:

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant ~~[device]~~ black if the hydrant ~~[device]~~ is ~~[nonfunctioning or otherwise]~~ unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) For purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) A water utility ~~[The owner]~~ may place a black tarp over the hydrant or use another means to conceal the hydrant ~~[device]~~ instead of painting all or the cap of the hydrant ~~[device]~~ black as required under Subsection (c)(2) ~~[this section]~~ if the hydrant ~~[device]~~ is temporarily ~~[nonfunctioning, or temporarily]~~ unavailable for use in a fire emergency~~[-]~~ for a period not to exceed 45 ~~[seven]~~ days. Not later than the 45th day after the date a hydrant is concealed as provided by this subsection, the water utility responsible for the hydrant shall:

(1) if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment; or

(2) if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2).

(f) A water utility that paints all or the cap of a hydrant black as required by Subsection (c)(2) may also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) ~~(h)~~ For purposes of this section, a hydrant ~~[device]~~ is considered to be unavailable for use by an entity responsible for providing fire suppression services in a fire emergency if the water utility is not obligated by ordinance, regulation, or contract to provide water for fire suppression services and elects not to provide water for those services ~~[nonfunctioning if the device pumps less than 250 gallons of water per minute].~~

(h) ~~(e)~~ This section does not apply:

(1) within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; or

(2) to any water utility that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants ~~[a device having the appearance of a fire hydrant that is nonfunctioning or otherwise unavailable for use in a fire emergency].~~

(i) For purposes of Subsection (h), a system for labeling or color coding hydrants may include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(j) The fact that all or the cap of a hydrant for which a water utility is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the water utility that the hydrant will deliver a certain amount of water flow at all times.

Notwithstanding any provision of Chapter 101, Civil Practice and Remedies Code, to the contrary, a water utility is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

Explanation: The change is necessary to omit the section amending Section 341.0357, Health and Safety Code, to preserve the application of that law to certain municipalities.

(2) Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter not in disagreement by adding the following new SECTIONS to the bill:

SECTION 1. Section 341.0357, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply within the jurisdiction of a governmental entity described by Section 341.03571(b).

SECTION 2. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.03571 to read as follows:

Sec. 341.03571. IDENTIFICATION REQUIREMENT FOR CERTAIN FIRE HYDRANTS AND FLUSH VALVES IN CERTAIN MUNICIPALITIES. (a) In this section, "hydrant" means:

(1) a fire hydrant; or

(2) a metal flush valve that:

(A) has the appearance of a fire hydrant; and

(B) is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located.

(b) This section applies only to a county, or a municipality in a county, that:

(1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;

(2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and

(3) is within 200 miles of the Gulf of Mexico.

(c) Each public water system responsible for any hydrant shall:

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant black if the hydrant is unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) For purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) A public water system may place a black tarp over the hydrant or use another means to conceal the hydrant instead of painting all or the cap of the hydrant black as required under Subsection (c)(2) if the hydrant is temporarily unavailable for use in a fire emergency for a period not to exceed 45 days. Not later than the 45th day after the date a hydrant is concealed as provided by this subsection, the public water system responsible for the hydrant shall:

(1) if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment; or

(2) if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2).

(f) A public water system that paints all or the cap of a hydrant black as required by Subsection (c)(2) may also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) This section does not apply:

(1) within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; or

(2) to any public water system that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants.

(h) For purposes of Subsection (g), a system for labeling or color coding hydrants may include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(i) The fact that all or the cap of a hydrant for which a public water system is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the public water system that the hydrant will deliver a certain amount of water flow at all times. Notwithstanding any provision of Chapter 101, Civil Practice and Remedies Code, to the contrary, a public water system is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

Explanation: This addition is necessary to preserve the application of current law to certain municipalities and to enact new law applicable to other municipalities.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in the transition language, to read as follows:

SECTION 3. Not later than January 1, 2014, each public water system responsible for hydrants under Section 341.03571, Health and Safety Code, as added by this Act, shall ensure that its hydrants comply with the requirements imposed by that section.

Explanation: The change is necessary to update the cross-reference to reflect the addition of Section 341.03571, Health and Safety Code.

**SR 1059** was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1768 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **HB 1768**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Hinojosa, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

Saturday, May 25, 2013 - 2

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 396** (139 Yeas, 4 Nays, 2 Present, not voting)

**HB 1534** (142 Yeas, 1 Nays, 2 Present, not voting)

**HB 1768** (142 Yeas, 1 Nays, 2 Present, not voting)

**HB 3572** (145 Yeas, 0 Nays, 2 Present, not voting)

**SB 270** (144 Yeas, 0 Nays, 2 Present, not voting)

**SB 281** (139 Yeas, 1 Nays, 2 Present, not voting)

**SB 396** (144 Yeas, 0 Nays, 2 Present, not voting)

**SB 578** (141 Yeas, 2 Nays, 2 Present, not voting)

**SB 901** (142 Yeas, 0 Nays, 2 Present, not voting)

**SB 1106** (141 Yeas, 2 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1727 WITH HOUSE AMENDMENTS**

Senator Deuell called **SB 1727** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1727** (house committee report) as follows:

- (1) On page 2, line 18, after the semicolon, add "and".
- (2) Strike page 2, lines 19-21, and substitute the following:  
(15) the drayage truck incentive program established
- (3) On page 3, line 14, strike "at port facilities or servicing port facilities" and substitute "at seaport facilities or servicing seaport facilities".
- (4) On page 3, line 15, add "and" after the semicolon.

(5) On page 3, line 17, strike "drilling" and substitute "drilling, production, completions,".

(6) On page 3, line 21, strike "; and" and substitute ":".

(7) Strike page 3, line 22, through page 4, line 3.

(8) On page 6, line 15, strike "gross".

(9) On page 7, line 7, between "2013," and "by the," insert "or a later date established by the commission,".

(10) On page 7, line 27, strike "gross".

(11) On page 9, lines 1 and 2, strike "~~[as listed for the commission under Section 386.155]~~" and substitute "as listed for the commission under Section 386.155".

(12) On page 9, strike lines 24-26 and substitute the following:

Sec. 386.181. DEFINITION; RULES. (a) In this subchapter, "drayage truck" means a truck that transports a load to or from a seaport or rail yard.

(b) The commission may include more specific definitions in the rules or guidelines developed to implement the program established by this subchapter in order to reduce emissions in and around seaports in a nonattainment area.

(13) On page 10, lines 11-12, strike "and that the truck operates at a port, distribution center, or rail yard." and substitute "as determined by the commission and that the truck operates at a seaport or rail yard."

(14) On page 10, lines 22-23, strike "port, distribution center, or rail yard in a nonattainment area or affected county" and substitute "seaport or rail yard in a nonattainment area".

(15) On page 11, line 1, strike "or affected county".

(16) On page 11, line 15, strike "port, distribution center," and substitute "seaport".

(17) Strike page 11, line 24, through page 13, line 17.

(18) On page 14, strike lines 22-24 and renumber subsequent subdivisions of amended Section 386.252(a), Health and Safety Code, and the reference to Section 386.252(a)(16) on page 2, line 5, accordingly.

(19) On page 19, strike lines 22 and 23 and substitute the following:

(3) electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use.

(20) On page 21, line 21, strike "Subsections (a), (b), (c), and (d),".

(21) On page 21, lines 23-24, strike "are amended to read as follows:" and substitute "is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (f-1) to read as follows:".

(22) On page 23, between lines 14 and 15, insert the following:

(f-1) An application for a grant under this section must include a certification that the applicant complies with laws, rules, guidelines, and requirements applicable to taxation of fuel provided by the applicant at each fueling facility owned or operated by the applicant. The commission may terminate a grant awarded under this section without further obligation to the grant recipient if the commission determines that the

recipient did not comply with a law, rule, guideline or requirement described by this subsection. This subsection does not create a cause of action to contest an application or award of a grant.

(23) On page 24, strike lines 2-3 and substitute the following:

(2) Section 386.154, Health and Safety Code;

(24) Add the following appropriately numbered section to the bill:

SECTION \_\_\_\_\_. Section 386.104, Health and Safety Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) The commission may establish minimum percentage reduction standards alternative to the standards established under Subsection (f) as an incentive for the conversion of heavy-duty diesel on-road vehicle engines to operate under a dual-fuel configuration that uses natural gas and diesel fuels through an alternative fuel conversion system certified by the United States Environmental Protection Agency. In determining the emissions rate of the converted vehicle and engine to compute the emissions reductions that can be attributed to the conversion system, the commission may take into account whether the emissions certification requirements for the conversion system prevent fully accounting for the emissions reductions. If the commission determines it to be necessary and appropriate, the commission may consider under this subsection certified engine test information that demonstrates nitrogen oxides emissions reductions and other information to verify the emissions reductions.

(25) Renumber the sections of the bill appropriately.

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

Amend **SB 1727** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 386, Health and Safety Code, is amended by adding Section 386.0515 to read as follows:

Sec. 386.0515. AGRICULTURAL PRODUCT TRANSPORTATION PROJECTS. (a) In this section, "agricultural product transportation" means the transportation of a raw agricultural product from the place of production using a heavy-duty truck to:

(1) a nonattainment area;

(2) an affected county;

(3) a destination inside the clean transportation triangle; or

(4) a county adjacent to a county described by Subdivision (2) or that

contains an area described by Subdivision (1) or (3).

(b) Notwithstanding other eligibility requirements, the commission shall by rule or policy provide specific eligibility requirements under the Texas Clean Fleet Program established under Chapter 392 and under the Texas Natural Gas Vehicle Grant Program established under Chapter 394, as added by Chapter 892 (SB 385), Acts of the 82nd Legislature, Regular Session, 2011, for projects relating to agricultural product transportation.

(c) The determining factor for eligibility for participation in a program established under Chapter 392 or Chapter 394, as added by Chapter 892 (SB 385), Acts of the 82nd Legislature, Regular Session, 2011, for a project relating to

agricultural product transportation is the overall accumulative net reduction in emissions of oxides of nitrogen in a nonattainment area, an affected county, or the clean transportation triangle.

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

Amend **SB 1727** on third reading as follows:

(1) In added Section 386.104(f-1), Health and Safety Code, as added by the Isaac amendment, strike "as an incentive for the conversion of heavy-duty diesel on-road vehicle engines to operate under a dual-fuel configuration that uses natural gas and diesel fuels through an alternative fuel conversion system certified by the United States Environmental Protection Agency" and substitute the following:

as an incentive for the conversion of heavy-duty diesel on-road vehicle engines or stationary engines to operate under a dual-fuel configuration that uses natural gas and diesel fuels through an alternative fuel conversion system certified by the United States Environmental Protection Agency or the California Air Resources Board

(2) In added Section 386.104(f-1), Health and Safety Code, as added by the Isaac amendment, strike "the commission may consider under this subsection certified engine test information that demonstrates nitrogen oxides emissions reductions and other information to verify the emissions reductions" and substitute the following:

the commission may consider under this subsection certified engine test information that demonstrates reductions of emissions of nitrogen oxides and other pollutants and other information to verify the emissions reductions

(3) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. The heading to Subchapter E, Chapter 386, Health and Safety Code, is amended to read as follows:

#### SUBCHAPTER E. EVALUATION OF UTILITY COMMISSION AND COMPTROLLER ENERGY EFFICIENCY PROGRAMS [GRANT PROGRAM]

SECTION \_\_\_\_\_. Section 386.205, Health and Safety Code, is amended to read as follows:

Sec. 386.205. EVALUATION OF UTILITY COMMISSION AND  
COMPTROLLER [STATE] ENERGY EFFICIENCY PROGRAMS. In cooperation with the laboratory, the utility commission shall provide an annual report to the commission that, by county, quantifies the reductions of energy demand, peak loads, and associated emissions of air contaminants achieved from [the] programs implemented by the state energy conservation office [under this subchapter] and from programs [those] implemented under Section 39.905, Utilities Code.

SECTION \_\_\_\_\_. The following provisions are repealed:

(1) Section 386.051(c), Health and Safety Code; and

(2) Sections 386.201, 386.202, and 386.203, Health and Safety Code.

(4) Combine into one SECTION of the bill all SECTIONS of the bill that repeal provisions of the law, numbering the subdivisions appropriately.

The amendments were read.

Senator Deuell moved to concur in the House amendments to **SB 1727**.



The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Birdwell, Campbell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Garcia, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Hancock, Paxton.

Present-not voting: Fraser.

### STATEMENT OF LEGISLATIVE INTENT

Senator Deuell submitted the following statement of legislative intent for **SB 1727**:

The statement "as may be appropriated for those programs" in Section 386.252(f), Health and Safety Code, is intended to be permissive and not restrictive. This language is not intended as a limitation on the authority of the commission under Sections 386.252(e-1) and (h) to reallocate money that was originally allocated to another program to one or more of the programs listed under Sections 386.051(b)(13), (b)(14), and (b-1), Health and Safety Code.

DEUELL

### CONFERENCE COMMITTEE ON HOUSE BILL 3569

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3569** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3569** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Hegar, Hinojosa, Estes, and Schwertner.

### CONFERENCE COMMITTEE ON HOUSE BILL 3447

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3447** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3447** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Taylor, Zaffirini, Hinojosa, and Campbell.

### **SENATE RESOLUTION 1055**

Senator Williams offered the following resolution:

**SR 1055**, Suspending limitations on conference committee jurisdiction, S.B. 1.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**(President in Chair)**

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **SB 1**. The Conference Committee Report was filed with the Senate on Thursday, May 23, 2013.

On motion of Senator Williams, the Conference Committee Report was adopted by the following vote: Yeas 27, Nays 4.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Campbell, Patrick, Paxton.

### **MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate:

OFFICIAL MEMORANDUM  
STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES  
OF THE EIGHTY-THIRD TEXAS LEGISLATURE, REGULAR SESSION:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove and veto Senate Bill No. 346 of the 83rd Texas Legislature, Regular Session, due to the following objections:

Freedom of association and freedom of speech are two of our most important rights enshrined in the Constitution. My fear is that Senate Bill 346 would have a chilling effect on both of those rights in our democratic political process. While regulation is necessary in the administration of Texas political finance laws, no regulation is tolerable that puts anyone's participation at risk or that can be used by any government, organization or individual to intimidate those who choose to participate in our process through financial means.

At a time when our federal government is assaulting the rights of Americans by using the tools of government to squelch dissent it is unconscionable to expose more Texans to the risk of such harassment, regardless of political, organizational or party affiliation.

I therefore veto Senate Bill 346.

Since you remain gathered in regular session and continue to conduct formal business, I am delivering this disapproval message directly to you along with the official enrolled copy of the bill.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 25th day of May, 2013.

/s/Rick Perry  
Governor of Texas

(Seal)

Attested by:

/s/John Steen  
Secretary of State

#### SENATE BILL 692 WITH HOUSE AMENDMENT

Senator Carona called **SB 692** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 692** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the filing by electronic mail of financial disclosures by certain county officers, county employees, or candidates for county office.

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

SECTION 1. Section 159.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The statement may be filed with the county clerk by electronic mail. The county clerk may prescribe the manner and format for filing by electronic mail.

SECTION 2. Section 159.005(b), Local Government Code, is amended to read as follows:

(b) The county clerk shall mail or, at the request of the person required to file under this subchapter, send by electronic mail, ~~two copies of~~ the form to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

SECTION 3. Section 159.034, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) A report filed under this subchapter may be filed by electronic mail. The authority with whom the report is filed may prescribe the manner and format for filing by electronic mail.

SECTION 4. Section 159.052, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) A financial statement filed with the county clerk may be filed by electronic mail. The county clerk may prescribe the manner and format for filing by electronic mail under this subsection.

SECTION 5. Section 159.054(b), Local Government Code, is amended to read as follows:

(b) The county clerk shall make paper and electronic copies of the form available to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

SECTION 6. This Act takes effect September 1, 2013.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 692**.

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

#### **SENATE BILL 950 WITH HOUSE AMENDMENT**

Senator Carona called **SB 950** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

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

Amend **SB 950** (house committee report), on page 2, line 23, between "supply" and "for", by inserting "of the product or brand".

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 950**.

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

#### **SENATE BILL 1090 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1090** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

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

Amend **SB 1090** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 108, Alcoholic Beverage Code, is amended by adding Section 108.035 to read as follows:

Sec. 108.035. PACKAGING OF CERTAIN PROMOTIONAL ITEMS AUTHORIZED. Notwithstanding any other provision of this code, a person who holds a brewer's permit, nonresident brewer's permit, manufacturer's license, or nonresident manufacturer's license, or the person's agent or employee, may package alcoholic beverages in combination with other items if the package is designed to be

delivered intact to the wholesaler or distributor and the additional items are branded and have no value or benefit to the retailer other than that of having the potential of attracting purchases and promoting sales.

SECTION \_\_\_\_\_. Subchapter A, Chapter 108, Alcoholic Beverage Code, is amended by adding Section 108.10 to read as follows:

Sec. 108.10. BRANDED PROMOTIONAL VEHICLES. Notwithstanding any other provision of this code, the holder of a manufacturer's or nonresident manufacturer's license or a nonresident seller's permit may display a branded promotional vehicle on the licensed or permitted premises of a retailer, whether outside or inside a structure on the premises, for not more than five hours per day.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1090**.

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

#### VOTES RECONSIDERED ON HOUSE BILL 752

On motion of Senator Hinojosa and by unanimous consent, the vote by which **HB 752** was finally passed was reconsidered:

**HB 752**, Relating to the types of entities that are considered municipal water suppliers for purposes of the law governing the effect of the subdivision of certain land on certain irrigation water rights.

Question—Shall **HB 752** be finally passed?

On motion of Senator Hinojosa and by unanimous consent, the vote by which **HB 752** was passed to third reading was reconsidered.

Question—Shall **HB 752** be passed to third reading?

On motion of Senator Hinojosa and by unanimous consent, the vote by which Floor Amendment No. 1 was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 to **HB 752** be adopted?

Senator Hinojosa withdrew Floor Amendment No. 1.

**HB 752** was passed to third reading by a viva voce vote.

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

#### HOUSE BILL 752 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.25, Senate Rule 7.18, and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 752** be placed on its third reading and final passage.

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

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 215 ADOPTED**

Senator Birdwell called from the President's table the Conference Committee Report on **SB 215**. The Conference Committee Report was filed with the Senate on Friday, May 24, 2013.

On motion of Senator Birdwell, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RULE 12.09(a) SUSPENDED  
(Printing and Notice of Conference Committee Reports)**

On motion of Senator Williams and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **HB 7**.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 7 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **HB 7**. The Conference Committee Report was filed with the Senate on Saturday, May 25, 2013.

On motion of Senator Williams, the Conference Committee Report was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Nelson, Nichols, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Campbell, Lucio, Patrick, Paxton, Watson.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3903**

Senator Campbell submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3903** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CAMPBELL  
HINOJOSA  
HEGAR

ISAAC  
WORKMAN  
BONNEN, DENNIS

TAYLOR

On the part of the Senate

CLARDY

ASHBY

On the part of the House

The Conference Committee Report on **HB 3903** was filed with the Secretary of the Senate on Friday, May 24, 2013.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3572**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas

May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3572** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS

HINOJOSA

HEGAR

LUCIO

HUFFMAN

On the part of the Senate

HILDERBRAN

BOHAC

EILAND

KUEMPEL

SHEFFIELD, J. D.

On the part of the House

The Conference Committee Report on **HB 3572** was filed with the Secretary of the Senate on Friday, May 24, 2013.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3093**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas

May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3093** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
 BIRDWELL  
 CARONA  
 SCHWERTNER  
 VAN DE PUTTE

On the part of the Senate

ELKINS  
 BUTTON  
 GONZALES, LARRY  
 REYNOLDS

On the part of the House

The Conference Committee Report on **HB 3093** was filed with the Secretary of the Senate on Friday, May 24, 2013.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 7**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas

May 24, 2013

Honorable David Dewhurst

President of the Senate

Honorable Joe Straus

Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 7** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS  
 DUNCAN  
 NELSON  
 ELTIFE  
 HEGAR  
 On the part of the Senate

DARBY  
 PITTS  
 EILAND  
 OTTO  
 TURNER, SYLVESTER  
 On the part of the House

The Conference Committee Report on **HB 7** was filed with the Secretary of the Senate on Friday, May 24, 2013.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 1951**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas

May 24, 2013

Honorable David Dewhurst

President of the Senate



Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1951** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

ELLIS

ELTIFE

DUNCAN

VAN DE PUTTE

On the part of the Senate

THOMPSON, SENFRONIA

CLARDY

RAYMOND

SHEETS

SIMMONS

On the part of the House

The Conference Committee Report on **HB 1951** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 359

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas

May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 359** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA

GARCIA

NICHOLS

WHITMIRE

TAYLOR

On the part of the Senate

EILAND

MARTINEZ FISCHER

BOHAC

BUTTON

GONZALEZ, NAOMI

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to the selection of certain members of the board of directors of an appraisal district.

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

SECTION 1. Subsections (c) and (e), Section 6.03, Tax Code, are amended to read as follows:

(c) Members of the board of directors other than a county assessor-collector serving as a nonvoting director are appointed by vote of the governing bodies of the incorporated cities and towns, the school districts, the junior college districts, and, if entitled to vote, the conservation and reclamation districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships. Conservation and reclamation districts are not entitled to vote unless at least one conservation and reclamation district in the district delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year. On receipt of a request, the chief appraiser shall certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the district.

(e) The chief appraiser shall calculate the number of votes to which each taxing unit other than a conservation and reclamation district is entitled and shall deliver written notice to each of those units of its voting entitlement before October 1 of each odd-numbered year. The chief appraiser shall deliver the notice:

(1) to the county judge and each commissioner of the county served by the appraisal district;

(2) to the presiding officer of the governing body of each city or town participating in the appraisal district, to the city manager of each city or town having a city manager, and to the city secretary or clerk, if there is one, of each city or town that does not have a city manager; ~~and~~

(3) to the presiding officer of the governing body of each school district participating in the district and to the superintendent of those school districts; and

(4) to the presiding officer of the governing body of each junior college district participating in the district and to the president, chancellor, or other chief executive officer of those junior college districts.

SECTION 2. Section 6.031, Tax Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) If an appraisal district increases the number of members on the board of directors of the district or changes the method or procedure for appointing the members as provided by this section, the board of directors by resolution shall provide for the junior college districts that participate in the appraisal district to collectively participate in the selection of directors in the same manner as the school district that imposes the lowest total dollar amount of property taxes in the appraisal district among all of the school districts with representation in the appraisal district. A resolution adopted under this section is not subject to rejection by a resolution opposing the change filed with the board of directors by a taxing unit under Subsection (a).

SECTION 3. The change in law made by this Act applies only to the selection of appraisal district directors for terms beginning on or after January 1, 2014. The change in law made by this Act does not affect the selection of appraisal district directors for terms beginning before that date.

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, 2013.

The Conference Committee Report on **SB 359** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 219**

Senator Huffman submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 219** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HUFFMAN  
NELSON  
NICHOLS  
URESTI  
VAN DE PUTTE  
On the part of the Senate

BONNEN, DENNIS  
ANCHIA  
JOHNSON  
KEFFER  
PRICE  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to ethics of public servants, including the functions and duties of the Texas Ethics Commission; the regulation of political contributions, political advertising, lobbying, and conduct of public servants; and the reporting of political contributions and expenditures and personal financial information; providing civil and criminal penalties.

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

**ARTICLE 1. GENERAL PROCEDURES OF TEXAS ETHICS COMMISSION**

SECTION 1.01. Subchapter B, Chapter 571, Government Code, is amended by adding Section 571.033 to read as follows:

Sec. 571.033. NOTIFICATION PROCEDURES. The commission shall adopt rules prescribing how the commission will notify any person or provide any notice required by this subtitle, Chapter 305, or Title 15, Election Code.

SECTION 1.02. Section 571.0671, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Electronic report data saved in a commission temporary storage location for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed, the information disclosed in the report is subject to the law requiring the filing of the report.

ARTICLE 2. INQUIRY PROCEDURES AND HEARINGS AND ENFORCEMENT  
ACTIVITIES OF TEXAS ETHICS COMMISSION

SECTION 2.01. Subdivision (2), Section 571.002, Government Code, is amended to read as follows:

(2) "Complainant" means an individual who files an inquiry [~~a sworn complaint~~] with the commission.

SECTION 2.02. Subsection (a), Section 571.027, Government Code, is amended to read as follows:

(a) A member of the commission may not participate in a commission proceeding relating to any of the following actions if the member is the subject of the action:

- (1) a formal investigation by the commission;
- (2) an inquiry [~~a sworn complaint~~] filed with the commission; or
- (3) a motion adopted by vote of at least six members of the commission.

SECTION 2.03. Subsection (f), Section 571.069, Government Code, is amended to read as follows:

(f) This section may not be construed as limiting or affecting the commission's authority to, on the filing of a motion or receipt of an inquiry [~~a sworn complaint~~], review or investigate the sufficiency of a statement or report.

SECTION 2.04. Section 571.073, Government Code, is amended to read as follows:

Sec. 571.073. REPORT. On or before December 31 of each even-numbered year, the commission shall report to the governor and legislature. The report must include:

(1) each advisory opinion issued by the commission under Subchapter D in the preceding two years;

(2) a summary of commission activities in the preceding two years, including:

(A) the number of inquiries [~~sworn complaints~~] filed with the commission;

(B) the number of inquiries [~~sworn complaints~~] dismissed for noncompliance with statutory form requirements;

(C) the number of inquiries [~~sworn complaints~~] dismissed for lack of jurisdiction;

(D) the number of inquiries [~~sworn complaints~~] dismissed after a finding of no credible evidence of a violation;

(E) the number of inquiries [~~sworn complaints~~] dismissed after a finding of a lack of sufficient evidence to determine whether a violation within the jurisdiction of the commission has occurred;

(F) the number of inquiries [~~sworn complaints~~] resolved by the commission through an agreed decision [~~order~~];

(G) the number of inquiries [~~sworn complaints~~] in which the commission issued a decision [~~an order~~] finding a violation and the resulting penalties, if any; and

(H) the number and amount of civil penalties imposed for failure to timely file a statement or report, the number and amount of those civil penalties fully paid, the number and amount of those civil penalties partially paid, and the number and amount of those civil penalties no part of which has been paid, for each of the following category of statements and reports, listed separately:

- (i) financial statements required to be filed under Chapter 572;
- (ii) political contribution and expenditure reports required to be filed under Section 254.063, 254.093, 254.123, 254.153, or 254.157, Election Code;
- (iii) political contribution and expenditure reports required to be filed under Section 254.064(b), 254.124(b), or 254.154(b), Election Code;
- (iv) political contribution and expenditure reports required to be filed under Section 254.064(c), 254.124(c), or 254.154(c), Election Code;
- (v) political contribution and expenditure reports required to be filed under Section 254.038 or 254.039, Election Code; and
- (vi) political contribution and expenditure reports required to be filed under Section 254.0391, Election Code; and

(3) recommendations for any necessary statutory changes.

SECTION 2.05. Section 571.076, Government Code, is amended to read as follows:

Sec. 571.076. CONTRACT FOR ADMINISTRATION. The commission may contract with persons to administer and carry out this chapter and rules, standards, [~~and~~] orders, and decisions adopted under this chapter, excluding any enforcement authority.

SECTION 2.06. The heading to Subchapter E, Chapter 571, Government Code, is amended to read as follows:

SUBCHAPTER E. INQUIRY [~~COMPLAINT~~] PROCEDURES AND HEARINGS

SECTION 2.07. Section 571.121, Government Code, is amended to read as follows:

Sec. 571.121. GENERAL POWERS. (a) The commission may:

(1) hold hearings, on its own motion adopted by an affirmative vote of at least six commission members or on an inquiry [~~a sworn complaint~~], and render decisions on inquiries [~~complaints~~] or reports of violations as provided by this chapter; and

(2) agree to the settlement of issues.

(b) The commission may not consider an inquiry [~~a complaint~~] or vote to investigate a matter outside the commission's jurisdiction.

SECTION 2.08. Section 571.1211, Government Code, is amended to read as follows:

Sec. 571.1211. DEFINITIONS. In this subchapter, "campaign [:

~~(1) "Campaign]~~ communication" and "political advertising" have the meanings assigned by Section 251.001, Election Code.

~~[(2) "Category One violation" means a violation of a law within jurisdiction of the commission as to which it is generally not difficult to ascertain whether the violation occurred or did not occur, including:~~

~~[(A) the failure by a person required to file a statement or report to:~~

~~[(i) file the required statement or report in a manner that complies with applicable requirements; or~~

~~[(ii) timely file the required statement or report;~~

~~[(B) a violation of Section 255.001, Election Code;~~

~~[(C) a misrepresentation in political advertising or a campaign communication relating to the office held by a person in violation of Section 255.006, Election Code;~~

~~[(D) a failure to include in any written political advertising intended to be seen from a road the right of way notice in violation of Section 255.007, Election Code; or~~

~~[(E) a failure to timely respond to a written notice under Section 571.123(b).~~

~~[(3) "Category Two violation" means a violation of a law within the jurisdiction of the commission that is not a Category One violation.]~~

SECTION 2.09. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1213 to read as follows:

Sec. 571.1213. CATEGORIZATION OF VIOLATIONS. (a) The commission staff shall categorize, in ascending order of seriousness, each violation of law alleged in an inquiry or on a motion of the commission as:

(1) a technical, clerical, or de minimis violation;

(2) an administrative or filing violation; or

(3) a more serious violation.

(b) The commission shall adopt rules defining what violations of law are included in each category of violation.

SECTION 2.10. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1214 to read as follows:

Sec. 571.1214. RESOLUTION OF VIOLATIONS. (a) The commission staff and the commission shall resolve an inquiry or motion in the form corresponding to the most serious category of violation alleged in the inquiry or motion as provided in this section.

(b) An inquiry or motion alleging a technical, clerical, or de minimis violation must be resolved in a letter of acknowledgment.

(c) An inquiry or motion alleging an administrative or filing violation must be resolved in a notice of administrative or filing error.

(d) An inquiry or motion alleging a more serious violation must be resolved in a notice of violation.

SECTION 2.11. Section 571.122, Government Code, as amended by Chapters 604 (H.B. 677) and 1166 (H.B. 3218), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

Sec. 571.122. FILING OF INQUIRY [COMPLAINT]; CONTENTS. (a) An individual may file with the commission an inquiry [a sworn complaint] alleging that a person subject to a law administered and enforced by the commission has violated a

rule adopted by or a law administered and enforced by the commission. An inquiry [~~A sworn complaint~~] must be filed on a form prescribed by the commission. The commission shall make the inquiry [~~complaint~~] form available on the Internet. The form prescribed by the commission must require the complainant to provide the following information for both the complainant and the respondent:

- (1) the person's name;
- (2) the person's telephone number;
- (3) the person's electronic mail address, if known; and
- (4) the physical address of the person's home or business.

(b) An inquiry [~~A complaint~~] filed under this section must be in writing and under oath and must set forth in simple, concise, and direct statements:

- (1) the name of the complainant;
- (2) the street or mailing address of the complainant;
- (3) the name of each respondent;
- (4) the position or title of each respondent;
- (5) the nature of the alleged violation, including if possible the specific rule or provision of law alleged to have been violated;

(6) a statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and

(7) all documents or other material available to the complainant that are relevant to the allegation, a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known, and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the inquiry [~~complaint~~], including the location of the documents, if known.

(b-1) An individual must be a resident of this state to be eligible to file an inquiry [~~a sworn complaint~~] with the commission. A copy of one of the following documents must be attached to the inquiry [~~complaint~~]:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code; or

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the inquiry [~~complaint~~] is filed.

(b-2) [(b-1)] To be eligible to file an inquiry [~~a sworn complaint~~] with the commission, an individual must be a resident of this state or must own real property in this state. A copy of one of the following documents must be attached to the inquiry [~~complaint~~]:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code;

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and  
 (B) is dated not more than 30 days before the date on which the inquiry [~~complaint~~] is filed; or

(3) a property tax bill, notice of appraised value, or other government document that:

- (A) shows the name of the complainant;
- (B) shows the address of real property in this state; and
- (C) identifies the complainant as the owner of the real property.

(c) The inquiry [~~complaint~~] must be accompanied by an affidavit stating that the information contained in the inquiry [~~complaint~~] is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the inquiry [~~complaint~~] is based on information and belief, the inquiry [~~complaint~~] shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public or other authorized official.

(d) The inquiry [~~complaint~~] must state on its face an allegation that, if true, constitutes a violation of a rule adopted by or a law administered and enforced by the commission.

(e) It is not a valid basis of an inquiry [~~a complaint~~] to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 2.12. Section 571.1221, Government Code, is amended to read as follows:

Sec. 571.1221. DISMISSAL OF INQUIRY [~~COMPLAINT~~] FILED AT DIRECTION OR URGING OF NONRESIDENT. At any stage of a proceeding under this subchapter, the commission shall dismiss the inquiry [~~complaint~~] if the commission determines that the inquiry [~~complaint~~] was filed at the direction or urging of a person who is not a resident of this state.

SECTION 2.13. Section 571.1222, Government Code, is amended to read as follows:

Sec. 571.1222. DISMISSAL OF INQUIRY [~~COMPLAINT~~] CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss an inquiry [~~a complaint~~] to the extent the inquiry [~~complaint~~] alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 2.14. Section 571.123, Government Code, is amended to read as follows:

Sec. 571.123. PROCESSING OF INQUIRY [~~COMPLAINT~~]. (a) The commission shall determine whether an inquiry [~~a sworn complaint~~] filed with the commission complies with the form requirements of Section 571.122.

(a-1) [~~(b)~~] After an inquiry [~~a complaint~~] is filed, the commission shall immediately attempt to contact and notify the respondent of the inquiry [~~complaint~~ by telephone or electronic mail].



(b) Not later than the fifth business day after the date an inquiry [~~a complaint~~] is filed, the commission shall notify [~~send written notice to~~] the complainant and the respondent as to [~~The written notice to the complainant and the respondent must~~]:

(1) [~~state~~] whether the inquiry [~~complaint~~] complies with the form requirements of Section 571.122; and

(2) if the respondent is a candidate or officeholder, [~~state~~] the procedure by which the respondent may designate an agent with whom commission staff may discuss the inquiry [~~complaint~~]; and

[~~(3) if applicable, include the information required by Section 571.124(e)~~].

(c) If the commission determines that the inquiry [~~complaint~~] does not comply with the form requirements, the commission shall return [~~send~~] the inquiry [~~complaint~~] to the complainant with [~~the written notice,~~] a statement explaining how the inquiry [~~complaint~~] fails to comply[;] and a copy of the rules for filing inquiries [~~sworn complaints~~]. The commission shall provide [~~send~~] a copy of the rejected inquiry [~~complaint~~] to the respondent with [~~the written notice and~~] the statement explaining how the inquiry [~~complaint~~] fails to comply. The complainant may resubmit the inquiry [~~complaint~~] not later than the 21st day after the date the complainant is notified [~~notice~~] under Subsection (b) [~~is mailed~~]. If the commission determines that the inquiry [~~complaint~~] is not resubmitted within the 21-day period, the commission shall:

(1) dismiss the inquiry [~~complaint~~]; and

(2) not later than the fifth business day after the date of the dismissal, notify [~~send written notice to~~] the complainant and the respondent of the dismissal and the grounds for dismissal.

(d) If the commission determines that an inquiry [~~a complaint~~] is resubmitted under Subsection (c) within the 21-day period but is not in proper form, the commission shall return the inquiry to the complainant as provided in [~~send the notice required under~~] Subsection (c), and the complainant may resubmit the inquiry [~~complaint~~] under that subsection.

(e) If the commission determines that an inquiry [~~a complaint~~] returned to the complainant under Subsection (c) or (d) is resubmitted within the 21-day period and that the inquiry [~~complaint~~] complies with the form requirements, the commission shall notify the complainant and respondent [~~send the written notice~~] under Subsection (b).

SECTION 2.15. Subsection (b), Section 571.1231, Government Code, is amended to read as follows:

(b) A respondent to an inquiry [~~a complaint~~] filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the inquiry [~~complaint~~].

SECTION 2.16. Section 571.124, Government Code, is amended to read as follows:

Sec. 571.124. PRELIMINARY REVIEW: INITIATION. (a) The commission staff shall promptly conduct a preliminary review on receipt of a written inquiry [~~complaint~~] that is in compliance with the form requirements of Section 571.122.

(b) On a motion adopted by an affirmative vote of at least six commission members, the commission staff, without an inquiry ~~[a sworn complaint]~~, may undertake ~~[initiate]~~ a preliminary review of the matter that is the subject of the motion.

(c) The executive director shall determine in writing whether the commission has jurisdiction over the violation of law alleged in an inquiry ~~[a sworn complaint]~~ processed under Section 571.123.

(e) If the executive director determines that the commission has jurisdiction, the notification ~~[notice]~~ under Section 571.123(b) must include:

(1) a statement that the commission has jurisdiction over the violation of law alleged in the inquiry ~~[complaint]~~;

(2) a statement of whether the inquiry ~~[complaint]~~ will be processed as a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation ~~[Category One violation or a Category Two violation, subject to reconsideration as provided for by Section 571.1212]~~;

(3) the date by which the respondent is required to respond to the notification ~~[notice]~~;

(4) a copy of the inquiry ~~[complaint]~~ and the rules of procedure of the commission;

(5) a statement of the rights of the respondent;

(6) a statement inviting the respondent to provide to the commission any information relevant to the inquiry ~~[complaint]~~; and

(7) a statement that a failure to timely respond to the notification ~~[notice]~~ will be treated as a separate violation.

(f) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the inquiry ~~[complaint]~~, the executive director shall:

(1) dismiss the inquiry ~~[complaint]~~; and

(2) not later than the fifth business day after the date of the dismissal, ~~[send to]~~ notify the complainant and the respondent ~~[written notice]~~ of the dismissal and the grounds for the dismissal.

SECTION 2.17. Subsections (a) and (c), Section 571.1241, Government Code, are amended to read as follows:

(a) If the executive director determines that the commission does not have jurisdiction over the violation alleged in the inquiry ~~[complaint]~~, the complainant may request that the commission review the determination. A request for review under this section must be filed not later than the 30th day after the date the complainant receives the executive director's determination.

(c) Not later than the fifth business day after the date of the commission's determination under this section, the commission shall notify ~~[send written notice to]~~ the complainant and the respondent as to ~~[stating]~~ whether the commission has jurisdiction over the violation alleged in the inquiry ~~[complaint]~~. If the commission determines that the commission has jurisdiction, the notification ~~[notice]~~ must include the items listed in Section 571.124(e).

SECTION 2.18. Section 571.1242, Government Code, is amended to read as follows:

## Sec. 571.1242. PRELIMINARY REVIEW: RESPONSE BY RESPONDENT.

(a) If the alleged violation is a technical, clerical, or de minimis ~~[Category One]~~ violation:

(1) the respondent must respond to the notification ~~[notice]~~ required by Section 571.123(b) not later than the 10th business day after the date the respondent is notified ~~[receives the notice]~~; and

(2) if the matter is not resolved by agreement between the commission and the respondent before the 30th business day after the date the respondent is notified ~~[receives the notice]~~ under Section 571.123(b), the commission shall set the matter for a preliminary review hearing ~~[to be held at the next commission meeting for which notice has not yet been posted].~~

(b) If the alleged violation is an administrative or filing violation or a more serious ~~[a Category Two]~~ violation:

(1) the respondent must respond to the notification ~~[notice]~~ required by Section 571.123(b) not later than the 25th business day after the date the respondent is notified ~~[receives the notice]~~ under Section 571.123(b); and

(2) if the matter is not resolved by agreement between the commission and the respondent before the 75th business day after the date the respondent is notified ~~[receives the notice]~~ under Section 571.123(b), the commission shall set the matter for a preliminary review hearing ~~[to be held at the next commission meeting for which notice has not yet been posted].~~

(c) A respondent's failure to timely respond as required by Subsection (a)(1) or (b)(1) is a ~~[Category One]~~ violation.

(d) The response required to the notification under Section 571.123(b) ~~[by Subsection (a) or (b)]~~ must include any challenge the respondent seeks to raise to the commission's exercise of jurisdiction. In addition, the respondent may:

(1) acknowledge the occurrence or commission of a violation;

(2) deny the allegations contained in the inquiry ~~[complaint]~~ and provide evidence supporting the denial; or

(3) agree to enter into a letter of acknowledgment ~~[an assurance of voluntary compliance]~~ or other agreed decision ~~[order]~~, which may include an agreement to immediately cease and desist.

~~[(e) If the commission sets the matter for a preliminary review hearing, the commission shall promptly send to the complainant and the respondent written notice of the date, time, and place of the preliminary review hearing.]~~

SECTION 2.19. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.12421 to read as follows:

Sec. 571.12421. PRELIMINARY REVIEW: PROCEDURE. (a) The commission shall adopt procedures by rule for the conduct of:

(1) a preliminary review of an inquiry or motion that alleges a technical, clerical, or de minimis violation;

(2) a preliminary review of an inquiry or motion that alleges an administrative or filing violation; and

(3) a preliminary review of an inquiry or motion that alleges a more serious violation.

(b) If an inquiry or motion alleges violations of different categories, the commission staff shall conduct a preliminary review of the inquiry or motion according to the procedure for the most serious category of violation alleged in the inquiry or motion.

(c) If, in the course of conducting a preliminary review, the commission staff determines that the violation alleged in the inquiry or motion was initially categorized incorrectly, the commission staff shall continue conducting the preliminary review according to the procedure for the correct category of violation.

(d) If an inquiry or motion alleges more than one violation, the commission staff may conduct a single preliminary review of the alleged violations or conduct a separate preliminary review for each violation.

SECTION 2.20. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.12431 to read as follows:

Sec. 571.12431. PRELIMINARY REVIEW: RESOLUTION. (a) After conducting a preliminary review of an inquiry or motion, the commission staff shall propose a resolution of the inquiry or motion to the respondent in the form corresponding to the category of violation alleged in the inquiry or motion or, if the inquiry or motion alleges multiple violations, in the form corresponding to the most serious category of violation.

(b) Except as provided by other law or commission rule, if the respondent accepts the resolution, the commission staff shall submit to the commission for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

(c) If the respondent rejects the resolution, the commission shall set the inquiry or motion for a preliminary review hearing.

SECTION 2.21. Section 571.1244, Government Code, is amended to read as follows:

Sec. 571.1244. PRELIMINARY REVIEW AND PRELIMINARY REVIEW HEARING PROCEDURES. (a) The commission shall adopt procedures for the conduct of preliminary reviews and preliminary review hearings. The procedures must include:

(1) a reasonable time for responding to questions submitted by the commission and commission staff and subpoenas issued by the commission; and

(2) the tolling or extension of otherwise applicable deadlines where:

(A) the commission issues a subpoena and the commission's meeting schedule makes it impossible both to provide a reasonable time for response and to comply with the otherwise applicable deadlines; or

(B) the commission determines that, despite commission staff's diligence and the reasonable cooperation of the respondent, a matter is too complex to resolve within the otherwise applicable deadlines without compromising either the commission staff's investigation or the rights of the respondent.

(b) The commission by rule shall adopt procedures for the commission's review of a letter of acknowledgment, a notice of administrative or filing error, or a notice of violation submitted to the commission under Section 571.12431(b) or 571.126(f).

(c) The commission by rule shall adopt procedures for the disposition of an inquiry or motion if the respondent does not respond to a resolution of the inquiry or motion proposed to the respondent under Section 571.12431 or 571.126.

SECTION 2.22. Section 571.125, Government Code, is amended to read as follows:

Sec. 571.125. PRELIMINARY REVIEW HEARING: PROCEDURE. (a) A panel of two members of the ~~The~~ commission shall conduct a preliminary review hearing if:

(1) following the preliminary review, the ~~commission and the~~ respondent does not ~~cannot~~ agree to the resolution of the inquiry or motion proposed by the commission staff ~~[disposition of the complaint or motion]~~; or

(2) the respondent in writing requests a hearing.

(b) The commission shall notify ~~[provide written notice to]~~ the complainant, if any, and the respondent of the date, time, and place the panel ~~[commission]~~ will conduct the preliminary review hearing.

(c) At or after the time the commission notifies the complainant, if any, and the respondent ~~[provides notice]~~ of a preliminary review hearing, the commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time.

(d) During a preliminary review hearing, the panel ~~[commission]~~:

(1) may consider all submitted evidence related to the inquiry ~~[complaint]~~ or to the subject matter of a motion under Section 571.124(b);

(2) may review any documents or material related to the inquiry ~~[complaint]~~ or to the motion; and

(3) shall determine whether there is credible evidence that provides cause for the panel ~~[commission]~~ to conclude that a violation within the jurisdiction of the commission has occurred.

(e) During a preliminary review hearing, the respondent may appear before the panel ~~[commission]~~ with the assistance of counsel, if desired by the respondent, and present any relevant evidence, including a written statement.

SECTION 2.23. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1251 to read as follows:

Sec. 571.1251. SELECTION OF PANEL TO CONDUCT PRELIMINARY REVIEW HEARING. The commission shall adopt rules for the selection of members of the commission to serve on panels to conduct preliminary review hearings. The rules shall ensure that:

(1) a panel is composed of two members of the commission; and

(2) each member of the panel is a member of a different political party.

SECTION 2.24. Section 571.126, Government Code, is amended to read as follows:

Sec. 571.126. PRELIMINARY REVIEW HEARING: RESOLUTION. (a) Except as provided in Subsection (e), as ~~As~~ soon as practicable after the completion of a preliminary review hearing, the panel ~~[commission]~~ by vote shall issue a decision stating:

(1) whether there is credible evidence for the panel [commission] to determine that a violation within the jurisdiction of the commission has occurred and whether the violation is a technical, clerical, or de minimis violation, an administrative or filing violation, or a more serious violation; or

(2) that there is insufficient evidence for the panel [commission] to determine whether a violation within the jurisdiction of the commission has occurred.

(b) If the panel [commission] determines that there is credible evidence for the panel [commission] to determine that a violation within the jurisdiction of the commission has occurred, the panel [commission] shall prepare a resolution of the inquiry or motion to propose to the respondent [resolve and settle the complaint or motion] to the extent possible. If the panel [commission] successfully prepares a resolution [resolves and settles the complaint or motion], not later than the fifth business day after the date the panel prepares the resolution [of the final resolution of the complaint or motion], the commission shall provide [send to the complainant, if any, and] the respondent a copy of the decision stating the panel's [commission's] determination and the panel's proposed resolution of the inquiry or motion in the appropriate form [written notice of the resolution and the terms of the resolution]. If the panel [commission] is unsuccessful in preparing a resolution or the respondent rejects the resolution [resolving and settling the complaint or motion], the panel [commission] shall:

(1) order a formal hearing to be held in accordance with Sections 571.127 [571.129] through 571.132; and

(2) not later than the fifth business day after, as applicable, the date the panel determines that there is credible evidence to determine that a violation has occurred or the date the respondent rejects a resolution prepared by the panel, provide [of the decision, send to] the complainant, if any, and the respondent with:

- (A) a copy of the decision;
- (B) [written] notice of the date, time, and place of the formal hearing;
- (C) a statement of the nature of the alleged violation;
- (D) a description of the evidence of the alleged violation;
- (E) a copy of the inquiry [complaint] or motion;
- (F) a copy of the commission's rules of procedure; and
- (G) a statement of the rights of the respondent.

(c) If the panel [commission] determines that there is credible evidence for the panel [commission] to determine that a violation within the jurisdiction of the commission has not occurred~~[-, the commission shall]~~:

(1) the panel shall dismiss the inquiry [complaint] or motion; and

(2) the commission shall, not later than the fifth business day after the date of the dismissal, provide [send to] the complainant, if any, and the respondent with a copy of the decision stating the panel's [commission's] determination and [written] notice of the dismissal and the grounds for dismissal.

(d) If the panel [commission] determines that there is insufficient credible evidence for the panel [commission] to determine that a violation within the jurisdiction of the commission has occurred, the panel [commission] may dismiss the inquiry [complaint] or motion or promptly order [conduct] a formal hearing to be held under Sections 571.127 [571.129] through 571.132. Not later than the fifth business

day after the date of the panel's ~~commission's~~ determination under this subsection, the commission shall provide ~~send to~~ the complainant, if any, and the respondent with a copy of the decision stating the panel's ~~commission's~~ determination and ~~written~~ notice of the grounds for the determination.

(e) If, because of a tie vote, the panel cannot issue a decision under Subsection (a), the panel shall order a formal hearing to be held under Sections 571.127 through 571.132. Not later than the fifth business day after the date of the vote, the commission shall notify the complainant, if any, and the respondent of the date, time, and place of the hearing.

(f) Except as provided by other law or commission rule, if the respondent accepts the resolution in Subsection (b), the panel shall submit to the commission for approval the letter of acknowledgment, notice of administrative or filing error, or notice of violation in which the resolution was proposed to the respondent.

(g) If an inquiry is finally resolved under this section, the commission shall provide the complainant a copy of the decision stating the panel's determination and the resolution of the inquiry.

SECTION 2.25. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.127 to read as follows:

Sec. 571.127. FORMAL HEARING: CONDUCT. The commission may conduct a formal hearing under this subchapter or may delegate to the State Office of Administrative Hearings the responsibility of conducting a formal hearing under this subchapter.

SECTION 2.26. Subsections (a) and (c), Section 571.132, Government Code, are amended to read as follows:

(a) Not later than the 30th business day after the date the State Office of Administrative Hearings issues a proposal for decision, the commission shall convene a meeting and by motion shall issue:

(1) a final decision stating the resolution of the formal hearing in the form corresponding to the category of violation alleged in the inquiry or motion that was the subject of the hearing; and

(2) a written report stating in detail the commission's findings of fact, conclusions of law, and recommendation of criminal referral or imposition of a civil penalty, if any.

(c) Not later than the fifth business day after the date the commission issues the final decision and written report, the commission shall:

(1) provide ~~send~~ a copy of the decision and report to the complainant, if any, and to the respondent; and

(2) make a copy of the decision and report available to the public during reasonable business hours.

SECTION 2.27. Section 571.134, Government Code, is amended to read as follows:

Sec. 571.134. DELAY OF REFERRAL. If an alleged violation involves an election in which the alleged violator is a candidate, a candidate's campaign treasurer, or the campaign treasurer of a political committee supporting or opposing a candidate and the inquiry ~~complaint~~ is filed within 60 days before the date of the election, the commission shall delay referral until:

- (1) the day after election day;
- (2) the day after runoff election day if an ensuing runoff involving the alleged violator is held; or
- (3) the day after general election day if the election involved in the violation is a primary election and the alleged violator is involved in the succeeding general election.

SECTION 2.28. Subsection (b), Section 571.135, Government Code, is amended to read as follows:

- (b) The materials must include:
- (1) a description of:
    - (A) the commission's responsibilities;
    - (B) the types of conduct that constitute a violation of a law within the jurisdiction of the commission;
    - (C) the types of sanctions the commission may impose;
    - (D) the commission's policies and procedures relating to inquiry [~~complaint~~] investigation and resolution; and
    - (E) the duties of a person filing an inquiry [~~a complaint~~] with the commission; and
  - (2) a diagram showing the basic steps in the commission's procedures relating to inquiry [~~complaint~~] investigation and resolution.

SECTION 2.29. Section 571.1351, Government Code, is amended to read as follows:

Sec. 571.1351. STATUS OF INQUIRY [~~COMPLAINT~~]. (a) The commission shall keep an information file about each inquiry [~~sworn or other complaint~~] filed with the commission. The file must include:

- (1) the name of the person who filed the inquiry [~~complaint~~];
- (2) the date the inquiry [~~complaint~~] is received by the commission;
- (3) the subject matter of the inquiry [~~complaint~~];
- (4) the name of each person contacted in relation to the inquiry [~~complaint~~];
- (5) a summary of the results of the review or investigation of the inquiry [~~complaint~~]; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the inquiry [~~complaint~~].

(b) The commission shall provide to the person filing the inquiry [~~complaint~~] and to each person who is a subject of the inquiry [~~complaint~~] a copy of the commission's policies and procedures relating to inquiry [~~complaint~~] investigation and resolution.

(c) In addition to the notice required by Sections 571.123 through 571.132, the commission, at least quarterly until final disposition of an inquiry [~~a complaint~~], shall notify the person who filed the inquiry [~~complaint~~] and each person who is a subject of the inquiry [~~complaint~~], if any, of the status of the inquiry [~~sworn or other complaint~~].

SECTION 2.30. Section 571.136, Government Code, is amended to read as follows:



Sec. 571.136. EXTENSION OF DEADLINE. The commission may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to an inquiry [~~a sworn complaint~~], motion, preliminary review hearing, or formal hearing.

SECTION 2.31. Subsection (a), Section 571.137, Government Code, is amended to read as follows:

(a) In connection with a formal hearing, the commission, as authorized by this chapter, may subpoena and examine witnesses and documents that directly relate to an inquiry [~~a sworn complaint~~].

SECTION 2.32. Section 571.139, Government Code, is amended to read as follows:

Sec. 571.139. APPLICABILITY OF OTHER ACTS. (a) Except as provided by Section 571.140(b), Chapter 552 does not apply to documents or any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion.

(b) Chapter 551 does not apply to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion, but does apply to a formal hearing held under Sections 571.127 [~~571.129~~] through 571.131.

(c) Subchapters C through H, Chapter 2001, apply only to a formal hearing under this subchapter, the resolution of a formal hearing, and the appeal of a final decision [~~order~~] of the commission, and only to the extent consistent with this chapter.

SECTION 2.33. Subsections (a), (b), and (b-1), Section 571.140, Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b) or (b-1) or by Section 571.171, proceedings at a preliminary review hearing performed by a panel of members of the commission, an inquiry [~~a sworn complaint~~], and documents and any additional evidence relating to the processing, preliminary review, preliminary review hearing, or resolution of an inquiry [~~a sworn complaint~~] or motion are confidential and may not be disclosed unless entered into the record of a formal hearing or a judicial proceeding, except that a document or statement that was previously public information remains public information.

(b) A notice of administrative or filing error or a notice of violation approved [~~An order issued~~] by the commission under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing [~~determining that a violation other than a technical or de minimis violation has occurred~~] is not confidential. A letter of acknowledgment approved by the commission under Section 571.12431(b) or 571.126(f) after the completion of a preliminary review or hearing is confidential.

(b-1) A commission employee may, for the purpose of investigating an inquiry [~~a sworn complaint~~] or motion, disclose to the complainant, the respondent, or a witness information that is otherwise confidential and relates to the inquiry [~~sworn complaint~~] if:

(1) the employee makes a good faith determination that the disclosure is necessary to conduct the investigation;

(2) the employee's determination under Subdivision (1) is objectively reasonable;

- (3) the executive director authorizes the disclosure; and
- (4) the employee discloses only the information necessary to conduct the investigation.

SECTION 2.34. Section 571.141, Government Code, is amended to read as follows:

Sec. 571.141. AVAILABILITY OF CERTAIN NOTICES AND DECISIONS ~~[COMMISSION ORDERS]~~ ON INTERNET. (a) As soon as practicable following a preliminary review, preliminary review hearing, or formal hearing at which the commission staff, a panel of members of the commission, or the commission determines that a person has committed a violation within the commission's jurisdiction, the commission shall make available on the Internet:

(1) a copy of the notice of administrative or filing error or notice of violation approved or issued by the commission ~~[commission's order stating the determination]~~; or

(2) a summary of the notice ~~[commission's order]~~.

(b) This section does not apply to a letter of acknowledgment ~~[determination of a violation that is technical or de minimis]~~.

(c) If at a preliminary review, preliminary review hearing, or formal hearing, the commission staff, a panel of members of the commission, or the commission does not find that a person has committed a violation within the commission's jurisdiction or dismisses the inquiry or motion at issue, the commission shall, on the person's request and waiver of confidentiality, make available on the Internet a copy of the decision or notice of dismissal.

SECTION 2.35. Section 571.142, Government Code, is amended to read as follows:

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) This section applies only to an inquiry ~~[a sworn complaint]~~ if:

(1) the inquiry ~~[complaint]~~ was filed after the 30th day before the date of an election;

(2) the respondent is a candidate in the election; and

(3) the inquiry ~~[complaint]~~ alleges an administrative or filing ~~[a]~~ violation or a more serious violation ~~[other than a technical or clerical violation]~~.

(b) If, in disposing of an inquiry ~~[a sworn complaint]~~ to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the inquiry ~~[complaint]~~.

(c) This section does not apply to an inquiry ~~[a sworn complaint]~~ regarding a reporting omission required by law.

SECTION 2.36. Subsection (b), Section 571.171, Government Code, is amended to read as follows:

(b) On receipt of an inquiry ~~[a sworn complaint]~~, if the executive director reasonably believes that the person who is the subject of the inquiry ~~[complaint]~~ has violated Chapter 36 or 39, Penal Code, the executive director may refer the matter to the appropriate prosecuting attorney for criminal prosecution.

SECTION 2.37. Section 571.173, Government Code, is amended to read as follows:

Sec. 571.173. CIVIL PENALTY FOR DELAY OR VIOLATION. (a) The commission and the commission staff may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the commission, whichever amount is more, for a delay in complying with a commission order or decision or for a violation of a law administered and enforced by the commission.

(b) The commission shall adopt guidelines for the commission and the commission staff to follow when imposing a civil penalty under this section. The guidelines must direct the commission or the commission staff to consider the factors described by Section 571.177.

(c) The commission or the commission staff shall impose a civil penalty on a respondent who accepts or is issued a notice of administrative or filing error or a notice of violation under this chapter.

(d) When imposing a civil penalty under Subsection (c), the commission is not required to consider any penalties previously proposed to the respondent at an earlier stage of review.

(e) The commission or the commission staff may not impose a civil penalty on a respondent who accepts or is issued a letter of acknowledgment under this chapter.

SECTION 2.38. Section 571.176, Government Code, is amended to read as follows:

Sec. 571.176. CIVIL PENALTY FOR FRIVOLOUS OR BAD-FAITH INQUIRY [~~COMPLAINT~~]. (a) The commission may impose a civil penalty of not more than \$10,000 for the filing of a frivolous or bad-faith inquiry [~~complaint~~]. In this subsection, "frivolous inquiry [~~complaint~~]" means an inquiry [~~a complaint~~] that is groundless and brought in bad faith or is groundless and brought for the purpose of harassment.

(b) In addition to other penalties, a person who files a frivolous inquiry [~~complaint~~] is civilly liable to the respondent in an amount equal to the greater of \$10,000 or the amount of actual damages incurred by the respondent, including court costs and attorney fees.

(c) A person may file an inquiry [~~a sworn complaint~~] with the commission, in accordance with Section 571.122, alleging that an inquiry [~~a complaint~~] relating to that person filed with the commission is frivolous or brought in bad faith. An inquiry [~~A complaint~~] may be filed under this subsection without regard to whether the inquiry [~~complaint~~] alleged to be frivolous or brought in bad faith is pending before the commission or has been resolved. The commission shall act on an inquiry [~~a complaint~~] made under this subsection as provided by Subchapter E.

SECTION 2.39. Section 571.177, Government Code, is amended to read as follows:

Sec. 571.177. FACTORS CONSIDERED FOR ASSESSMENT OF SANCTION. The commission or the commission staff shall consider the following factors in assessing a sanction:

(1) the seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;

- (2) the history and extent of previous violations;
- (3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation;
- (4) the penalty necessary to deter future violations; and
- (5) any other matters that justice may require.

SECTION 2.40. (a) Not later than December 1, 2013, the Texas Ethics Commission shall adopt any rules necessary to implement the changes in law made by this article.

(b) The changes in law made by this article apply only to an inquiry filed with the Texas Ethics Commission under Section 571.122, Government Code, or a motion adopted by the commission under Subsection (b), Section 571.124, Government Code, on or after December 1, 2013. A sworn complaint filed with the Texas Ethics Commission under Section 571.122, Government Code, or a motion adopted by the commission under Subsection (b), Section 571.124, Government Code, before that date is governed by the law in effect on the date the complaint is filed or the motion is adopted, and the former law is continued in effect for that purpose.

### ARTICLE 3. PERSONAL FINANCIAL STATEMENTS

SECTION 3.01. Section 571.0671, Government Code, is amended to read as follows:

#### Sec. 571.0671. REQUIREMENTS FOR ELECTRONIC FILING SOFTWARE.

(a) Computer software provided or approved by the commission for use under Section 254.036(b), Election Code, or Section 302.013, ~~[or]~~ 305.0064, or 572.0291 must:

- (1) use a standardized format for the entry of names, addresses, and zip codes;
- (2) provide for secure and encoded transmission of data from the computer of a person filing a report to the computers used by the commission;
- (3) be capable of being used by a person with basic computing skills;
- (4) provide confirmation to a person filing a report that the report was properly received; and
- (5) permit a person using a computer to prepare a report or to retrieve information from a report to import information to the report from a variety of computer software applications that meet commission specifications for a standard file format or export information from the report to a variety of computer software applications that meet commission specifications for a standard file format without the need to reenter information.

(b) Before determining the specifications for computer software developed, purchased, or licensed for use under Section 254.036, Election Code, or Section 302.013, ~~[or]~~ 305.0064, or 572.0291, the commission shall conduct at least one public hearing to discuss the specifications. For at least 10 days following the hearing, the commission shall accept public comments concerning the software specifications.

(c) The commission may provide software for use under Section 254.036(b), Election Code, or Section 302.013, ~~[or]~~ 305.0064, or 572.0291 by making the software available on the Internet. If the commission makes the software available on the Internet, the commission is not required to provide the software on computer diskettes, CD-ROMs, or other storage media without charge to persons required to file

reports under that section, but may charge a fee for providing the software on storage media. A fee under this subsection may not exceed the cost to the commission of providing the software.

SECTION 3.02. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0291 to read as follows:

Sec. 572.0291. ELECTRONIC FILING REQUIRED. A financial statement filed with the commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

SECTION 3.03. Subchapter B, Chapter 572, Government Code, is amended by adding Section 572.0292 to read as follows:

Sec. 572.0292. PREPARATION OF FORMS. The commission shall design forms that may be used for filing a financial statement with an authority other than the commission.

SECTION 3.04. The heading to Section 572.030, Government Code, is amended to read as follows:

Sec. 572.030. NOTIFICATION OF FILING REQUIREMENT  
[PREPARATION AND MAILING OF FORMS].

SECTION 3.05. Subsections (b) and (c), Section 572.030, Government Code, are amended to read as follows:

(b) The commission shall notify ~~[mail to]~~ each individual required to file under this subchapter of ~~[a notice that]~~:

(1) ~~the requirement~~ [states] that the individual ~~[is required to]~~ file a financial statement under this subchapter;

(2) ~~identifies~~ the filing dates for the financial statement as provided by Sections 572.026 and 572.027; and

(3) ~~describes~~ the manner in which the individual may electronically file the financial statement and access instructions for filing financial statements on ~~[obtain the financial statement forms and instructions from]~~ the commission's Internet website;

~~[(4) states that on request of the individual, the commission will mail to the individual a copy of the financial statement forms and instructions; and~~

~~[(5) states, if applicable, the fee for mailing the forms and instructions and the manner in which the individual may pay the fee].~~

(c) The notification ~~[notice]~~ required by Subsection (b) must be provided ~~[mailed]~~:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 572.027(d) ~~[574.027(d)]~~.

SECTION 3.06. Subsection (b), Section 572.031, Government Code, is amended to read as follows:

(b) If the commission determines that an individual has failed to file the statement in compliance with this subchapter, the commission shall notify ~~[send a written statement of the determination to]~~ the appropriate prosecuting attorney for ~~[attorneys of]~~ the state of the determination.

SECTION 3.07. Section 572.032, Government Code, is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The commission shall remove the home address of a judge, ~~[or]~~ justice, or district attorney from a financial statement filed under this subchapter before:

- (1) permitting a member of the public to view the statement; or
- (2) providing a copy of the statement to a member of the public.

(a-2) The commission shall remove the home address of an individual from a financial statement filed by the individual under this subchapter before:

- (1) permitting a member of the public to view the statement; or
- (2) providing a copy of the statement to a member of the public.

SECTION 3.08. Subsections (a) and (b), Section 572.033, Government Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a statement required to be filed under this subchapter is late. On making a determination that the statement is late, the commission shall notify ~~[immediately mail a notice of the determination to]~~ the individual responsible for filing the statement and ~~[to]~~ the appropriate prosecuting attorney for the state of the determination.

(b) If a statement is determined to be late, the individual responsible for filing the statement is liable to the state for a civil penalty of \$500. If a statement is more than 30 days late, the commission shall issue a warning of liability ~~[by registered mail]~~ to the individual responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the individual is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 3.09. Section 145.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The statement may be filed with the clerk or secretary by electronic mail. The clerk or secretary may prescribe guidelines for filing by electronic mail.

SECTION 3.10. Subsection (d), Section 145.004, Local Government Code, is amended to read as follows:

(d) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.11. Section 159.003, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The statement may be filed with the county clerk by electronic mail. The county clerk may prescribe guidelines for filing by electronic mail.

SECTION 3.12. Subsection (b), Section 159.004, Local Government Code, is amended to read as follows:

(b) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.13. Section 159.034, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) A report filed under this subchapter may be filed by electronic mail. The authority with whom the report is filed may prescribe guidelines for filing by electronic mail.

SECTION 3.14. Section 159.052, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) A financial statement filed with the county clerk may be filed by electronic mail. The county clerk may prescribe guidelines for filing by electronic mail under this subsection.

SECTION 3.15. Subsection (b), Section 159.053, Local Government Code, is amended to read as follows:

(b) The timeliness of the filing is governed by Section 572.029, Government Code. In addition, a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the United States post office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the mark.

SECTION 3.16. As soon as practicable after the effective date of this Act, the Texas Ethics Commission shall develop or approve the computer software that a person may use to electronically file a financial statement under Chapter 572, Government Code, as provided by the changes in law made by this article.

SECTION 3.17. Subsection (a-1), Section 572.032, Government Code, as amended by this Act, applies to any financial statement filed under Subchapter B, Chapter 572, Government Code, that the Texas Ethics Commission maintains on file and that is accessible to the public on or after the effective date of this Act.

SECTION 3.18. Subsection (a-2), Section 572.032, Government Code, as added by this Act, applies only to a financial statement filed under Subchapter B, Chapter 572, Government Code, on or after the date the Texas Ethics Commission determines that the computer software that a person is required to use to electronically file a financial statement includes features that allow the commission to easily and quickly

redact information in the statement. A financial statement filed before that date is governed by the law in effect on the date of filing, and the former law is continued in effect for that purpose.

#### ARTICLE 4. CAMPAIGN FINANCE

SECTION 4.01. Subdivision (16), Section 251.001, Election Code, is amended to read as follows:

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; ~~or~~

(B) is transmitted by an automated dial announcing device, as defined by Section 55.121, Utilities Code; or

(C) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

SECTION 4.02. Section 251.003, Election Code, is amended to read as follows:

Sec. 251.003. ~~[PROHIBITION OF]~~ DOCUMENT FILING FEE. (a) A candidate, an officeholder other than the secretary of state, and a political committee shall pay an annual fee for each year in which the candidate, officeholder, or political committee files ~~[A charge may not be made for filing]~~ a document required to be filed under this title.

(b) This section does not apply to:

(1) a candidate, officeholder, or specific-purpose committee who files reports under this title with an authority other than the commission;

(2) a candidate who filed a petition in lieu of the filing fee with the candidate's application for a place on the ballot; or

(3) an officeholder who filed a petition in lieu of the filing fee with the application for a place on the ballot as a candidate for the office held by the officeholder.

(c) The commission shall by rule determine the amount of the annual fee under this section in an amount, not to exceed \$100, that the commission determines necessary for the administration of this title.

(d) The commission shall adopt rules to implement this section.

SECTION 4.03. The heading to Chapter 252, Election Code, is amended to read as follows:

#### CHAPTER 252. CAMPAIGN TREASURER, LEGISLATIVE CAUCUS CHAIR, AND PRINCIPAL POLITICAL COMMITTEE

SECTION 4.04. Chapter 252, Election Code, is amended by designating Sections 252.001 through 252.015 as Subchapter A and adding a subchapter heading to read as follows:

#### SUBCHAPTER A. CAMPAIGN TREASURER

SECTION 4.05. Section 252.001, Election Code, is amended to read as follows:



Sec. 252.001. APPOINTMENT OF CAMPAIGN TREASURER REQUIRED. Except as provided in Subchapter C, each [Each] candidate and each political committee shall appoint a campaign treasurer as provided by this subchapter [chapter].

SECTION 4.06. Subchapter A, Chapter 252, Election Code, is amended by adding Section 252.00311 to read as follows:

Sec. 252.00311. CERTAIN USE OF CANDIDATE'S NAME BY POLITICAL COMMITTEE PROHIBITED. (a) Notwithstanding Section 252.0031(b), the name of a political committee may not include the name of any candidate that the committee supports if the candidate has not previously consented to and approved of the committee's formation.

(b) A violation of this section is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

SECTION 4.07. Chapter 252, Election Code, is amended by adding Subchapters B and C to read as follows:

#### SUBCHAPTER B. LEGISLATIVE CAUCUS CHAIR

Sec. 252.051. APPOINTMENT OF LEGISLATIVE CAUCUS CHAIR REQUIRED. Each legislative caucus, as defined by Section 253.0341, shall appoint a caucus chair as required by this subchapter.

Sec. 252.052. CONTENTS OF APPOINTMENT; AUTHORITY WITH WHOM FILED. (a) A legislative caucus chair appointment must be in writing and must include:

- (1) the caucus's full name;
- (2) the caucus chair's name;
- (3) the caucus's mailing address;
- (4) the caucus's telephone number; and
- (5) the name of the person making the appointment.

(b) A legislative caucus must file its caucus chair appointment with the commission.

(c) A legislative caucus must notify the commission in writing of any change in the caucus's mailing address not later than the 10th day after the date on which the change occurs.

#### SUBCHAPTER C. PRINCIPAL POLITICAL COMMITTEE

Sec. 252.101. DESIGNATION OF PRINCIPAL POLITICAL COMMITTEE. (a) A candidate required to file a campaign treasurer appointment with the commission or an officeholder of an office for which a candidate is required to file a campaign treasurer appointment with the commission may designate a specific-purpose committee as the principal political committee for the candidate or officeholder with the responsibility of reporting any activity of the candidate or officeholder for which the candidate or officeholder would otherwise be required to file a report under Chapter 254.

(b) A candidate who designates a principal political committee under this subchapter is not required to appoint a campaign treasurer under Subchapter A.

(c) A designation of a principal political committee must be in writing and filed with the commission.

Sec. 252.102. LIMITATION ON DESIGNATION OF AND AS PRINCIPAL POLITICAL COMMITTEE. (a) A candidate or officeholder may designate only one specific-purpose committee as the candidate's or officeholder's principal political committee.

(b) A specific-purpose committee may be designated as the principal political committee for only one candidate or officeholder.

SECTION 4.08. Subchapter A, Chapter 253, Election Code, is amended by adding Section 253.006 to read as follows:

Sec. 253.006. CERTAIN CONTRIBUTIONS AND EXPENDITURES BY LOBBYISTS RESTRICTED. (a) In this section, "administrative action," "communicates directly with," "legislation," "member of the executive branch," and "member of the legislative branch" have the meanings assigned by Section 305.002, Government Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under Chapter 305, Government Code, may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize a political contribution or political expenditure from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or

(C) a group of individuals with disabilities; and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 4.09. Subchapter B, Chapter 253, Election Code, is amended by adding Section 253.044 to read as follows:

Sec. 253.044. AUTOMATIC RESIGNATION FROM CERTAIN OFFICES. (a) In this section, "railroad commissioner" means a member of the Railroad Commission of Texas.

(b) If a person who is a railroad commissioner announces the person's candidacy, or in fact becomes a candidate, in any general, special, or primary election for any elective office other than the office of railroad commissioner, that announcement or that candidacy constitutes an automatic resignation of the office of railroad commissioner.

SECTION 4.10. Subsection (a), Section 253.158, Election Code, is amended to read as follows:

(a) For purposes of Sections 253.155 and 253.157, a contribution by the [spouse or] child of an individual is considered to be a contribution by the individual.

SECTION 4.11. Subsections (a), (c), (d), and (g), Section 254.0311, Election Code, are amended to read as follows:

(a) A legislative caucus's caucus chair shall file a report of contributions and expenditures as required by this section.

(c) If no reportable activity occurs during a reporting period, the legislative caucus chair shall indicate that fact in the report.

(d) A legislative caucus's caucus chair shall file with the commission two reports for each year.

(g) A legislative caucus's caucus chair shall maintain a record of all reportable activity under this section and shall preserve the record for at least two years beginning on the filing deadline for the report containing the information in the record.

SECTION 4.12. Section 254.036, Election Code, is amended by amending Subsections (c) and (c-1) and adding Subsections (d) and (d-1) to read as follows:

(c) A candidate, officeholder, or political committee that is required to file reports with the commission may file reports that comply with Subsection (a) if:

(1) the candidate, officeholder, or campaign treasurer of the committee files with the commission an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and

(2) the candidate, officeholder, or committee has never [does not], in a calendar year, accepted [accept] political contributions that in the aggregate exceeded [exceed] \$20,000 or made [make] political expenditures that in the aggregate exceeded [exceed] \$20,000.

(c-1) An affidavit under Subsection (c) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the candidate, officeholder, or political committee understands that the candidate, officeholder, or committee shall file reports as required by Subsection (b) if:

(1) the candidate, officeholder, or committee, a consultant of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts uses computer equipment for a purpose described by Subsection (c); or

(2) the candidate, officeholder, or committee ever exceeds \$20,000 in political contributions or political expenditures in a calendar year.

(d) A legislative caucus may file reports that comply with Subsection (a) if:

(1) the legislative caucus chair files with the commission an affidavit stating that the caucus, an agent of the caucus, or a person with whom the caucus contracts does not use computer equipment to keep the current records of contributions, expenditures, or persons making contributions to the caucus; and

(2) the caucus has never, in a calendar year, accepted contributions that in the aggregate exceeded \$20,000 or made expenditures that in the aggregate exceeded \$20,000.

(d-1) An affidavit under Subsection (d) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the legislative caucus understands that the caucus shall file reports as required by Subsection (b) if:

(1) the caucus, a consultant of the caucus, or a person with whom the caucus contracts uses computer equipment for a purpose described by Subsection (d); or

(2) the caucus ever exceeds \$20,000 in contributions or expenditures in a calendar year.

SECTION 4.13. Subsection (c), Section 254.0405, Election Code, is amended to read as follows:

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any inquiry [~~complaint~~] is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 4.14. Subsections (a) and (b), Section 254.042, Election Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a report required to be filed with the commission under this chapter is late. On making that determination, the commission shall immediately notify [~~mail a notice of the determination to~~] the person required to file the report of the determination.

(b) If a report other than a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.123 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500. If a report under Section 254.064(c), 254.124(c), or 254.154(c) or the first report under Section 254.063 or 254.153 that is required to be filed following the primary or general election is determined to be late, the person required to file the report is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter that the report is late. If a report is more than 30 days late, the commission shall issue a warning of liability [~~by registered mail~~] to the person required to file the report. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 4.15. Subchapter C, Chapter 254, Election Code, is amended by adding Section 254.067 to read as follows:

Sec. 254.067. REPORT NOT REQUIRED. If during any reporting period prescribed by this subchapter a candidate designates a specific-purpose committee as the candidate's principal political committee as provided by Section 252.101, the candidate is not required to file a report covering that period if the candidate's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

(1) the amount of any political contribution, including any loan, made by the candidate to the principal political committee; and

(2) the amount of any political expenditure made by the candidate from personal funds and whether the candidate intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.16. Section 254.095, Election Code, is amended to read as follows:

Sec. 254.095. REPORT NOT REQUIRED. (a) If at the end of any reporting period prescribed by this subchapter an officeholder who is required to file a report with an authority other than the commission has not accepted political contributions that in the aggregate exceed \$500 or made political expenditures that in the aggregate exceed \$500, the officeholder is not required to file a report covering that period.

(b) If during any reporting period prescribed by this subchapter an officeholder designates a specific-purpose committee as the officeholder's principal political committee as provided by Section 252.101, the officeholder is not required to file a report covering that period if the officeholder's principal political committee reports all of the activity that would otherwise be required to be included in the report, including:

(1) the amount of any political contribution, including any loan, made by the officeholder to the principal political committee; and

(2) the amount of any political expenditure made by the officeholder from personal funds and whether the officeholder intends to seek reimbursement of the expenditure from the principal political committee.

SECTION 4.17. Section 254.157, Election Code, is amended to read as follows:

Sec. 254.157. MONTHLY REPORTING SCHEDULE. (a) The campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the 10th ~~[fifth]~~ day of the month following the period covered by the report. A report covering the month preceding an election in which the committee is involved must be received by the commission ~~[authority with whom the report is required to be filed]~~ not later than the 10th ~~[fifth]~~ day of the month following the period covered by the report.

(b) A monthly report covers the period beginning the first calendar ~~[26th]~~ day of each month and continuing through the last calendar ~~[25th]~~ day of that ~~[the following]~~ month~~[-, except that the period covered by the first report begins January 1 and continues through January 25].~~

SECTION 4.18. Section 254.158, Election Code, is amended to read as follows:

Sec. 254.158. EXCEPTION TO MONTHLY REPORTING SCHEDULE. If the campaign treasurer appointment of a general-purpose committee filing monthly reports is filed after January 1 of the year in which monthly reports are filed, the period covered by the first monthly report begins the day the appointment is filed and continues through the last calendar ~~[25th]~~ day of the month in which the appointment is filed unless the appointment is filed the last calendar ~~[25th or a succeeding]~~ day of the month. In that case, the period continues through the last calendar ~~[25th]~~ day of the month following the month in which the appointment is filed.

SECTION 4.19. Subchapter J, Chapter 254, Election Code, is amended by adding Section 254.2611 to read as follows:

Sec. 254.2611. CERTAIN NONPROFIT MEMBERSHIP ASSOCIATIONS NOT ACTING IN CONCERT. For purposes of Section 254.261, a person is not considered to be acting in concert with another person if the person:

(1) is a nonprofit membership association subject to Subchapter D, Chapter 253;

(2) is part of a multi-tiered local, state, and national nonprofit membership association structure; and

(3) communicates with any entity within the multi-tiered association structure to make a direct campaign expenditure in this state.

SECTION 4.20. Subchapter J, Chapter 254, Election Code, is amended by adding Section 254.263 to read as follows:

Sec. 254.263. APPLICABILITY OF PRIVILEGE TO CERTAIN PERSONS MAKING DIRECT CAMPAIGN EXPENDITURES. The privilege established under Subchapter C, Chapter 22, Civil Practice and Remedies Code, does not apply to:

(1) a person who is required to file a report under Section 254.261, who controls a political committee, or who makes a political expenditure described by Section 253.100(a);

(2) a person who is required to be disclosed on federal Internal Revenue Service Form 990 as an entity related to a person described by Subdivision (1); or

(3) a person who is an employee or contractor of, who acts under the control of, or who acts on behalf of a person described by Subdivision (1) or (2).

SECTION 4.21. Section 255.001, Election Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not include [~~indicate~~] in the advertising:

(1) an indication that it is political advertising; [~~and~~]

(2) the full name of:

(A) the person who paid for the political advertising;

(B) the political committee authorizing the political advertising; or

(C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate;

(3) if the political advertising is authorized by the candidate:

(A) for advertising transmitted through radio, an audio statement made by the candidate that identifies the candidate and states that the candidate has approved the communication; and

(B) for advertising transmitted through television:

(i) a clearly identifiable photographic or similar image of the candidate; and

(ii) a statement in writing identifying the candidate and stating that the candidate has approved the communication that appears:

(a) at the end of the communication for not less than four seconds; and

(b) in letters that are at least four percent of the vertical screen height; and

(4) if the political advertising is not authorized by the candidate:

(A) for advertising transmitted through radio, an audio statement of the name of the person who paid for the advertising, made by an individual named in the statement or by a representative of a person named in the statement who is not an individual; and

(B) for advertising transmitted through television, a written statement that contains the name of the person who paid for the advertising and that appears:

(i) at the end of the communication for not less than four seconds; and  
(ii) in letters that are at least four percent of the vertical screen height.

(a-1) An Internet website containing political advertising must contain the disclosure required by this section on each page of the website containing the political advertising. The disclosure must appear:

(1) in a printed box set apart from the rest of the contents of the page;  
(2) in a font size that is at least 12 pixels; and  
(3) in black text on a white background or in a text color so that the degree of contrast between the background color and the disclosure text color is at least as great as the degree of contrast between the background color and the color of the largest text on the page.

(a-2) If political advertising appears on a social media website, a disclosure that complies with Subsection (a-1) must appear on the appropriate social media profile page. If political advertising on an Internet website, including a social media profile page, is too small to include the disclosure in a manner that complies with Subsection (a-1), the disclosure satisfies the requirements of Subsection (a-1) if the disclosure links to another Internet website page that displays the full disclosure and is operational and freely accessible during the time the advertisement is visible. Internet advertising that is too small to include a disclosure complying with Subsection (a-1) includes an advertisement classified as a micro bar or button according to applicable advertising standards, an advertisement that has 200 or fewer characters, and a graphic or picture link in which including the disclosure is not reasonably practical because of the size of the graphic or picture link.

(d) This section does not apply to:  
(1) tickets or invitations to political fund-raising events;  
(2) campaign buttons, pins, hats, or similar campaign materials; [✕]  
(3) circulars or flyers that cost in the aggregate less than \$500 to publish and distribute; or  
(4) political advertising distributed by sending a text message using a mobile communications service.

SECTION 4.22. Section 257.003, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A political party that accepts contributions authorized by Section 253.104 shall report all contributions and expenditures made to and from the account required by Section 257.002, except as provided by Subsection (e).

(e) A county executive committee of a political party is not required to file a report under this section if the committee:

(1) has less than \$250 in one or more accounts maintained by the committee in which contributions authorized by Section 253.104 are deposited, as of the last day of the preceding reporting period;

(2) has not accepted any contributions authorized by Section 253.104 during the reporting period to be covered by the report; and

(3) has not made an expenditure from contributions authorized by Section 253.104 during the reporting period to be covered by the report.

SECTION 4.23. Subchapter B, Chapter 305, Government Code, is amended by adding Section 305.030 to read as follows:

Sec. 305.030. EXPENDITURES FROM POLITICAL CONTRIBUTIONS RESTRICTED. (a) In this section, "political contribution" has the meaning assigned by Section 251.001, Election Code.

(b) Notwithstanding any other provision of law and except as provided by Subsection (c), a person required to register under this chapter may not, before the second anniversary of the date the last term for which the person was elected ends, knowingly make or authorize an expenditure under this chapter from political contributions accepted by the person as a candidate or officeholder.

(c) Subsection (b) does not apply to a person who:

(1) communicates directly with a member of the legislative or executive branch only to influence legislation or administrative action on behalf of:

(A) a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(B) a group of low-income individuals; or

(C) a group of individuals with disabilities; and

(2) does not receive compensation other than reimbursement for actual expenses for engaging in communication described by Subdivision (1).

SECTION 4.24. Section 253.006, Election Code, as added by this article, and Section 305.030, Government Code, as added by this article, apply to a political contribution, political expenditure, or lobbying expenditure made on or after September 1, 2013, from funds accepted as a political contribution, regardless of the date the funds were accepted.

SECTION 4.25. Section 253.158, Election Code, as amended by this Act, applies only to a political contribution accepted on or after the effective date of this Act. A contribution accepted before the effective date of this Act is governed by the law in effect on the date the contribution was accepted or the expenditure was made, and the former law is continued in effect for that purpose.

SECTION 4.26. The changes in law made by this article apply only to a report required to be filed under Chapter 254, Election Code, on or after the effective date of this Act. A report required to be filed under Chapter 254, Election Code, before the effective date of this Act is governed by the law in effect on the date the report is due, and the former law is continued in effect for that purpose.



SECTION 4.27. (a) Not later than September 15, 2013, each legislative caucus in existence on September 1, 2013, shall appoint a caucus chair and file a caucus chair appointment with the Texas Ethics Commission as required by Subchapter B, Chapter 252, Election Code, as added by this Act. Notwithstanding Section 254.0311, Election Code, as amended by this Act:

(1) not later than October 1, 2013, a legislative caucus shall file a report under Section 254.0311, Election Code, as that section existed before amendment by this Act, that covers the period beginning July 1, 2013, or the day the caucus is organized, as applicable, and continuing through September 15, 2013; and

(2) not later than January 15, 2014, a legislative caucus chair appointed under this subsection shall file a report under Section 254.0311, Election Code, as amended by this Act, that covers the period beginning September 15, 2013, and continuing through December 31, 2013.

(b) A legislative caucus chair appointed under Subsection (a) of this section is not responsible for:

(1) reporting caucus activity that occurs before September 15, 2013; or

(2) maintaining records of caucus activity that occurs before September 15, 2013.

#### ARTICLE 5. LOBBYING

SECTION 5.01. Section 305.002, Government Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Communicates directly with a member of the legislative or executive branch to influence legislation or administrative action" or any variation of the phrase includes establishing goodwill with the member for the purpose of later communicating with the member to influence legislation or administrative action.

SECTION 5.02. Subsection (b), Section 305.0021, Government Code, is amended to read as follows:

(b) For purposes of Section 36.02 or 36.10, Penal Code, a person described by Subsection (a)(2)(A) is not considered to have made an expenditure ~~[the amount of a joint expenditure that is attributed to a person who is not a registrant is not an expenditure made and reported]~~ in accordance with this chapter.

SECTION 5.03. Section 305.003, Government Code, is amended by adding Subsections (b-3) and (b-4) to read as follows:

(b-3) Subsection (a)(2) does not require a person to register if the person spends not more than 26 hours, or another amount of time determined by the commission, for which the person is compensated or reimbursed during the calendar quarter engaging in activity, including preparatory activity as defined by the commission, to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b-4) If a person spends more than eight hours in a single day engaging in activity to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, the person is considered to have engaged in the activity for only eight hours during that day for purposes of Subsection (b-3).

SECTION 5.04. Subsections (a) and (d), Section 305.0062, Government Code, are amended to read as follows:

(a) The report filed under Section 305.006 must also contain the total expenditures described by Section 305.006(b) that are directly attributable to members of the legislative or executive branch. The expenditures must be stated in only one of the following categories:

- (1) state senators;
- (2) state representatives;
- (3) elected or appointed state officers, other than those described by Subdivision (1) or (2);
- (4) legislative agency employees;
- (5) executive agency employees;
- (6) the immediate family of a member of the legislative or executive branch;
- (7) guests, when invited by an individual described by Subdivision (1), (2), (3), (4), or (5); and
- (8) events to which:
  - (A) all legislators are invited;
  - (B) a legislative committee and the staff of the legislative committee are invited;
  - (C) all state senators and the staff of state senators are invited;
  - (D) all state representatives and the staff of state representatives are invited; or
  - (E) all legislative staff are invited.

(d) If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. However, if an expenditure is for an event described by Subsection (a)(8) [to which all legislators are invited], the registrant shall report the expenditure under Subsection (a)(8) and not under any other subdivision of that subsection or any other provision of this chapter.

SECTION 5.05. Section 305.0064, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The rules adopted by the commission under Subsection (b) may not allow a registrant to file a paper registration or report if the registrant has ever used the electronic filing system under Subsection (a).

SECTION 5.06. Subsection (c), Section 305.0065, Government Code, is amended to read as follows:

(c) An ~~The~~ amended registration filed under Subsection (b) must be written and verified and must contain the information required in Sections 305.005(f)(3), (4), and (6) [Section 305.005].

SECTION 5.07. Section 305.027, Government Code, is amended by adding Subsection (f) to read as follows:

(f) In this section, "legislative advertising" does not include material that is printed or published by a member of the legislative branch and that is only disseminated by a member of the legislature on the floor of either house of the legislature.

SECTION 5.08. Subsection (g), Section 305.028, Government Code, is amended to read as follows:

(g) The commission may receive inquiries ~~[complaints]~~ regarding a violation of this section. If the commission determines a violation of this section has occurred, the commission, after notice and hearing:

- (1) shall impose a civil penalty in an amount not to exceed \$2,000; and
- (2) may rescind the person's registration and may prohibit the person from registering with the commission for a period not to exceed two years from the date of the rescission of the person's registration.

SECTION 5.09. Subsections (a) and (c), Section 305.033, Government Code, are amended to read as follows:

(a) The commission shall determine from any available evidence whether a registration or report required to be filed with the commission under this chapter is late. A registration filed without the fee required by Section 305.005 is considered to be late. On making a determination that a required registration or report is late, the commission shall immediately notify ~~[mail a notice of the determination to]~~ the person responsible for the filing ~~[, to the commission,]~~ and ~~[to]~~ the appropriate attorney for the state of the determination.

(c) If a registration or report is more than 30 days late, the commission shall issue a warning of liability ~~[by registered mail]~~ to the person responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the person is liable for a penalty in an amount determined by commission rule, but not to exceed \$10,000.

SECTION 5.10. Subsection (b), Section 305.034, Government Code, is amended to read as follows:

(b) Whenever the commission determines that a person has failed to file any required form, statement, or report as required by this chapter, the commission shall notify the person involved ~~[send a written statement]~~ of this finding ~~[to the person involved. Notice to the person involved must be sent by certified mail].~~

SECTION 5.11. The amendment by this article to Subsection (b), Section 305.0021, Government Code, is intended to clarify rather than change existing law.

SECTION 5.12. Section 305.003, Government Code, as amended by this article, applies only to a registration or registration renewal required to be filed under Chapter 305, Government Code, on or after the effective date of this Act. A registration or registration renewal required to be filed under Chapter 305, Government Code, before the effective date of this Act is governed by the law in effect on the date the registration or registration renewal is due, and the former law is continued in effect for that purpose.

SECTION 5.13. Section 305.0062, Government Code, as amended by this article, applies only to a report required to be filed under Section 305.006, Government Code, on or after the effective date of this Act. A report required to be filed under Section 305.006, Government Code, before the effective date of this Act is governed by the law in effect on the date the report is due, and the former law is continued in effect for that purpose.

**ARTICLE 6. STUDY REGARDING PUBLIC INTEGRITY UNIT**

**SECTION 6.01.** (a) The Texas Ethics Commission, in consultation with the Supreme Court of Texas and the Texas Court of Criminal Appeals, shall conduct a study to determine whether the law enforcement functions of the Public Integrity Unit of the district attorney for the 53rd Judicial District should be transferred to a law enforcement entity or agency to maintain separation of powers between the judicial and executive branches, prevent conflicts of interest, and ensure the administration of justice. The commission and courts shall also attempt to identify in the study any other organizations in this state having both prosecutorial and law enforcement functions.

(b) In conducting the study, the commission may make additional recommendations as the commission, in consultation with the courts, considers appropriate, including any recommendations for necessary changes in law to implement those recommendations.

**SECTION 6.02.** The Texas Ethics Commission shall, not later than September 1, 2014, report the results of the study conducted under this article and any additional recommendations to the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives with jurisdiction over attorneys and the judiciary.

**SECTION 6.03.** This article expires December 31, 2014.

**ARTICLE 7. REPEALER**

**SECTION 7.01.** (a) The following provisions are repealed:

- (1) Subsection (j), Section 254.036, Election Code;
- (2) Subsections (b) and (f), Section 254.0401, Election Code;
- (3) Section 571.032, Government Code;
- (4) Section 571.1212, Government Code;
- (5) Subsection (c), Section 572.029, Government Code;
- (6) Subsections (a), (d), and (e), Section 572.030, Government Code; and
- (7) Subsection (c), Section 572.034, Government Code.

(b) The repeal of Subsection (c), Section 572.034, Government Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

**ARTICLE 8. EFFECTIVE DATE**

**SECTION 8.01.** (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2013.

(b) Section 251.003, Election Code, as amended by this Act, takes effect September 1, 2015.

(c) Section 254.263, Election Code, as added by 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, Section 254.263, Election Code, as added by this Act, takes effect September 1, 2013.

The Conference Committee Report on **SB 219** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2152**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2152** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO  
DEUELL  
ELLIS  
ELTIFE  
SELIGER

On the part of the Senate

CALLEGARI  
DUTTON  
FRULLO  
ORR

On the part of the House

The Conference Committee Report on **HB 2152** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 690**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 23, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 690** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ELLIS  
GARCIA  
HINOJOSA

DUTTON  
BRANCH  
LEACH

TAYLOR

On the part of the Senate

MILES  
SANFORD

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of Harris County Improvement District No. 23; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3910 to read as follows:

CHAPTER 3910. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 23

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3910.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Houston.
- (3) "County" means Harris County.
- (4) "Director" means a board member.
- (5) "District" means the Harris County Improvement District No. 23.
- (6) "East End district" means the Greater East End Management District created under Chapter 3807.

Sec. 3910.002. NATURE OF DISTRICT. The Harris County Improvement District No. 23 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3910.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district, and to accomplish the redevelopment of the land in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or the county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant East End district, city, or county services provided in the district.

Sec. 3910.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment; and
- (3) developing or expanding transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide for water, wastewater, drainage, road, and recreational facilities for the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3910.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3910.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax

Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

Sec. 3910.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3910.008. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3910.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of nine voting directors who serve staggered terms of four years, with four or five directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 voting directors.

Sec. 3910.052. APPOINTMENT OF VOTING DIRECTORS. The mayor and members of the governing body of the city shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body and the mayor vote to appoint that person.

Sec. 3910.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3910.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3910.055. COMPENSATION. A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code. Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3910.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Dan Lipnick</u>
<u>2</u>	<u>Hien Le</u>
<u>3</u>	<u>Ndukwe Kalu</u>
<u>4</u>	<u>Adam Williams</u>
<u>5</u>	<u>Kenady Davis</u>
<u>6</u>	<u>Sakina Lanig</u>
<u>7</u>	<u>Alison Leland</u>
<u>8</u>	<u>Carver L. Henry</u>
<u>9</u>	<u>Charles McCloud</u>

(b) Of the initial directors, the terms of directors appointed for positions one through five expire June 1, 2015, and the terms of directors appointed for positions six through nine expire June 1, 2017.

(c) Section 3910.052 does not apply to this section.

(d) This section expires September 1, 2017.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3910.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.



Sec. 3910.102. IMPROVEMENT PROJECTS AND SERVICES. Subject to Section 3910.113, the district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3910.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3910.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3910.105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3910.106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 3910.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3910.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

(1) Chapter 380, Local Government Code; and

(2) Subchapter A, Chapter 1509, Government Code.

Sec. 3910.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3910.110. ANNEXATION OF LAND. The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

Sec. 3910.111. NAVIGATION DISTRICT POWERS. (a) The district has the powers provided by the general law of this state applicable to navigation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 60 and 62, Water Code.

(b) The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, a canal, waterway, bulkhead, dock, or other improvement or facility necessary or convenient to accomplish the navigation purposes of the district.

(c) An improvement or facility that is owned, constructed, or financed by the district under this section is subject to any applicable rules, regulations, bylaws, or similar legislative or regulatory acts or policies of the Port of Houston Authority of Harris County, Texas.

(d) This chapter does not supersede or diminish the rights, powers, privileges, and authority of the Port of Houston Authority of Harris County, Texas.

Sec. 3910.112. APPROVAL BY CITY. (a) Except as provided by Subsection (c), the district must obtain the approval of the city for:

(1) the issuance of bonds;

(2) the plans and specifications of an improvement project financed by bonds; and

(3) the plans and specifications of an improvement project related to the use of land owned by the city, an easement granted by the city, or a right-of-way of a street, road, or highway.

(b) The district may not issue bonds until the governing body of the city adopts a resolution or ordinance authorizing the issuance of the bonds.

(c) If the district obtains the approval of the city's governing body of a capital improvements budget for a period not to exceed 10 years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the city.

(d) The governing body of the city:

(1) is not required to adopt a resolution or ordinance to approve plans and specifications described by Subsection (a); and

(2) may establish an administrative process to approve plans and specifications described by Subsection (a) without the involvement of the governing body.

Sec. 3910.113. COORDINATION WITH EAST END DISTRICT. In determining the improvement projects or services the district provides, the district shall coordinate its efforts with the efforts of the East End district to achieve governmental efficiency and avoid duplication of improvement projects or services. The district may not duplicate an improvement project or service that the East End district provides in the same territory.

Sec. 3910.114. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3910.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 3910.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3910.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3910.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3910.155. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to a tax authorized or approved by the voters of the district or a required payment for a service provided by the district, including water and sewer services.

Sec. 3910.156. NOTICE TO EAST END DISTRICT. The district shall send to the board of directors of the East End district notice of a hearing regarding an improvement project or service that is to be financed with assessments under this chapter. The district shall send the notice by certified mail, return receipt requested, or by another method determined by the board to provide adequate proof that the notice was timely mailed, not later than the 30th day before the date of the hearing. The notice must contain the information required by Section 375.115(b), Local Government Code.

Sec. 3910.157. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of district taxes or assessments on property in the zones.

#### SUBCHAPTER E. TAXES AND BONDS

Sec. 3910.201. ELECTIONS REGARDING TAXES AND BONDS. (a) The district may issue, without an election, bonds, notes, and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 3910.203.

(b) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3910.202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election held in accordance with Section 3910.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) Section 49.107(h), Water Code, does not apply to the district.

Sec. 3910.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 3910.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on terms determined by the board. Section 375.205, Local Government Code, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution secured by revenue other than ad valorem taxes.

(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

(c) The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district.

Sec. 3910.205. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 3910.206. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

SECTION 2. The Harris County Improvement District No. 23 initially includes all territory contained in the following area:

TRACT 1

Being a 102.136 acre (4,449,039 square feet) tract of land situated in the S.M. Harris Survey, Abstract No. 327, the Darius Gregg Survey, Abstract No. 283 and the Harris & Wilson Survey, Abstract No. 32, Harris County, Texas, being a portion of a called 104.25 acre tract described as Tract 1, Exhibit F and a portion of Tract 5, Exhibit F, both described in a special warranty deed dated January 2, 1990 from BROWN & ROOT I, INC. to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. M938947 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), being all of a called 2.736 acre tract conveyed in a special warranty deed dated May 24, 2004 from KELLOGG BROWN & ROOT, INC. to KBR TECHNICAL SERVICES, INC. as recorded under File No. X640714 of said H.C.O.P.R.R.P. and being all of a called 0.0784 acre tract conveyed in warranty deed dated June 21, 1990 from ADAMS RESOURCES & ENERGY, INC. to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. M691219 of said H.C.O.P.R.R.P., said 102.136 acre tract being all of Blocks 50, 51 and 60 of the L.B. Swiney's Addition, a subdivision of record according to the map or plat thereof recorded under Volume 6, Page 610 of the Harris County Deed Records (H.C.D.R.), being all of Blocks 4 and 25 of the Cage Addition, a subdivision of record according to the map or plat thereof recorded under Volume 43, Page 385 of said H.C.D.R. and being a portion of Lots 1 through 8, Block 4 of the William A. Wilson Company Subdivision, a subdivision of record according to the map or plat thereof recorded under Volume 317, Page 298 of said H.C.D.R., said 102.136 acre tract being more particularly described by metes and bounds as follows with all bearings referenced to

the Texas State Plane Coordinate System of 1983 (1993 Adjustment), South Central Zone. All coordinates and distances shown herein are surface values and may be converted to grid by multiplying by a combined scale factor of 0.999889585;

BEGINNING at a 5/8-inch iron rod (N = 13,845,069.64, East = 3,131,004.78) found at the point of intersection of the southerly right-of-way line of Richardson Drive (40' wide) with the easterly right-of-way line of Grove Street (60' wide) for the northwest corner of Block 50 of said L.B. Swiney's Addition and being the most westerly northwest corner of said 104.25 acre tract;

THENCE, North  $87^{\circ}03'43''$  East, along the southerly right-of-way line of Richardson Drive, a distance of 275.58 feet to a PK nail found for corner at the intersection of the easterly projection of the southerly right-of-way line of Richardson Drive with the southerly projection of the easterly right-of-way line of Gregg Street for an angle point in said 104.25 acre tract;

THENCE, North  $02^{\circ}36'08''$  West, along the projected easterly right-of-way line of Gregg Street, passing at a distance of 31.07 feet, the southwest corner of Block 4 of said Cage Addition, same being an angle point in said 104.25 acre tract, and continuing along the easterly right-of-way line of Gregg Street and the westerly line of said Block 4 for a total distance of 231.07 feet to a 5/8-inch iron rod with plastic cap stamped "SURVCON INC." set in the southerly right-of-way line of Clinton Drive (width varies) for the northwest corner of said Block 4;

THENCE, along the southerly right-of-way line of Clinton Drive, the following courses:

North  $87^{\circ}23'52''$  East, a distance of 540.00 feet to an "X" in concrete found in the westerly right-of-way line of Bringhurst Street (40' wide) for angle point and being the northeast corner of Block 25 of said Cage Addition;

North  $74^{\circ}45'40''$  East, a distance of 51.25 feet to a 5/8-inch iron rod with plastic cap stamped "SURVCON INC." set in the easterly right-of-way line of Bringhurst Street for the beginning of a non-tangent curve to the left;

An arc distance of 228.80 feet, along said curve to the left, having a radius of 340.40 feet, a delta angle of  $38^{\circ}30'38''$  and a chord bearing and distance of North  $61^{\circ}04'34''$  East, 224.51 feet to a 5/8-inch iron rod found for a point of tangency;

North  $41^{\circ}49'15''$  East, a distance of 12.60 feet to a 5/8-inch iron rod found for corner;

South  $87^{\circ}24'15''$  West, a distance of 11.40 feet to a 5/8-inch iron rod found for corner;

North  $41^{\circ}49'15''$  East, a distance of 31.00 feet a point for the beginning of a non-tangent curve to the right, from which a found 5/8-inch iron rod bears North  $60^{\circ}15'$  East, 0.33 feet;

An arc distance of 170.31 feet, along said curve to the right, having a radius of 272.90 feet, a delta angle of  $35^{\circ}45'21''$  and a chord bearing and distance of North  $59^{\circ}41'56''$  East, 167.56 feet to an "X" in concrete found for the end of said curve to the right;

North 87°24'15" East, passing at a distance of 1,133.91 feet, a 5/8-inch iron rod found for the northwest corner of said 2.736 acre tract, continuing and passing at a distance of 1,193.91 feet, a 5/8-inch iron rod found for the northeast corner of said 2.736 acre tract, and continuing for a total distance of 1,293.20 feet to a 5/8-inch iron rod found for the most northerly northeast corner of said 104.25 acre tract;

South 02°51'30" East, a distance of 10.55 feet to a 5/8-inch iron rod found for angle point;

North 87°08'30" East, passing at a distance of 80.00 feet, the northwest corner of said 0.0784 acre tract, and continuing for a total distance of 228.00 feet to a 5/8-inch iron rod found for a cutback corner, same being the most northerly northeast corner of said 0.0784 acre tract;

THENCE, South 47°51'30" East, along a cutback line, a distance of 21.21 feet to a 5/8-inch iron rod with plastic cap stamped "SURVCON INC." set for corner in the westerly right-of-way line of Hirsch Street (100 feet wide), same being the most easterly northeast corner of said 0.0784 acre tract;

THENCE, South 02°51'30" East, along said westerly right-of-way line of Hirsch Street and the easterly line of said 0.0784 acre tract, passing at a distance of 179.15 feet, a 1/2-inch iron rod found for the southeast corner of said 0.0784 acre tract and the most easterly northeast corner of said 104.25 acre tract, continuing along said westerly right-of-way line of Hirsch Street and the easterly line of said 104.25 acre tract, passing at a distance of 660.00 feet, a 5/8-inch iron rod found for an angle point in said 104.25 acre tract, same being the northwest corner of a called 0.2865 acre roadway easement conveyed to the City of Houston and described as Tract 4 in deed recorded in Volume 3468, Page 487 of said H.C.D.R., and continuing along the westerly right-of-way easement line of Hirsch Street, for a total distance of 818.07 feet to a point for the beginning of a tangent curve to the right;

THENCE, an arc distance of 1,095.02 feet, continuing along said westerly right-of-way easement line of Hirsch Street and along said curve to the right, having a radius of 1,587.02 feet, a delta angle of 39°32'00" and a chord bearing and distance of South 16°54'30" West, 1,073.43 feet to 3/4-inch iron rod found for the point of tangency;

THENCE, South 36°40'30" West, continuing along said westerly right-of-way easement line of Hirsch Street, a distance of 85.13 feet to a point in the northerly line of Buffalo Bayou and the southerly line of said 104.25 acre tract;

THENCE, along the meanders of the northerly line of Buffalo Bayou and along the southerly line of said 104.25 acre tract, the following courses:

North 81°21'02" West, a distance of 294.22 feet to a point for corner;

South 81°17'51" West, a distance of 92.69 feet to a point for corner;

South 71°46'20" West, a distance of 87.60 feet to a point for corner;

South 56°00'12" West, a distance of 139.78 feet to a point for corner;

South 42°22'06" West, a distance of 530.18 feet to a point for corner;

South 86°47'52" West, a distance of 13.79 feet to a point for corner;

South 43°55'05" West, a distance of 65.25 feet to a point for corner;

South 74°12'42" West, a distance of 73.39 feet to a point for corner;

South 80°29'10" West, a distance of 95.12 feet to a point for corner;

North 62°25'33" West, a distance of 84.80 feet to a point for corner;

North 23°26'39" West, a distance of 96.22 feet to a point for corner;  
 North 48°58'41" West, a distance of 75.07 feet to a point for corner;  
 North 22°52'13" West, a distance of 70.85 feet to a point for corner;  
 North 00°23'51" East, a distance of 570.94 feet to a point for the most southerly corner of said 2.736 acre tract;

North 00°03'45" East, along the westerly line of said 2.736 acre tract, a distance of 60.38 feet to an angle point in the northwesterly line of said 2.736 acre tract;

North 17°43'38" West, a distance of 86.97 feet to a point for corner;

North 35°56'28" West, a distance of 143.97 feet to a point for corner;

North 61°18'39" West, a distance of 144.29 feet to a point for corner;

North 83°06'56" West, a distance of 306.10 feet to a point for corner;

South 88°11'58" West, a distance of 152.95 feet to a point for corner;

North 89°23'55" West, a distance of 158.35 feet to a point for corner;

North 81°40'26" West, a distance of 86.39 feet to a point for corner;

North 79°43'08" West, a distance of 97.41 feet to a point in said easterly right-of-way line of Grove Street for the southwest corner of said 104.25 acre tract;

THENCE, North 02°56'17" West, along said easterly right-of-way line of Grove Street and the westerly line of said 104.25 acre tract, passing at a distance of 65.05 feet, a found 5/8-inch iron rod, and continuing for a total distance of 705.08 feet to the POINT OF BEGINNING, containing a computed area of 102.136 acres (4,449,039 square feet) of land. Said 102.136 acre tract being subject to portions of three (3) existing roadways defined as follows: 1.) a 0.542 acre (23,589 square feet) tract within the right-of-way of Richardson Drive between the easterly right-of-way line of Gregg Street and the easterly right-of-way line of Bringhurst Street, 2.) a 0.184 acre (7,997 square feet) tract within the right-of-way of Cage Street between the southerly right-of-way line of Clinton Drive and the northerly right-of-way line of Richardson Drive and 3.) a 0.236 acre (10,280 square feet) tract within the right-of-way of Bringhurst Street between the southerly right-of-way line of Clinton Drive and the northerly right-of-way line of Richardson Drive.

#### TRACT 2

Being a 4.059 acre (176,821 square feet) tract of land situated in the Darius Gregg Survey, Abstract No. 283 and the Harris & Wilson Survey, Abstract No. 32, Harris County, Texas, being a portion of a called 104.25 acre tract described as Tract 1 of Exhibit F in a special warranty deed dated January 2, 1990 from BROWN & ROOT I, INC. to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. M938947 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), said 4.059 acre tract being more particularly described by metes and bounds as follows with all bearings referenced to the Texas State Plane Coordinate System of 1983 (1993 Adjustment), South Central Zone. All coordinates and distances shown herein are surface values and may be converted to grid by multiplying by a combined scale factor of 0.999889585:

BEGINNING at a 5/8-inch iron rod (N = 13,844,963.67, East = 3,133,786.01) found in the existing westerly right-of-way line of Hirsch Street (width varies) for an angle point in the easterly line of said 104.25 acre tract, same being the northwest



corner of a called 0.2865 acre roadway easement conveyed to the City of Houston and described as Tract 4 in deed recorded in Volume 3468, Page 487 of the Harris County Deed Records (H.C.D.R.);

THENCE, North  $87^{\circ}42'30''$  East, along the easterly line of said 104.25 acre tract and along the northerly line of said 0.2865 acre roadway easement, a distance of 41.88 feet to an "X" in concrete found for an angle point in the easterly line of said 104.25 acre tract and the northeast corner of said 0.2865 acre roadway easement;

THENCE, South  $02^{\circ}17'32''$  East, along the easterly line of said 104.25 acre tract, a distance of 1,163.73 feet to a point in the northerly line of Buffalo Bayou;

THENCE, along the meanders of the northerly line of Buffalo Bayou and along the southerly line of said 104.25 acre tract, the following courses:

South  $40^{\circ}14'22''$  West, a distance of 42.90 feet to a point for corner;

South  $75^{\circ}00'39''$  West, a distance of 50.16 feet to a point for corner;

South  $84^{\circ}00'51''$  West, a distance of 77.13 feet to a point for corner;

South  $83^{\circ}31'17''$  West, a distance of 214.24 feet to a point for corner;

South  $74^{\circ}08'41''$  West, a distance of 61.85 feet to a point for corner;

North  $81^{\circ}21'02''$  West, a distance of 18.52 feet to a point for the southwest corner of a called 1,595 square foot roadway easement conveyed to the City of Houston and described as Tract 1 in deed recorded in Volume 3468, Page 487 of said H.C.D.R.;

THENCE, North  $36^{\circ}40'30''$  East, along the westerly right-of-way easement line of Hirsch Street, a distance of 85.13 feet to a 3/4-inch iron rod found for the beginning of a tangent curve to the left;

THENCE, an arc distance of 1,095.02 feet, continuing along the westerly right-of-way easement line of Hirsch Street and along said curve to the left, having a radius of 1,587.02 feet, a delta angle of  $39^{\circ}32'00''$  and a chord bearing and distance of North  $16^{\circ}54'30''$  East, 1,073.43 feet to the point of tangency;

THENCE, North  $02^{\circ}51'30''$  West, continuing along the westerly right-of-way easement line of Hirsch Street, a distance of 158.07 feet to the POINT OF BEGINNING, containing a computed area of 4.059 acres (176,821 square feet) of land. Said 4.059 acre tract being subject to an existing roadway easement defined as follows: a 2.392 acre (104,206 square feet) tract within the right-of-way easement of Hirsch Street along the westerly line of said 4.059 acre tract.

### TRACT 3

Being a 24.983 acre (1,088,253 square feet) tract of land situated in the S.M. Harris Survey, Abstract No. 327, Harris County, Texas, and being all of a called 24.92 acre tract described as Tract 2 of Exhibit F in a special warranty deed dated January 2, 1990 from BROWN & ROOT I, INC. to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. M938947 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), same being all of Blocks 43, 44, 45 46, 47, 48, 53, 54, 55, 56, 57 and 58 of the L.B. Swiney's Addition, a subdivision of record according to the map or plat thereof recorded under Volume 6, Page 610 of the Harris County Deed Records (H.C.D.R.), said Blocks 43, 44 and 45 also being defined in the Swiney Addition, a subdivision of record according to the map or plat thereof recorded under Volume 1A, Page 65 of the Harris County Map Records (H.C.M.R.), and being all of Blocks 16, 17, 18, 21 and Tract C of the Barnes &

Wetmore Addition, a subdivision of record according to the map or plat thereof recorded under Volume 37, Page 77 of said H.C.M.R., and being all of Lots 1, 2, 3, 4, 7, 8, 9, 10 and 11 and a portion of Lot 6 of Block 19, all of Lots 1, 2, 3, 4, 12, 13 and 14 and a portion of Lots 5 and 10 of Block 20 and a portion of Tract B, all of said Barnes & Wetmore Addition, and being a portion of the abandoned public streets by City of Houston Ordinance No.(s) 2601, 2988 and 2986, as recorded in Volume 1779, Page 159, Volume 1825, Page 235 and Volume 3218, Page 132, respectively, all of said H.C.D.R., said 24.983 acre tract being more particularly described by metes and bounds as follows with all bearings referenced to the Texas State Plane Coordinate System of 1983 (1993 Adjustment), South Central Zone. All coordinates and distances shown herein are surface values and may be converted to grid by multiplying by a combined scale factor of 0.999889585:

BEGINNING at a 5/8-inch iron rod (N = 13,845,290.36, East = 3,130,622.97) found at the point of intersection of the southerly right-of-way line of Clinton Drive (width varies) with the westerly right-of way line of Bayou Street (60' wide) for the common northeast corner of said 24.92 acre tract and Lot 1, Block 43 of said L.B. Swiney's Addition;

THENCE, South 02°56'17" East, along the westerly right-of-way line of Bayou Street and the easterly line of said 24.92 acre tract, passing at a distance of 750.00 feet, a found 5/8-iron rod, and continuing for a total distance of 811.60 feet to a point in the northerly line of Buffalo Bayou for the common southeast corner of said 24.92 acre tract and said Block 58;

THENCE, along the meanders of the northerly line of Buffalo Bayou and along the southerly line of said 24.92 acre tract, the following courses:

North 84°59'39" West, a distance of 126.92 feet to a point for corner;

South 85°43'56" West, a distance of 185.30 feet to a point for corner;

South 72°56'47" West, a distance of 78.42 feet to a point for corner;

South 56°53'10" West, a distance of 405.98 feet to a point for corner;

South 60°22'55" West, a distance of 78.78 feet to a point for corner;

South 72°14'30" West, a distance of 84.28 feet to a point for corner;

South 84°58'16" West, a distance of 63.45 feet to a point for corner;

North 87°53'15" West, a distance of 129.94 feet to a point for the southwest corner of said 24.92 acre tract;

THENCE, along the westerly line of said 24.92 acre tract, the following courses:

North 06°46'38" West, a distance of 263.23 feet to a point for corner, from which a found 5/8-inch iron rod bears South 73°45' West, 0.30 feet;

North 12°46'38" West, a distance of 185.40 feet to a point for corner, from which a found 5/8-inch iron rod bears South 88°16' East, 0.33 feet;

North 22°58'38" West, a distance of 192.60 feet to a point for corner, from which a found 5/8-inch iron rod bears South 00°00' West, 0.21 feet;

North 15°42'38" West, a distance of 131.20 feet to a point for corner, from which a found 5/8-inch iron rod bears South 44°08' East, 0.23 feet;

North 05°54'38" West, a distance of 286.20 feet to a 60d nail found for corner;

North 02°42'02" East, a distance of 29.48 feet to a point for corner in the southerly right-of-way line of Clinton Drive for the northwest corner of said 24.92 acre tract, from which a found 5/8-inch iron rod bears South 83°37' East, 0.20 feet;

THENCE, North 87°03'43" East, along the southerly right-of-way line of Clinton Drive, a distance of 1,238.93 feet to the POINT OF BEGINNING, containing a computed area of 24.983 acres (1,088,253 square feet) of land. Said 24.983 acre tract being subject to portions of three (3) existing roadways defined as follows: 1.) a 0.753 acre (32,800 square feet) tract within the right-of-way of Richardson Drive between the westerly right-of-way line of Bayou Street and a line 200 feet west of the westerly right-of-way line of Meadow Street, 2.) a 0.275 acre (12,000 square feet) tract within the right-of-way of Meadow Street between the southerly right-of-way line of Clinton Drive and the northerly right-of-way line of Richardson Drive and 3.) a 0.275 acre (12,000 square feet) tract within the right-of-way of Sydnor Street between the southerly right-of-way line of Clinton Drive and the northerly right-of-way line of Richardson Drive.

#### TRACTS 4-7

Being 4.592 acres (200,000 square feet) of land situated in the S. M. Harris Survey, Abstract No. 327 and being out of the L.B. Swiney's Addition, a subdivision of record according to the map or plat thereof recorded under Volume 6, Page 610 of the Harris County Deed Records (H.C.D.R.). Said 4.592 acre tract being comprised of four (4) tracts defined as follows:

#### TRACT 4

A 1.148 acre (50,000 square feet) tract of land, being all of Lots 1 through 10, Block 52 of said L.B. Swiney's Addition, being a portion of Tracts 4 and 5 of Exhibit F as described in deed dated January 2, 1990 from BROWN & ROOT I, INC. to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. M938947 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.).

#### TRACT 5

A 1.148 acre (50,000 square feet) tract of land, being all of Lots 1 through 10, Block 49 of said L.B. Swiney's Addition and described as follows: All of Lots 1 through 7 and Lot 10, Block 49, being a portion of Tract 4 of Exhibit F as described in said deed recorded under File No. M938947 of said H.C.O.P.R.R.P.; and all of Lots 8 and 9, Block 49 described as a called 10,000 square foot tract of land addressed in a May 22, 1996 motion under City of Houston Ordinance 96-456 as recorded under File No. S023877 of said H.C.O.P.R.R.P., said 10,000 square foot tract of land being conveyed in a special warranty deed dated July 18, 1996 from the City of Houston to BROWN & ROOT CORPORATE SERVICES, INC. as recorded under File No. S023876 of said H.C.O.P.R.R.P.

#### TRACT 6

A 1.148 acre (50,000 square feet) tract of land, being all of Lots 1 through 10, Block 42 of said L.B. Swiney's Addition, being all of Tracts 7, 10, 11 and 13 and a portion of Tract 5 of Exhibit F as described in said deed recorded under File No. M938947 of said H.C.O.P.R.R.P.

#### TRACT 7

A 1.148 acre (50,000 square feet) tract of land, being all of Lots 1 through 10, Block 41 of said L.B. Swiney's Addition, being all of Tracts 6, 8, 9, 12 and 14 and a portion of Tract 5 of Exhibit F as described in said deed recorded under File No. M938947 of said H.C.O.P.R.R.P.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The Conference Committee Report on **SB 690** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3153

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3153** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
CARONA  
DUNCAN

LEWIS  
FARNEY  
FARRAR

HANCOCK  
LUCIO  
On the part of the Senate

GOODEN  
KING, KEN  
On the part of the House

The Conference Committee Report on **HB 3153** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 586

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 586** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
DUNCAN  
ELTIFE  
LUCIO  
VAN DE PUTTE  
On the part of the Senate

WORKMAN  
FARRAR  
LEACH  
MENÉNDEZ  
On the part of the House

The Conference Committee Report on **HB 586** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 358

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 358** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA  
ELTIFE  
HUFFMAN  
WHITMIRE

MUÑOZ, JR.  
CARTER  
HERRERO  
MOODY  
TOTH

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the use of a polygraph statement as evidence that a defendant or releasee from the Texas Department of Criminal Justice has violated a condition of release.

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

SECTION 1. Subsection (b), Section 5, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(b) On violation of a condition of community supervision imposed under Subsection (a) [~~of this section~~], the defendant may be arrested and detained as provided in Section 21 [~~of this article~~]. The defendant is entitled to a hearing limited to the determination by the court of whether it proceeds with an adjudication of guilt on the original charge. The court may not proceed with an adjudication of guilt on the original charge if the court finds that the only evidence supporting the alleged violation of a condition of community supervision is the uncorroborated results of a polygraph examination. The [This] determination to proceed with an adjudication of guilt on the original charge is reviewable in the same manner as a revocation hearing conducted under Section 21 [~~of this article~~] in a case in which an adjudication of guilt had not been deferred. After an adjudication of guilt, all proceedings, including assessment of punishment, pronouncement of sentence, granting of community supervision, and defendant's appeal continue as if the adjudication of guilt had not been deferred. A court assessing punishment after an adjudication of guilt of a defendant charged with a state jail felony may suspend the imposition of the sentence and place the defendant on community supervision or may order the sentence to be executed, regardless of whether the defendant has previously been convicted of a felony.

SECTION 2. Subsection (c), Section 21, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(c) The court may not revoke the community supervision of a defendant if, at the community supervision revocation hearing, the court finds that the only evidence supporting the alleged violation of a condition of community supervision is the uncorroborated results of a polygraph examination. In a community supervision revocation hearing at which it is alleged only that the defendant violated the conditions of community supervision by failing to pay compensation paid to appointed counsel, community supervision fees, or court costs, the state must prove by a preponderance of the evidence that the defendant was able to pay and did not pay as ordered by the judge. The court may order a community supervision and corrections department to obtain information pertaining to the factors listed under Article 42.037(h) [~~of this code~~] and include that information in the report required under Section 9(a) [~~of this article~~] or a separate report, as the court directs.

SECTION 3. Section 508.281, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A parole panel or designated agent of the board may not revoke the parole or mandatory supervision of a releasee if the parole panel or designated agent finds that the only evidence supporting the alleged violation of a condition of release is the uncorroborated results of a polygraph examination.

SECTION 4. The change in law made by this Act applies to a hearing held under Section 5 or 21, Article 42.12, Code of Criminal Procedure, or Section 508.281, Government Code, on or after the effective date of this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The Conference Committee Report on **SB 358** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2305

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2305** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
NICHOLS  
HANCOCK  
PAXTON  
WEST

On the part of the Senate

RODRIGUEZ, EDDIE  
HARPER-BROWN  
JOHNSON  
MARTINEZ, "MANDO"  
WORKMAN

On the part of the House

The Conference Committee Report on **HB 2305** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1926

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1926** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR  
PATRICK  
LUCIO  
SELIGER

KING, KEN  
RATLIFF  
HUBERTY  
VILLARREAL  
DUTTON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1926** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1907**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1907** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HEGAR  
BIRDWELL  
HUFFMAN  
PATRICK  
WHITMIRE

KLEINSCHMIDT  
GUILLEN  
MILLER, RICK  
RAYMOND  
SPRINGER

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the transportation and storage of firearms and ammunition by concealed handgun license holders in private vehicles on the campuses of certain institutions of higher education.



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

SECTION 1. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2032 to read as follows:

Sec. 411.2032. TRANSPORTATION AND STORAGE OF FIREARMS AND AMMUNITION BY LICENSE HOLDERS IN PRIVATE VEHICLES ON CERTAIN CAMPUSES. (a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a concealed handgun under this subchapter and lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

SECTION 2. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 1907** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3520

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3520** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
CAMPBELL  
HANCOCK

BRANCH  
SHEETS  
BUTTON  
BURKETT  
VILLALBA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3520** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 194**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 194** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
BIRDWELL  
TAYLOR  
WEST  
ZAFFIRINI

On the part of the Senate

FARIAS  
GUILLEN  
MILLER, RICK  
SHEETS  
MENÉNDEZ

On the part of the House

The Conference Committee Report on **HB 194** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1173**

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1173** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WEST  
CARONA  
HUFFMAN

WHITE  
MOODY  
PARKER

PATRICK  
WHITMIRE

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to procedures for the sentencing and placement on community supervision of defendants charged with the commission of a state jail felony.

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

SECTION 1. Subsection (a), Section 9, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsection (g) [~~of this section~~], before the imposition of sentence by a judge in a felony case, and except as provided by Subsection (b) [~~of this section~~], before the imposition of sentence by a judge in a misdemeanor case the judge shall direct a supervision officer to report to the judge in writing on the circumstances of the offense with which the defendant is charged, the amount of restitution necessary to adequately compensate a victim of the offense, the criminal and social history of the defendant, and any other information relating to the defendant or the offense requested by the judge. It is not necessary that the report contain a sentencing recommendation, but the report must contain a proposed client supervision plan describing programs and sanctions that the community supervision and corrections department would provide the defendant if the judge suspended the imposition of the sentence or granted deferred adjudication. If the defendant is charged with a state jail felony, the report must contain recommendations for conditions of community supervision that the community supervision and corrections department considers advisable or appropriate based on the circumstances of the offense and other factors addressed in the report.

SECTION 2. Subsection (a), Section 15, Article 42.12, Code of Criminal Procedure, is amended by amending Subdivision (2) and adding Subdivisions (2-a) and (2-b) to read as follows:

(2) On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subdivision (1), subject to Subdivision (2-a), the judge may:

(A) suspend the imposition of the sentence and place the defendant on community supervision; or

(B) [~~may~~] order the sentence to be executed:

(i) in whole; or

(ii) in part, with a term of community supervision to commence immediately on release of the defendant from confinement.

(2-a) In any case in which the jury assesses the punishment, the judge must follow the recommendations of the jury in suspending the imposition of a sentence or ordering a sentence to be executed. If a jury assessing punishment does not recommend community supervision, the judge must order the sentence to be executed in whole.

(2-b) A defendant is considered to be finally convicted if the judge orders the sentence to be executed under Subdivision (2)(B), regardless of whether the judge orders the sentence to be executed in whole or only in part.

SECTION 3. Subdivision (1), Subsection (c), Section 15, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(1) Before imposing a sentence in a state jail felony case in which the judge assesses the punishment, the judge shall review the presentence investigation report prepared for the defendant under Section 9 and shall determine whether the best interests of justice require the judge to suspend the imposition of the sentence and place the defendant on community supervision or to order the sentence to be executed in whole or in part as provided by Subsection (a)(2). A judge may impose any condition of community supervision on a defendant that the judge could impose on a defendant placed on supervision for an offense other than a state jail felony and, if the judge suspends the execution of the sentence or orders the execution of the sentence only in part, shall impose conditions of community supervision consistent with the recommendations contained in the presentence investigation report prepared for the defendant.

SECTION 4. Chapter 509, Government Code, is amended by adding Section 509.017 to read as follows:

Sec. 509.017. SPECIAL ALLOCATION FOR CERTAIN DEFENDANTS PLACED ON STATE JAIL FELONY COMMUNITY SUPERVISION. Notwithstanding any other provision of this chapter, the Texas Department of Criminal Justice shall adopt policies and procedures to:

(1) determine the cost savings to the Texas Department of Criminal Justice realized through the release of defendants on community supervision under Section 15(a)(2)(B)(ii), Article 42.12, Code of Criminal Procedure; and

(2) provide 30 percent of that cost savings to the division to be allocated to individual departments and used for the same purpose that state aid is used under Section 509.011.

SECTION 5. The changes in law made by this Act apply only to the sentencing and placement on community supervision of a defendant for an offense that is committed on or after the effective date of this Act. The sentencing and placement on community supervision of a defendant for an offense that is committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 1173** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3169**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3169** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO  
DEUEL  
CARONA

BOHAC  
LARSON  
OTTO  
SHEETS  
ZERWAS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3169** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3648

Senator Paxton submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3648** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PAXTON  
CAMPBELL  
DAVIS

HARPER-BROWN  
FLETCHER  
LAUBENBERG  
LAVENDER  
LONGORIA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3648** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 460

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 460** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DEUELL  
PATRICK  
TAYLOR  
VAN DE PUTTE  
ZAFFIRINI  
On the part of the Senate

COLEMAN  
HUBERTY  
AYCOCK  
DAVIS, JOHN

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to training for public school teachers in the detection and education of students at risk for suicide or with other mental or emotional disorders and the inclusion of mental health concerns in coordinated school health efforts.

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

SECTION 1. Subsection (e), Section 74.151, Civil Practice and Remedies Code, is amended to read as follows:

(e) Except as provided by this subsection, this ~~This~~ section does not apply to a person whose negligent act or omission was a producing cause of the emergency for which care is being administered. This subsection does not apply to liability of a school district or district school officer or employee arising from an act or omission under a program or policy or procedure adopted under Subchapter O-1, Chapter 161, Health and Safety Code, other than liability arising from wilful or intentional misconduct.

SECTION 2. Section 21.044, Education Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) Any minimum academic qualifications for a certificate specified under Subsection (a) that require a person to possess a bachelor's degree must also require that the person receive, as part of the training required to obtain that certificate, instruction in detection of students with mental or emotional disorders.

(c-2) The instruction under Subsection (c-1) must:

(1) be developed by a panel of experts in the diagnosis and treatment of mental or emotional disorders who are appointed by the board; and

(2) include information on:

(A) characteristics of the most prevalent mental or emotional disorders among children;

(B) identification of mental or emotional disorders;

(C) effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports; and

(D) providing, in compliance with Section 38.010, notice and referral to a parent or guardian of a student with a mental or emotional disorder so that the parent or guardian may take appropriate action such as seeking mental health services.

SECTION 3. Subsection (c), Section 28.004, Education Code, is amended to read as follows:

(c) The local school health advisory council's duties include recommending:

(1) the number of hours of instruction to be provided in health education;

(2) policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, ~~and~~ Type 2 diabetes, and mental health concerns through coordination of:

(A) health education;

(B) physical education and physical activity;

(C) nutrition services;

(D) parental involvement; ~~and~~

(E) instruction to prevent the use of tobacco;

(F) school health services;

(G) counseling and guidance services;

(H) a safe and healthy school environment; and

(I) school employee wellness;

(3) appropriate grade levels and methods of instruction for human sexuality instruction; and

(4) strategies for integrating the curriculum components specified by Subdivision (2) with the following elements in a coordinated school health program for the district:

(A) school health services;

(B) counseling and guidance services;

(C) a safe and healthy school environment; and

(D) school employee wellness.

SECTION 4. Section 161.325, Health and Safety Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) Except as otherwise provided by this subsection, each school district shall provide training described in the components set forth under Subsection (b) for teachers, counselors, principals, and all other appropriate personnel. A school district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list to satisfy the requirements of this subsection.

(c-2) If a school district provides the training under Subsection (c-1):

(1) a school district employee described under that subsection must participate in the training at least one time; and

(2) the school district shall maintain records that include the name of each district employee who participated in the training.

SECTION 5. Subchapter O-1, Chapter 161, Health and Safety Code, is amended by adding Section 161.326 to read as follows:

Sec. 161.326. IMMUNITY. This subchapter does not:

(1) waive any immunity from liability of a school district or of district school officers or employees;

(2) create any liability for a cause of action against a school district or against district school officers or employees; or

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code.

SECTION 6. 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, 2013.

The Conference Committee Report on **SB 460** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1681**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1681** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI  
SCHWERTNER  
BIRDWELL  
CARONA  
RODRÍGUEZ

On the part of the Senate

HARPER-BROWN  
PERRY  
TURNER, SCOTT  
BURKETT

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to oversight and management of state contracts.

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

SECTION 1. Subchapter A, Chapter 2262, Government Code, is amended by adding Sections 2262.0015 and 2262.005 to read as follows:

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The comptroller by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.



(b) This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on November 1, 2013.

Sec. 2262.005. CONSULTATION WITH STATE AGENCIES. The comptroller shall consult with state agencies in developing forms, contract terms, and criteria required under this chapter.

SECTION 2. The heading to Section 2262.053, Government Code, is amended to read as follows:

Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

SECTION 3. Section 2262.053, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) In coordination with the [comptroller,] Department of Information Resources, [and] state auditor, and Health and Human Services Commission, the comptroller [commission] shall develop [or administer] a training program for contract managers.

(d) The comptroller [Texas Building and Procurement Commission] shall administer [the] training [program] under this section.

(e) The comptroller shall certify contract managers who have completed the contract management training required under this section.

(f) A state agency may develop qualified contract manager training to supplement the training required under this section. The comptroller may incorporate the training developed by the agency into the training program under this section.

SECTION 4. Subchapter B, Chapter 2262, Government Code, is amended by adding Sections 2262.0535 and 2262.055 to read as follows:

Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The comptroller shall adapt the program developed under Section 2262.053 to provide an abbreviated program for training the members of the governing bodies of state agencies. The training may be provided together with other required training for members of state agency governing bodies.

(b) All members of the governing body of a state agency shall complete at least one course of the training provided under this section. This subsection does not apply to a state agency that does not enter into any contracts.

Sec. 2262.055. VENDOR PERFORMANCE TRACKING SYSTEM. (a) The comptroller shall evaluate the vendor's performance based on information reported by state agencies and criteria established by the comptroller.

(b) The comptroller shall establish an evaluation process that allows vendors who receive an unfavorable performance review to protest any classification given by the comptroller.

(c) The comptroller shall include the performance reviews in a vendor performance tracking system.

SECTION 5. Section 2262.101, Government Code, is amended to read as follows:

Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) reviewing and making recommendations on the solicitation documents and contract documents for [of major] contracts of [by] state agencies that have a value of at least \$10 million;

(2) reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide; ~~and~~

(3) providing recommendations to the comptroller ~~[commission]~~ regarding:

(A) the development of the contract management guide; and

(B) the training under Section 2262.053;

(4) providing recommendations and assistance to state agency personnel throughout the contract management process;

(5) coordinating and consulting with the quality assurance team established under Section 2054.158 on all contracts relating to a major information resources project; and

(6) creating and periodically performing a risk assessment to determine the appropriate level of management and oversight of contracts by state agencies.

(b) The risk assessment created and performed under Subsection (a)(6) must include the following criteria:

(1) the amount of appropriations to the agency;

(2) total contract value as a percentage of appropriations to the agency; or

(3) the impact of the functions and duties of the state agency on the health, safety, and well-being of residents.

(c) The comptroller shall oversee the activities of the team, including ensuring that the team carries out its duties under Subsection (a)(5).

(d) A state agency shall:

(1) comply with a recommendation made under Subsection (a)(1); or

(2) submit a written explanation regarding why the recommendation is not applicable to the contract under review.

(e) The team may review documents under Subsection (a)(1) only for compliance with contract management and best practices principles and may not make a recommendation regarding the purpose or subject of the contract.

(f) The team may develop an expedited process for reviewing solicitations under Subsection (a)(1) for contracts:

(1) that the team identifies as posing a low risk of loss to the state; or

(2) for which templates will be used more than once by a state agency.

SECTION 6. Section 2262.102, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The team consists of the following ~~six~~ ~~[five]~~ members:

(1) one member from the Health and Human Services Commission ~~[attorney general's office]~~;

(2) one member from the comptroller's office;

(3) one member from the Department of Information Resources;

(4) one member from the Texas Facilities ~~[Building and Procurement]~~ Commission; ~~and~~

(5) one member from the governor's office; and

(6) one member from a small state agency.

(c) The attorney general's office shall provide legal assistance to the team.

(d) In this section, "small state agency" means a state agency with fewer than 100 employees.

SECTION 7. Chapter 2262, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. CONTRACT FORMS AND PROVISIONS

Sec. 2262.151. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

(a) The comptroller shall develop recommendations for contract terms regarding remedies for noncompliance by contractors, including remedies for noncompliance with any required disclosure of conflicts of interest by contractors. The comptroller may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b) A state agency may include applicable recommended terms in a contract entered into by the agency.

Sec. 2262.152. UNIFORM FORMS. The comptroller shall develop and make available a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Sec. 2262.153. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section 2262.152, the comptroller shall develop forms for use by state agencies in reporting a contractor's performance for use in the vendor performance tracking system under Section 2262.055.

SECTION 8. Section 2262.003, Government Code, is transferred to Subchapter D, Chapter 2262, Government Code, as added by this Act, redesignated as Section 2262.154, Government Code, and amended to read as follows:

Sec. 2262.154 [~~2262.003~~]. REQUIRED [CONTRACT] PROVISION RELATING TO AUDITING. (a) Each state agency shall include in each of its contracts a term that provides that:

(1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(b) The state auditor shall provide assistance to a state agency in developing the contract provisions.

SECTION 9. Subsection (f), Section 2262.051, Government Code, is repealed.

SECTION 10. Not later than May 1, 2014, the comptroller of public accounts shall develop the training program required by Section 2262.053, Government Code, as amended by this Act, and Section 2262.0535, Government Code, as added by this Act.

SECTION 11. A member of a governing body of a state agency is not required to complete the training provided under Section 2262.0535, Government Code, as added by this Act, until September 1, 2015.

SECTION 12. The comptroller of public accounts shall use the vendor performance tracking system established by the comptroller before the effective date of this Act in carrying out the comptroller's duties under Section 2262.055, Government Code, as added by this Act.

SECTION 13. A contract manager is not required to be certified under Chapter 2262, Government Code, as amended by this Act, until September 1, 2015.

SECTION 14. As soon as practicable, and not later than May 1, 2014, the comptroller of public accounts and Contract Advisory Team shall develop the forms and recommendations required by this Act, including Sections 2262.151, 2262.152, and 2262.153, Government Code, as added by this Act.

SECTION 15. This Act takes effect November 1, 2013.

The Conference Committee Report on **SB 1681** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3106

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3106** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

ELTIFE

HANCOCK

LUCIO

VAN DE PUTTE

On the part of the Senate

MORRISON

ASHBY

DARBY

PITTS

MENÉNDEZ

On the part of the House

The Conference Committee Report on **HB 3106** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1596

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1596** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ZAFFIRINI  
FRASER  
HINOJOSA  
NICHOLS

On the part of the Senate

RODRIGUEZ, EDDIE  
PEREZ  
WORKMAN

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to emergency services districts.

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

SECTION 1. Subsections (a) and (c), Section 775.022, Health and Safety Code, are amended to read as follows:

(a) If a municipality completes all other procedures necessary to annex territory in a district and if the municipality intends to remove the territory from the district and be the sole provider of [provide] emergency services to the territory by the use of municipal personnel or by some method other than by use of the district, the municipality shall send written notice of those facts [that fact] to the board. The municipality must send the notice to the secretary of the board by certified mail, return receipt requested. The territory remains part of the district and does not become part of the municipality until the secretary of the board receives the notice. On receipt of the notice, the board shall immediately change its records to show that the territory has been disannexed from the district and shall cease to provide further services to the residents of that territory. This subsection does not require a municipality to remove from a district territory the municipality has annexed.

(c) If a municipality removes [annexes] territory from [in] a district that the municipality has annexed, the municipality shall compensate the district immediately after disannexation of the territory under Subsection (a) in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e). The district shall apply compensation received from a municipality under this subsection exclusively to the payment of the annexed territory's pro rata share of the district's bonded and other indebtedness.

SECTION 2. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.045 to read as follows:

Sec. 775.045. APPLICABILITY OF CERTAIN LAWS. (a) Except as provided by Subsection (b), notwithstanding any other law:

(1) Section 1301.551(i), Occupations Code, applies to a district as if the district were a municipality; and

(2) Section 233.062, Local Government Code, applies to a district as if the district were in an unincorporated area of a county.

(b) Subsection (a) does not apply to a district:

(1) that before February 1, 2013, has adopted a fire code, fire code amendments, or other requirements in conflict with Subsection (a); and

(2) whose territory is located:

(A) in or adjacent to a general law municipality with a population of less than 4,000 that is served by a water control and improvement district governed by Chapter 51, Water Code; and

(B) in a county that has a population of more than one million and is adjacent to a county with a population of more than 420,000.

SECTION 3. Section 43.056, Local Government Code, is amended by amending Subsection (f) and adding Subsections (p) and (q) to read as follows:

(f) A service plan may not:

(1) require the creation of another political subdivision;

(2) require a landowner in the area to fund the capital improvements necessary to provide municipal services in a manner inconsistent with Chapter 395 unless otherwise agreed to by the landowner; ~~or~~

(3) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the corporate boundaries of the municipality before annexation;

(4) provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation; or

(5) cause a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the municipality with similar topography, land use, and population density.

(p) This subsection applies only to a municipality in a county with a population of more than one million and less than 1.5 million. For a municipality that has adopted Chapter 143 and directly employs firefighters, a service plan that includes the provision of services to an area that, at the time the service plan is adopted, is located in the territory of an emergency services district:

(1) must require the municipality's fire department to provide initial response to the annexed territory that is equivalent to that provided to other areas within the corporate boundaries of the municipality with similar topography, land use, and population density;

(2) may not provide for municipal fire services to the annexed area solely or primarily by means of an automatic aid or mutual aid agreement with the affected emergency services district or other third-party provider of services; and

(3) may authorize the emergency services district to provide supplemental fire and emergency medical services to the annexed area by means of an automatic aid or mutual aid agreement.

(q) This chapter does not affect the obligation of a municipality that has adopted Chapter 143 to provide police, fire, or emergency medical services within the municipality's corporate boundaries by means of personnel classified in accordance with that chapter.

SECTION 4. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 1596** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1373**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1373** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA  
BIRDWELL  
CAMPBELL  
URESTI  
WHITMIRE

On the part of the Senate

MILLER, RICK  
THOMPSON, SENFRONIA  
ZEDLER  
SHEETS  
MENÉNDEZ

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to display of the Honor and Remember flag.

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

SECTION 1. Subchapter A, Chapter 2165, Government Code, is amended by adding Section 2165.0065 to read as follows:

Sec. 2165.0065. DISPLAY OF HONOR AND REMEMBER FLAG. (a) In this section, "Honor and Remember flag" means the Honor and Remember, Inc., flag.

(b) The Honor and Remember flag may be displayed at each state office building, at the State Cemetery under Section 2165.256, and at each veterans cemetery managed by the Veterans' Land Board on:

- (1) the third Saturday in May, "Armed Forces Day";
- (2) the last Monday in May, "Memorial Day";
- (3) the last Sunday in September, "Gold Star Mother's Day";
- (4) the 11th day of November, "Veterans Day"; and

(5) any date on which a resident of this state is killed while serving on active duty in the armed forces of the United States.

SECTION 2. The Honor and Remember flag is designated as the symbol of our state's concern and commitment to honoring and remembering the lives of all members of the United States armed forces who have lost their lives while serving or as a result of service and their families.

SECTION 3. The Honor and Remember flag's red field represents the blood shed by brave men and women who sacrificed their lives for freedom, and the flag's white border recognizes the purity of that sacrifice. The flag's blue star is a symbol of active service in military conflict that dates back to World War I. The flag's gold star signifies the ultimate sacrifice of a warrior in active service who is not returning home and reflects the value of the life given. The folded flag element highlights this nation's final tribute to a fallen service member and a family's sacrifice. The flag's flame symbolizes the eternal spirit of the departed.

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, 2013.

The Conference Committee Report on **SB 1373** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3361

Senator Birdwell submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3361** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BIRDWELL  
HINOJOSA  
NICHOLS  
PATRICK  
ELLIS

On the part of the Senate

DUTTON  
ALVARADO  
KING, KEN  
RIDDLE

On the part of the House

The Conference Committee Report on **HB 3361** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2012**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2012** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
LUCIO  
SELIGER  
TAYLOR  
WEST

On the part of the Senate

VILLARREAL  
AYCOCK  
KING, KEN  
FARNEY  
HOWARD

On the part of the House

The Conference Committee Report on **HB 2012** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 2** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

PATRICK  
CAMPBELL  
LUCIO  
TAYLOR  
WEST

On the part of the Senate

AYCOCK  
FARNEY  
HARLESS  
OTTO

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to certain charter schools.

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

SECTION 1. Subchapter D, Chapter 11, Education Code, is amended by adding Sections 11.1542 and 11.1543 to read as follows:

Sec. 11.1542. OPEN-ENROLLMENT CHARTER SCHOOL OFFER FOR DISTRICT FACILITY. (a) The board of trustees of an independent school district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board of trustees, before offering the facility for sale or lease or to any other specific entity.

(b) This section does not require the board of trustees of a school district to accept an offer made by an open-enrollment charter school.

Sec. 11.1543. CHARTER SCHOOL PAYMENT FOR FACILITIES USE OR FOR SERVICES. (a) An independent school district may not require a campus or campus program that has been granted a charter under Subchapter C, Chapter 12, and that is the result of the conversion of the status of an existing school district campus to pay rent for or to purchase a facility in order to use the facility.

(b) An independent school district may not require a campus or campus program described by Subsection (a) or an open-enrollment charter school to pay for any service provided by the district under a contract between the district and the campus, campus program, or open-enrollment charter school an amount that is greater than the amount of the actual costs to the district of providing the service.

SECTION 2. Subsection (a), Section 12.052, Education Code, is amended to read as follows:

(a) In accordance with this subchapter, the board of trustees of a school district or the governing body of a home-rule school district shall ~~may~~ grant or deny, through a public vote of the board of trustees or governing body, a charter to parents and teachers for a campus or a program on a campus if the board is presented with a petition signed by:

- (1) the parents of a majority of the students at that school campus; and
- (2) a majority of the classroom teachers at that school campus.

SECTION 3. Subchapter C, Chapter 12, Education Code, is amended by adding Section 12.0522 to read as follows:

Sec. 12.0522. DISTRICT CHARTER AUTHORIZATION. (a) Notwithstanding Section 12.052, in the manner provided by this section, the board of trustees of a school district or the governing body of a home-rule school district may grant a district charter to a campus to the extent authorized under this section.

(b) Except as otherwise provided by this subsection or Subsection (c), a district charter may be granted under this section only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year. The

percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school.

(c) A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39.

(d) Subchapter D applies to a campus granted a district charter under this section as though the campus were granted a charter under Subchapter D, and the campus is considered an open-enrollment charter school.

(e) A charter granted under this section is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Section 12.101.

(f) The commissioner may adopt rules as necessary for the administration of this section.

SECTION 4. Subchapter C, Chapter 12, Education Code, is amended by adding Sections 12.0531 and 12.0532 to read as follows:

Sec. 12.0531. PERFORMANCE CONTRACT; DURATION OF CHARTER. If a charter is granted under this subchapter, the board of trustees of the school district that granted the charter shall enter into a performance contract with the principal or equivalent chief operating officer of the campus or program. The performance contract must specify enhanced authority granted to the principal or equivalent officer in order to achieve the academic goals that must be met by campus or program students. A charter granted under this subchapter expires 10 years from the date the charter is granted unless the specified goals are substantially met, as determined by the board of trustees of the school district that granted the charter.

Sec. 12.0532. NEIGHBORHOOD SCHOOL. (a) A charter granted under this subchapter for a campus may, as determined by the board of trustees of the school district granting the charter, provide for the campus to be a neighborhood school.

(b) Except as otherwise provided by this subsection, the principal or equivalent chief operating officer of a neighborhood school shall manage the funding provided for the school under this code and any other funding provided for the school in the manner the principal or other officer determines best meets the needs of the school's students. The district in which the school is located may retain that portion of funding that the district generally withholds from a campus for costs associated with the salary of the district superintendent or other district governance.

(c) The principal or equivalent chief operating officer of a neighborhood school may use school funding to purchase from the school district in which the school is located services for the school, including bus service, facilities maintenance services, and other services generally provided by a school district to district campuses. The school shall pay for each service an amount that reflects the actual cost to the district of providing the service for the number of the school's students for which the service is provided.

SECTION 5. Section 12.055, Education Code, is amended to read as follows:

Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR PROGRAM GRANTED CHARTER. (a) A campus or program for which a charter is granted under this subchapter is subject to federal and state laws and rules governing public schools, except that the campus or program is subject to this code

and rules adopted under this code only to the extent the applicability to a campus or program for which a charter is granted under this subchapter of a provision of this code or a rule adopted under this code is specifically provided.

(b) A school district may contract with another district or an open-enrollment charter school for services at a campus charter. An employee of the district or open-enrollment charter school providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school.

SECTION 6. Subsection (b), Section 12.056, Education Code, is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter is subject to:

- (1) a provision of this title establishing a criminal offense; and
- (2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) high school graduation under Section 28.025;

(D) special education programs under Subchapter A, Chapter 29;

(E) bilingual education under Subchapter B, Chapter 29;

(F) prekindergarten programs under Subchapter E, Chapter 29;

(G) extracurricular activities under Section 33.081;

(H) health and safety under Chapter 38; and

(I) public school accountability under Subchapters B, C, D, E, F, and J,

Chapter 39.

SECTION 7. Section 12.057, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) An employee of a charter holder, as defined by Section 12.1012, who is employed on a campus or in a program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

SECTION 8. Section 12.059, Education Code, is amended to read as follows:

Sec. 12.059. CONTENT. Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which may be a general or specialized program;

(2) provide that continuation of the charter is contingent on satisfactory student performance under Subchapter B, Chapter 39, satisfactory financial performance under Subchapter D, Chapter 39, and ~~on~~ compliance with other applicable accountability provisions under Chapter 39;

(3) specify any basis, in addition to a basis specified by this subchapter, on which the charter may be ~~[placed on probation or]~~ revoked;

(4) prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

(5) describe the governing structure of the campus or program;

(6) specify any procedure or requirement, in addition to those under Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and

(7) describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the school district in which it is located to participate, as required by this code or by commissioner [~~State Board of Education~~] rule, in the Public Education Information Management System (PEIMS).

SECTION 9. Section 12.101, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-0), (b-1), (b-2), (b-3), (b-4), (b-5), (b-6), (b-7), and (b-8) to read as follows:

(a) In accordance with this subchapter, the commissioner [~~State Board of Education~~] may grant a charter on the application of an eligible entity for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or a school district, including a home-rule school district. In this subsection, "eligible entity" means:

(1) an institution of higher education as defined under Section 61.003;

(2) a private or independent institution of higher education as defined under Section 61.003;

(3) an organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)); or

(4) a governmental entity.

(b) After thoroughly investigating and evaluating an applicant, the commissioner, in coordination with a member of the [The] State Board of Education designated for the purpose by the chair of the board, may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, educational, and operational standards adopted by the commissioner under this subchapter, that the commissioner determines is capable of carrying out the responsibilities provided by the charter and likely to operate a school of high quality, and that:

(1) has not within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned; or

(2) is not, under rules adopted by the commissioner, considered to be a corporate affiliate of or substantially related to an entity that has within the preceding 10 years had a charter under this chapter or a similar charter issued under the laws of another state surrendered under a settlement agreement, revoked, denied renewal, or returned.

(b-0) The commissioner shall notify the State Board of Education of each charter the commissioner proposes to grant under this subchapter. Unless, before the 90th day after the date on which the board receives the notice from the commissioner, a majority of the members of the board present and voting vote against the grant of

that charter, the commissioner's proposal to grant the charter takes effect. The board may not deliberate or vote on any grant of a charter that is not proposed by the commissioner.

(b-1) In granting charters for open-enrollment charter schools, the commissioner [The State Board of Education] may not grant a total of more than:

- (1) 215 charters through the fiscal year ending August 31, 2014;
- (2) 225 charters beginning September 1, 2014;
- (3) 240 charters beginning September 1, 2015;
- (4) 255 charters beginning September 1, 2016;
- (5) 270 charters beginning September 1, 2017; and
- (6) 285 charters beginning September 1, 2018 [for an open enrollment charter school].

(b-2) Beginning September 1, 2019, the total number of charters for open-enrollment charter schools that may be granted is 305 charters.

(b-3) The commissioner may not grant more than one charter for an open-enrollment charter school to any charter holder. The commissioner may consolidate charters for an open-enrollment charter school held by multiple charter holders into a single charter held by a single charter holder with the written consent to the terms of consolidation by or at the request of each charter holder affected by the consolidation.

(b-4) Notwithstanding Section 12.114, approval of the commissioner under that section is not required for establishment of a new open-enrollment charter school campus if the requirements of this subsection, including the absence of commissioner disapproval under Subdivision (3), are satisfied. A charter holder having an accreditation status of accredited and at least 50 percent of its student population in grades assessed under Subchapter B, Chapter 39, or at least 50 percent of the students in the grades assessed having been enrolled in the school for at least three school years may establish one or more new campuses under an existing charter held by the charter holder if:

(1) the charter holder is currently evaluated under the standard accountability procedures for evaluation under Chapter 39 and received a district rating in the highest or second highest performance rating category under Subchapter C, Chapter 39, for three of the last five years with at least 75 percent of the campuses rated under the charter also receiving a rating in the highest or second highest performance rating category and with no campus with a rating in the lowest performance rating category in the most recent ratings;

(2) the charter holder provides written notice to the commissioner of the establishment of any campus under this subsection in the time, manner, and form provided by rule of the commissioner; and

(3) not later than the 60th day after the date the charter holder provides written notice under Subdivision (2), the commissioner does not provide written notice to the charter holder of disapproval of a new campus under this section.

(b-5) The initial term of a charter granted under this section is five years.

(b-6) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(b-7) A charter granted under this section for a dropout recovery school is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by this section. For purposes of this subsection, an open-enrollment charter school is considered to be a dropout recovery school if the school meets the criteria for designation as a dropout recovery school under Section 12.1141(c).

(b-8) In adopting any financial standards under this subchapter that an applicant for a charter for an open-enrollment charter school must meet, the commissioner shall not:

(1) exclude any loan or line of credit in determining an applicant's available funding; or

(2) exclude an applicant from the grant of a charter solely because the applicant fails to demonstrate having a certain amount of current assets in cash.

SECTION 10. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1011 to read as follows:

Sec. 12.1011. CHARTER AUTHORIZATION FOR HIGH-PERFORMING ENTITIES. (a) Notwithstanding Section 12.101(b), the commissioner may grant a charter for an open-enrollment charter school to an applicant that is:

(1) an eligible entity under Section 12.101(a)(3) that proposes to operate the charter school program of a charter operator that operates one or more charter schools in another state and with which the eligible entity is affiliated and, as determined by the commissioner in accordance with commissioner rule, has performed at a level of performance comparable to performance under the highest or second highest performance rating category under Subchapter C, Chapter 39; or

(2) an entity that has operated one or more charter schools established under this subchapter or Subchapter C or E and, as determined by the commissioner in accordance with commissioner rule, has performed in the highest or second highest performance rating category under Subchapter C, Chapter 39.

(b) A charter holder granted a charter for an open-enrollment charter school under Subsection (a) may vest management of corporate affairs in a member entity provided that the member entity may change the members of the governing body of the charter holder before the expiration of a member's term only with the express written approval of the commissioner.

(c) The initial term of a charter granted under this section is five years.

(d) The commissioner shall adopt rules to modify criteria for granting a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories under Subchapter C, Chapter 39.

SECTION 11. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1013 to read as follows:

Sec. 12.1013. CHARTER AUTHORIZER ACCOUNTABILITY. (a) The commissioner shall select a center for education research authorized by Section 1.005 to prepare an annual report concerning the performance of open-enrollment charter schools by authorizer compared to campus charters and matched traditional campuses, which shall be provided annually under Subchapters J and K, Chapter 39.

(b) The format of the report must enable the public to distinguish and compare the performance of each type of public school by classifying the schools as follows:

- (1) open-enrollment charters granted by the State Board of Education;
- (2) open-enrollment charters granted by the commissioner;
- (3) charters granted by school districts; and
- (4) matched traditional campuses.

(c) The report must include the performance of each public school in each class described by Subsection (b) as measured by the student achievement indicators adopted under Section 39.053 and student attrition rates.

(d) The report must also:

(1) aggregate and compare the performance of open-enrollment charter schools granted charters by the State Board of Education, open-enrollment charter schools granted charters by the commissioner, campuses and programs granted charters by school districts, and matched traditional campuses; and

(2) rate the aggregate performance of elementary, middle or junior high, and high schools within each class described by Subsection (b) as indicated by the composite rating that would be assigned to the class of elementary, middle or junior high, and high schools if the students attending all schools in that class were cumulatively enrolled in one elementary, middle or junior high, or high school.

(e) The report must also include an analysis of whether the performance of matched traditional campuses would likely improve if there were consolidation of school districts within the county in which the campuses are located. This subsection applies only to a county that includes at least seven school districts and at least 10 open-enrollment charter schools.

SECTION 12. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1014 to read as follows:

Sec. 12.1014. AUTHORIZATION FOR GRANT OF CHARTERS FOR SCHOOLS PRIMARILY SERVING STUDENTS WITH DISABILITIES. (a) The commissioner may grant under Section 12.101 a charter on the application of an eligible entity for an open-enrollment charter school intended primarily to serve students eligible to receive services under Subchapter A, Chapter 29.

(b) The limit on the number of charters for open-enrollment charter schools imposed by Section 12.101 does not apply to a charter granted under this section to a school at which at least 50 percent of the students are eligible to receive services under Subchapter A, Chapter 29. Not more than five charters may be granted for schools described by this subsection.

(c) For purposes of the applicability of state and federal law, including a law prescribing requirements concerning students with disabilities, an open-enrollment charter school described by Subsection (a) is considered the same as any other school for which a charter is granted under Section 12.101.



(d) To the fullest extent permitted under federal law, a parent of a student with a disability may choose to enroll the parent's child in an open-enrollment charter school described by Subsection (a) regardless of whether a disproportionate number of the school's students are students with disabilities.

(e) This section does not authorize an open-enrollment charter school to discriminate in admissions or in the services provided based on the presence, absence, or nature of an applicant's or student's disability.

(f) The commissioner and the State Board for Educator Certification shall adopt rules as necessary to administer this section.

SECTION 13. Section 12.102, Education Code, is amended to read as follows:

Sec. 12.102. AUTHORITY UNDER CHARTER. An open-enrollment charter school:

(1) shall provide instruction to students at one or more elementary or secondary grade levels as provided by the charter;

(2) is governed under the governing structure described by the charter;

(3) retains authority to operate under the charter to the extent authorized under Sections 12.1141 and 12.115 and Subchapter E, Chapter 39 ~~[contingent on satisfactory student performance as provided by the charter in accordance with Section 12.111];~~ and

(4) does not have authority to impose taxes.

SECTION 14. Section 12.104, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) accelerated instruction under Section 28.0211;

(E) high school graduation requirements under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, E, F, G, and J, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; and

(N) intensive programs of instruction under Section 28.0213.

(b-1) During the first three years an open-enrollment charter school is in operation, the agency shall assist the school as necessary in complying with requirements under Subsection (b)(2)(A).

SECTION 15. Subsection (a), Section 12.1053, Education Code, is amended to read as follows:

(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the commissioner ~~[State Board of Education]~~.

SECTION 16. Section 12.1055, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Section 11.1513(f) applies to an open-enrollment charter school as though the governing body of the school were the board of trustees of a school district and to the superintendent or, as applicable, the administrator serving as educational leader and chief executive officer of the school as though that person were the superintendent of a school district.

(d) Notwithstanding any other provision of this section, a person who was not restricted or prohibited under this section as this section existed before September 1, 2013, from being employed by an open-enrollment charter school and who was employed by an open-enrollment charter school before September 1, 2013, is considered to have been in continuous employment as provided by Section 573.062(a), Government Code, and is not prohibited from continuing employment with the school.

SECTION 17. Subsection (a), Section 12.1057, Education Code, is amended to read as follows:

(a) An employee of an open-enrollment charter school ~~[operating under a charter granted by the State Board of Education]~~ who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system to the same extent a qualified employee of a school district is covered.

SECTION 18. Section 12.110, Education Code, is amended by amending Subsections (a), (c), and (d), and adding Subsection (e) to read as follows:

(a) The commissioner ~~[State Board of Education]~~ shall adopt:

(1) an application form and a procedure that must be used to apply for a charter for an open-enrollment charter school; and

(2) criteria to use in selecting a program for which to grant a charter.

(c) As part of the application procedure, the commissioner ~~[board]~~ may require a petition supporting a charter for a school signed by a specified number of parents or guardians of school-age children residing in the area in which a school is proposed or may hold a public hearing to determine parental support for the school.

(d) The commissioner shall ~~[board may]~~ approve or deny an application based on:

(1) documented evidence collected through the application review process;

(2) merit; and

(3) other criteria as adopted by the commissioner, which ~~[it adopts. The criteria the board adopts]~~ must include:

(A) criteria relating to the capability of the applicant to carry out the responsibilities provided by the charter and the likelihood that the applicant will operate a school of high quality;

(B) ~~(4)~~ criteria relating to improving student performance and encouraging innovative programs; and

(C) ~~(2)~~ a statement from any school district whose enrollment is likely to be affected by the open-enrollment charter school, including information relating to any financial difficulty that a loss in enrollment may have on the district.

(e) The commissioner shall give priority to applications that propose an open-enrollment charter school campus to be located in the attendance zone of a school district campus assigned an unacceptable performance rating under Section 39.054 for the two preceding school years.

SECTION 19. Section 12.1101, Education Code, is amended to read as follows:

Sec. 12.1101. NOTIFICATION OF CHARTER APPLICATION OR ESTABLISHMENT OF CAMPUS. The commissioner by rule shall adopt a procedure for providing notice to the following persons on receipt by the commissioner ~~[State Board of Education]~~ of an application for a charter for an open-enrollment charter school under Section 12.110 or of notice of the establishment of a campus as authorized under Section 12.101~~(b-4)~~:

(1) the board of trustees of each school district from which the proposed open-enrollment charter school or campus is likely to draw students, as determined by the commissioner; and

(2) each member of the legislature that represents the geographic area to be served by the proposed school or campus, as determined by the commissioner.

SECTION 20. Subsection (a), Section 12.111, Education Code, is amended to read as follows:

(a) Each charter granted under this subchapter must:

(1) describe the educational program to be offered, which must include the required curriculum as provided by Section 28.002;

(2) specify the period for which the charter or any charter renewal is valid;  
~~(3) provide that continuation [or renewal] of the charter is contingent on the status of the charter as determined under Section 12.1141 or 12.115 or under Subchapter E, Chapter 39 [acceptable student performance on assessment instruments adopted under Subchapter B, Chapter 39, and on compliance with any accountability provision specified by the charter, by a deadline or at intervals specified by the charter];~~

(3) specify the academic, operational, and financial performance expectations by which a school operating under the charter will be evaluated, which must include applicable elements of the performance frameworks adopted under Section 12.1181 ~~(4) establish the level of student performance that is considered acceptable for purposes of Subdivision (3);~~

(4) ~~(5)~~ specify:

(A) any basis, in addition to a basis specified by this subchapter or Subchapter E, Chapter 39, on which the charter may be ~~[placed on probation or] revoked, [or on which] renewal of the charter may be denied, or the charter may be allowed to expire; and~~

(B) the standards for evaluation of a school operating under the charter for purposes of charter renewal, denial of renewal, expiration, revocation, or other intervention in accordance with Section 12.1141 or 12.115 or Subchapter E, Chapter 39, as applicable;

(5) [(6)] prohibit discrimination in admission policy on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability, or the district the child would otherwise attend in accordance with this code, although the charter may:

(A) provide for the exclusion of a student who has a documented history of a criminal offense, a juvenile court adjudication, or discipline problems under Subchapter A, Chapter 37; and

(B) provide for an admission policy that requires a student to demonstrate artistic ability if the school specializes in performing arts;

(6) [(7)] specify the grade levels to be offered;

(7) [(8)] describe the governing structure of the program, including:

(A) the officer positions designated;

(B) the manner in which officers are selected and removed from office;

(C) the manner in which members of the governing body of the school are selected and removed from office;

(D) the manner in which vacancies on that governing body are filled;

(E) the term for which members of that governing body serve; and

(F) whether the terms are to be staggered;

(8) [(9)] specify the powers or duties of the governing body of the school that the governing body may delegate to an officer;

(9) [(10)] specify the manner in which the school will distribute to parents information related to the qualifications of each professional employee of the program, including any professional or educational degree held by each employee, a statement of any certification under Subchapter B, Chapter 21, held by each employee, and any relevant experience of each employee;

(10) [(11)] describe the process by which the person providing the program will adopt an annual budget;

(11) [(12)] describe the manner in which an annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the person providing the program will provide information necessary for the school district in which the program is located to participate, as required by this code or by commissioner [State Board of Education] rule, in the Public Education Information Management System (PEIMS);

(12) [(13)] describe the facilities to be used;

(13) [(14)] describe the geographical area served by the program;

(14) [and]

[(15)] specify any type of enrollment criteria to be used;

(15) provide information, as determined by the commissioner, relating to any management company that will provide management services to a school operating under the charter; and

(16) specify that the governing body of an open-enrollment charter school accepts and may not delegate ultimate responsibility for the school, including the school's academic performance and financial and operational viability, and is responsible for overseeing any management company providing management services for the school and for holding the management company accountable for the school's performance.

SECTION 21. Section 12.112, Education Code, is amended to read as follows:

Sec. 12.112. FORM. A charter for an open-enrollment charter school shall be in the form of a written contract signed by the commissioner ~~[chair of the State Board of Education]~~ and the chief operating officer of the school.

SECTION 22. Subsection (a), Section 12.113, Education Code, is amended to read as follows:

(a) Each charter the commissioner ~~[State Board of Education]~~ grants for an open-enrollment charter school must:

- (1) satisfy this subchapter; and
- (2) include the information that is required under Section 12.111 consistent with the information provided in the application and any modification the commissioner ~~[board]~~ requires.

SECTION 23. Section 12.114, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Not later than the 60th day after the date that a charter holder submits to the commissioner a completed request for approval for an expansion amendment, as defined by commissioner rule, including a new school amendment, the commissioner shall provide to the charter holder written notice of approval or disapproval of the amendment.

SECTION 24. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1141 to read as follows:

Sec. 12.1141. RENEWAL OF CHARTER; DENIAL OF RENEWAL; EXPIRATION. (a) The commissioner shall develop and by rule adopt a procedure for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school at the end of the term of the charter. The procedure must include consideration of the performance under Chapter 39 of the charter holder and each campus operating under the charter and must include three distinct processes, which must be expedited renewal, discretionary consideration of renewal or denial of renewal, and expiration. To renew a charter at the end of the term, the charter holder must submit a petition for renewal to the commissioner in the time and manner established by commissioner rule.

(b) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for expedited renewal of the charter, the charter automatically renews unless, not later than the 30th day after the date the charter holder submits the petition, the commissioner provides written notice to the charter holder that expedited renewal of the charter is denied. The commissioner may not deny expedited renewal of a charter if:

- (1) the charter holder has been assigned the highest or second highest performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial performance accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better for the three preceding school years; and

(3) no campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years or such a campus has been closed.

(c) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter and the charter does not meet the criteria for expedited renewal under Subsection (b) or for expiration under Subsection (d), the commissioner shall use the discretionary consideration process. The commissioner's decision under the discretionary consideration process must take into consideration the results of annual evaluations under the performance frameworks established under Section 12.1181. The renewal of the charter of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39 shall be considered under the discretionary consideration process regardless of the performance ratings under Subchapter C, Chapter 39, of the open-enrollment charter school or of any campus operating under the charter, except that if the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years, the commissioner shall allow the charter to expire under Subsection (d). In considering the renewal of the charter of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39, such as a dropout recovery school or a school providing education within a residential treatment facility, the commissioner shall use academic criteria established by commissioner rule that are appropriate to measure the specific goals of the school. The criteria established by the commissioner shall recognize growth in student achievement as well as educational attainment. For purposes of this subsection, the commissioner shall designate as a dropout recovery school an open-enrollment charter school or a campus of an open-enrollment charter school:

(1) that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2) that meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

(d) At the end of the term of a charter for an open-enrollment charter school, if a charter holder submits to the commissioner a petition for renewal of the charter, the commissioner may not renew the charter and shall allow the charter to expire if:

(1) the charter holder has been assigned the lowest performance rating under Subchapter C, Chapter 39, for any three of the five preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance that is lower than satisfactory for any three of the five preceding school years;

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for any three of the five preceding school years; or

(4) any campus operating under the charter has been assigned the lowest performance rating under Subchapter C, Chapter 39, for the three preceding school years and such a campus has not been closed.

(e) Notwithstanding any other law, a determination by the commissioner under Subsection (d) is final and may not be appealed.

(f) Not later than the 90th day after the date on which a charter holder submits a petition for renewal of a charter for an open-enrollment charter school at the end of the term of the charter, the commissioner shall provide written notice to the charter holder, in accordance with commissioner rule, of the basis on which the charter qualified for expedited renewal, discretionary consideration, or expiration, and of the commissioner's decision regarding whether to renew the charter, deny renewal of the charter, or allow the charter to expire.

(g) Except as provided by Subsection (e), a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to deny renewal of a charter for an open-enrollment charter school unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(h) If a charter holder submits a petition for renewal of a charter for an open-enrollment charter school, notwithstanding the expiration date of the charter, the charter term is extended until the commissioner has provided notice to the charter holder of the renewal, denial of renewal, or expiration of the charter.

(i) The term of a charter renewed under this section is 10 years for each renewal.

(j) The commissioner shall adopt rules to modify criteria for renewal, denial of renewal, or expiration of a charter for an open-enrollment charter school under this section to the extent necessary to address changes in performance rating categories or in the financial accountability system under Chapter 39.

(k) For purposes of determination of renewal under Subsection (b)(1) or (3) or (d)(1) or (4), performance during the 2011-2012 school year may not be considered. For purposes of determination of renewal under Subsection (b)(1) or (3) or (d)(1) or (4), the initial three school years for which performance ratings under Subchapter C, Chapter 39, shall be considered are the 2009-2010, 2010-2011, and 2012-2013 school years. For purposes of determination of renewal under Subsection (b)(2) or (d)(2), the earliest school year for which financial accountability performance ratings under Subchapter D, Chapter 39, may be considered is the 2010-2011 school year. This subsection expires September 1, 2016.

SECTION 25. Section 12.115, Education Code, is amended to read as follows:

Sec. 12.115. BASIS FOR CHARTER ~~[MODIFICATION, PLACEMENT ON PROBATION,]~~ REVOCATION~~[,]~~ OR MODIFICATION OF GOVERNANCE ~~[DENIAL OF RENEWAL]~~. (a) Except as provided by Subsection (c), the [The]

commissioner shall ~~[may modify, place on probation,]~~ revoke ~~[, or deny renewal of]~~ the charter of an open-enrollment charter school or reconstitute the governing body of the charter holder if the commissioner determines that the charter holder:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; ~~[or]~~

(4) failed to comply with this subchapter or another applicable law or rule;

(5) failed to satisfy the performance framework standards adopted under Section 12.1181; or

(6) is imminently insolvent as determined by the commissioner in accordance with commissioner rule.

(b) The action the commissioner takes under Subsection (a) shall be based on the best interest of the open-enrollment charter school's students, the severity of the violation, ~~and~~ any previous violation the school has committed, and the accreditation status of the school.

(c) The commissioner shall revoke the charter of an open-enrollment charter school if:

(1) the charter holder has been assigned an unacceptable performance rating under Subchapter C, Chapter 39, for the three preceding school years;

(2) the charter holder has been assigned a financial accountability performance rating under Subchapter D, Chapter 39, indicating financial performance lower than satisfactory for the three preceding school years; or

(3) the charter holder has been assigned any combination of the ratings described by Subdivision (1) or (2) for the three preceding school years.

(c-1) For purposes of revocation under Subsection (c)(1), performance during the 2011-2012 school year may not be considered. For purposes of revocation under Subsection (c)(1), the initial three school years for which performance ratings under Subchapter C, Chapter 39, shall be considered are the 2009-2010, 2010-2011, and 2012-2013 school years. For purposes of revocation under Subsection (c)(2), the initial three school years for which financial accountability performance ratings under Subchapter D, Chapter 39, shall be considered are the 2010-2011, 2011-2012, and 2012-2013 school years. This subsection expires September 1, 2016.

(d) In reconstituting the governing body of a charter holder under this section, the commissioner shall appoint members to the governing body. In appointing members under this subsection the commissioner:

(1) shall consider:

(A) local input from community members and parents; and

(B) appropriate credentials and expertise for membership, including financial expertise, whether the person lives in the geographic area the charter holder serves, and whether the person is an educator; and

(2) may reappoint current members of the governing body.



(e) If a governing body of a charter holder subject to reconstitution under this section governs enterprises other than the open-enrollment charter school, the commissioner may require the charter holder to create a new, single-purpose organization that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, to govern the open-enrollment charter school and may require the charter holder to surrender the charter to the commissioner for transfer to the organization created under this subsection. The commissioner shall appoint the members of the governing body of an organization created under this subsection.

(f) This section does not limit the authority of the attorney general to take any action authorized by law.

(g) The commissioner shall adopt rules necessary to administer this section.

(h) The commissioner shall adopt initial rules under Subsection (g) not later than September 1, 2014. This subsection expires October 1, 2014.

SECTION 26. Section 12.116, Education Code, is amended to read as follows:

Sec. 12.116. PROCEDURE FOR ~~[MODIFICATION, PLACEMENT ON PROBATION,]~~ REVOCATION~~[;]~~ OR MODIFICATION OF GOVERNANCE ~~[DENIAL OF RENEWAL]~~. (a) The commissioner shall adopt an informal ~~[a]~~ procedure to be used for ~~[modifying, placing on probation,]~~ revoking~~[, or denying renewal of]~~ the charter of an open-enrollment charter school or for reconstituting the governing body of the charter holder as authorized by Section 12.115.

~~(b) [The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school. A hearing under this subsection must be held at the facility at which the program is operated.]~~

~~[(e)]~~ Chapter 2001, Government Code, does not apply to a procedure ~~[hearing]~~ that is related to a ~~[modification, placement on probation,]~~ revocation~~[;]~~ or modification of governance ~~[denial of renewal]~~ under this subchapter.

(c) A decision by the commissioner to revoke a charter is subject to review by the State Office of Administrative Hearings. Notwithstanding Chapter 2001, Government Code:

(1) the administrative law judge shall uphold a decision by the commissioner to revoke a charter unless the judge finds the decision is arbitrary and capricious or clearly erroneous; and

(2) a decision of the administrative law judge under this subsection is final and may not be appealed.

(d) If the commissioner revokes the charter of an open-enrollment charter school, the commissioner may:

(1) manage the school until alternative arrangements are made for the school's students; and

(2) assign operation of one or more campuses formerly operated by the charter holder who held the revoked charter to a different charter holder who consents to the assignment.

SECTION 27. Subsection (a), Section 12.1161, Education Code, is amended to read as follows:

(a) If ~~[Except as provided by Subsection (b), if]~~ the commissioner revokes or denies the renewal of a charter of an open-enrollment charter school[,;] or ~~[#]~~ an open-enrollment charter school surrenders its charter, the school may not:

- (1) continue to operate under this subchapter; or
- (2) receive state funds under this subchapter.

SECTION 28. Subsection (c), Section 12.1163, Education Code, is amended to read as follows:

(c) Unless the commissioner has specific cause to conduct an additional audit, the commissioner may not conduct more than one on-site audit ~~[under Section 12.1163]~~ during any fiscal year, including any financial and administrative records. For purposes of this subsection, an audit of a charter holder or management company associated with an open-enrollment charter school is not considered an audit of the school.

SECTION 29. Subsection (a), Section 12.1164, Education Code, is amended to read as follows:

(a) The commissioner must notify the Teacher Retirement System of Texas in writing of the revocation, denial of renewal, expiration, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

SECTION 30. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1181 to read as follows:

Sec. 12.1181. PERFORMANCE FRAMEWORKS; ANNUAL EVALUATIONS. (a) The commissioner shall develop and by rule adopt performance frameworks that establish standards by which to measure the performance of an open-enrollment charter school. The commissioner shall develop and by rule adopt separate, specific performance frameworks by which to measure the performance of an open-enrollment charter school that is registered under the agency's alternative education accountability procedures for evaluation under Chapter 39. The performance frameworks shall be based on national best practices that charter school authorizers use in developing and applying standards for charter school performance. In developing the performance frameworks, the commissioner shall solicit advice from charter holders, the members of the governing bodies of open-enrollment charter schools, and other interested persons.

(b) The performance frameworks may include a variety of standards. In evaluating an open-enrollment charter school, the commissioner shall measure school performance against an established set of quality standards developed and adopted by the commissioner.

(c) Each year, the commissioner shall evaluate the performance of each open-enrollment charter school based on the applicable performance frameworks adopted under Subsection (a). The performance of a school on a performance framework may not be considered for purposes of renewal of a charter under Section 12.1141(d) or revocation of a charter under Section 12.115(c).

SECTION 31. Section 12.119, Education Code, is amended to read as follows:

Sec. 12.119. BYLAWS; ANNUAL REPORT. (a) A charter holder shall file with the commissioner [~~State Board of Education~~] a copy of its articles of incorporation and bylaws, or comparable documents if the charter holder does not have articles of incorporation or bylaws, within the period and in the manner prescribed by the commissioner [~~board~~].

(b) Each year within the period and in a form prescribed by the commissioner [~~State Board of Education~~], each open-enrollment charter school shall file with the commissioner [~~board~~] the following information:

(1) the name, address, and telephone number of each officer and member of the governing body of the open-enrollment charter school; and

(2) the amount of annual compensation the open-enrollment charter school pays to each officer and member of the governing body.

(c) On request, the commissioner [~~State Board of Education~~] shall provide the information required by this section and Section 12.111(a)(7) [~~12.111(a)(8)~~] to a member of the public. The commissioner [~~board~~] may charge a reasonable fee to cover the commissioner's [~~board's~~] cost in providing the information.

SECTION 32. Section 12.120, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), subject to Section 12.1059, an open-enrollment charter school may employ a person:

(1) as a teacher or educational aide if:

(A) a school district could employ the person as a teacher or educational aide; or

(B) a school district could employ the person as a teacher or educational aide if the person held the appropriate certificate issued under Subchapter B, Chapter 21, and the person has never held a certificate issued under Subchapter B, Chapter 21;  
or

(2) in a position other than a position described by Subdivision (1) if a school district could employ the person in that position.

SECTION 33. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1202 to read as follows:

Sec. 12.1202. REQUIREMENT FOR MAJORITY OF MEMBERS OF GOVERNING BODY. A majority of the members of the governing body of an open-enrollment charter school or the governing body of a charter holder must be qualified voters.

SECTION 34. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1211 to read as follows:

Sec. 12.1211. NAMES OF MEMBERS OF GOVERNING BODY LISTED ON WEBSITE. An open-enrollment charter school shall list the names of the members of the governing body on the home page of the school's Internet website.

SECTION 35. Subsection (a), Section 12.122, Education Code, is amended to read as follows:

(a) Notwithstanding the applicable provisions of the Business Organizations Code [~~Texas Non Profit Corporation Act (Article 1396 1.01 et seq., Vernon's Texas Civil Statutes)~~] or other law, on request of the commissioner, the attorney general may

bring suit against a member of the governing body of an open-enrollment charter school for breach of a fiduciary duty by the member, including misapplication of public funds.

SECTION 36. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1231 to read as follows:

Sec. 12.1231. TRAINING FOR AGENCY EMPLOYEES. Not later than October 1, 2013, each agency employee assigned responsibility related to granting charters for open-enrollment charter schools or providing oversight or monitoring of charter holders or open-enrollment charter schools must participate in training on charter school authorization, oversight, and monitoring provided by a nationally recognized organization of charter school authorizers identified by the commissioner. This section expires January 1, 2014.

SECTION 37. Subsection (a), Section 12.128, Education Code, is amended to read as follows:

(a) Property purchased or leased with funds received by a charter holder under Section 12.106 after September 1, 2001:

- (1) is considered to be public property for all purposes under state law;
- (2) is property of this state held in trust by the charter holder for the benefit of the students of the open-enrollment charter school; and
- (3) may be used only for a purpose for which a school district may use school district property.

SECTION 38. Section 12.129, Education Code, is amended to read as follows:

Sec. 12.129. MINIMUM ~~TEACHER~~ QUALIFICATIONS FOR PRINCIPALS AND TEACHERS. A person employed as a principal or a teacher by an open-enrollment charter school must hold a baccalaureate degree ~~[high school diploma].~~

SECTION 39. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.136 to read as follows:

Sec. 12.136. POSTING OF CHIEF EXECUTIVE OFFICER SALARY. An open-enrollment charter school shall post on the school's Internet website the salary of the school's superintendent or, as applicable, of the administrator serving as educational leader and chief executive officer.

SECTION 40. Sections 12.152 and 12.154, Education Code, are amended to read as follows:

Sec. 12.152. AUTHORIZATION. ~~[(a)]~~ In accordance with this subchapter and Subchapter D, the commissioner ~~[State Board of Education]~~ may grant a charter on the application of:

(1) a public senior college or university for an open-enrollment charter school to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located; or

(2) a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

Sec. 12.154. CONTENT. (a) Notwithstanding Section 12.110(d), the commissioner [~~State Board of Education~~] may grant a charter under this subchapter to a public senior college or university only if the following criteria are satisfied in the public senior college's or university's application, as determined by the commissioner [~~State Board of Education~~]:

(1) the college or university charter school's educational program must include innovative teaching methods;

(2) the college or university charter school's educational program must be implemented under the direct supervision of a member of the teaching or research faculty of the public senior college or university;

(3) the faculty member supervising the college or university charter school's educational program must have substantial experience and expertise in education research, teacher education, classroom instruction, or educational administration;

(4) the college or university charter school's educational program must be designed to meet specific goals described in the charter, including improving student performance, and each aspect of the program must be directed toward the attainment of the goals;

(5) the attainment of the college or university charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(6) the financial operations of the college or university charter school must be supervised by the business office of the public senior college or university.

(b) Notwithstanding Section 12.110(d), the commissioner [~~State Board of Education~~] may grant a charter under this subchapter to a public junior college only if the following criteria are satisfied in the public junior college's application, as determined by the commissioner [~~State Board of Education~~]:

(1) the junior college charter school's educational program must be implemented under the direct supervision of a member of the faculty of the public junior college;

(2) the faculty member supervising the junior college charter school's educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration;

(3) the junior college charter school's educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals;

(4) the attainment of the junior college charter school's educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame; and

(5) the financial operations of the junior college charter school must be supervised by the business office of the junior college.

SECTION 41. Subsection (b), Section 12.156, Education Code, is amended to read as follows:

(b) A charter granted under this subchapter is not considered for purposes of the limit on the number of open-enrollment charter schools imposed by Section 12.101 [~~12.101(b)~~].

SECTION 42. Subsections (b), (c), and (d), Section 25.082, Education Code, are amended to read as follows:

(b) The board of trustees of each school district and the governing board of each open-enrollment charter school shall require students, once during each school day at each campus [~~school in the district~~], to recite:

(1) the pledge of allegiance to the United States flag in accordance with 4 U.S.C. Section 4[, ~~and its subsequent amendments~~]; and

(2) the pledge of allegiance to the state flag in accordance with Subchapter C, Chapter 3100, Government Code.

(c) On written request from a student's parent or guardian, a school district or open-enrollment charter school shall excuse the student from reciting a pledge of allegiance under Subsection (b).

(d) The board of trustees of each school district and the governing board of each open-enrollment charter school shall provide for the observance of one minute of silence at each campus [~~school in the district~~] following the recitation of the pledges of allegiance to the United States and Texas flags under Subsection (b). During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of students during that period shall ensure that each of those students remains silent and does not act in a manner that is likely to interfere with or distract another student.

SECTION 43. Section 39.152, Education Code, is amended to read as follows:

Sec. 39.152. REVIEW BY STATE OFFICE OF ADMINISTRATIVE HEARINGS: SANCTIONS. (a) A school district or open-enrollment charter school that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school must appeal the decision under this section [~~the procedures provided for a contested case under Chapter 2001, Government Code~~].

(b) A challenge to a decision under this section is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code. The commissioner shall adopt procedural rules for a challenge under this section.

(c) Notwithstanding other law:

(1) the State Office of Administrative Hearings shall conduct [~~provide~~] an expedited review of a challenge under this section;

(2) the administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed; [~~and~~]

(3) the decision of the administrative law judge is final and may not be appealed; and

(4) the decision of the administrative law judge may set an effective date for an action under this section.

SECTION 44. Subsection (a), Section 221.0071, Human Resources Code, is amended to read as follows:

(a) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education ~~[State Board of Education]~~ may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code.

SECTION 45. Subsection (d), Section 221.056, Human Resources Code, is amended to read as follows:

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education ~~[State Board of Education]~~ shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

SECTION 46. Subsection (c), Section 140.006, Local Government Code, is amended to read as follows:

(c) The presiding officer of a school district shall submit a financial statement prepared under Section 140.005 to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the school district, the financial statement shall be published in the manner provided by Subsections (a) and (b). The governing body of an open-enrollment charter school shall take action to ensure that the school's financial statement is ~~[of an open enrollment charter school shall be]~~ made available in the manner provided by Chapter 552, Government Code, and is posted continuously on the school's Internet website.

SECTION 47. The following provisions of the Education Code are repealed:

- (1) Subsection (b), Section 12.1055;
- (2) Subsection (b), Section 12.113; and
- (3) Subsection (b), Section 12.1161.

SECTION 48. The State Board of Education is required to implement Section 12.1014, Education Code, as added by this Act, only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may, but it is not required to, implement that section using other appropriations available for that purpose.

SECTION 49. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 2** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 949

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 949** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON  
DEUELL  
HUFFMAN  
RODRÍGUEZ  
TAYLOR

On the part of the Senate

SHEFFIELD, J. D.  
LEWIS  
ZERWAS

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to licensing under the Medical Practice Act.

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

SECTION 1. Subsection (a), Section 151.002, Occupations Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "License holder" means a person holding a license, permit, or certificate issued under this subtitle.

SECTION 2. Section 155.051, Occupations Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The time frame to pass each part of the examination does not apply to an applicant who:

- (1) is licensed and in good standing as a physician in another state;
- (2) has been licensed for at least five years;
- (3) does not hold a medical license in the other state that has or has ever had any restrictions, disciplinary orders, or probation; and
- (4) will practice in a medically underserved area or a health manpower shortage area, as those terms are defined by Section 157.052.

(e) The board may by rule establish a process to verify that a person, after meeting the requirements of Subsection (d), practices only in an area described by Subsection (d)(4).

SECTION 3. Section 155.0045, Occupations Code, is repealed.

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, 2013.

The Conference Committee Report on **SB 949** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 484**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 484** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WHITMIRE  
RODRÍGUEZ  
CARONA  
DEUELL  
HEGAR

On the part of the Senate

TURNER, SYLVESTER  
GIDDINGS  
MOODY  
ALLEN

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of a prostitution prevention program; authorizing a fee.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 169A to read as follows:

CHAPTER 169A. PROSTITUTION PREVENTION PROGRAM

Sec. 169A.001. PROSTITUTION PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "prostitution prevention program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety, to reduce the demand for the commercial sex trade and trafficking of persons by educating offenders, and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse;

(5) a coordinated strategy to govern program responses to participant compliance;

(6) monitoring and evaluation of program goals and effectiveness;

(7) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(8) development of partnerships with public agencies and community organizations.

(b) If a defendant successfully completes a prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Sec. 169A.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county or governing body of a municipality may establish a prostitution prevention program for defendants charged with an offense under Section 43.02(a)(1), Penal Code, in which the defendant offered or agreed to engage in or engaged in sexual conduct for a fee.

(b) A defendant is eligible to participate in a prostitution prevention program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program.

(c) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to participate in the prostitution prevention program or otherwise proceed through the criminal justice system.

Sec. 169A.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The commissioners courts of two or more counties, or the governing bodies of two or more municipalities, may elect to establish a regional prostitution prevention program under this chapter for the participating counties or municipalities.

Sec. 169A.003. PROGRAM POWERS AND DUTIES. (a) A prostitution prevention program established under this chapter must:

(1) ensure that a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

(4) provide each participant with instruction related to the prevention of prostitution.

(b) To provide each program participant with information, counseling, and services described by Subsection (a)(3), a program established under this chapter may employ a person or solicit a volunteer who is:

(1) a health care professional;

- (2) a psychologist;
- (3) a licensed social worker or counselor;
- (4) a former prostitute;
- (5) a family member of a person arrested for soliciting prostitution;
- (6) a member of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons; or
- (7) an employee of a nongovernmental organization specializing in advocacy or laws related to sex trafficking or human trafficking or in providing services to victims of those offenses.

(c) A program established under this chapter shall establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which the defendants reside.

Sec. 169A.004. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of prostitution prevention programs established under this chapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a prostitution prevention program established under this chapter.

(c) A legislative committee may require a county that does not establish a prostitution prevention program under this chapter due to a lack of sufficient funding, as provided by Section 169A.0055(c), to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

(d) A prostitution prevention program established under this chapter shall:

- (1) notify the criminal justice division of the governor's office before or on implementation of the program; and
- (2) provide information regarding the performance of the program to the division on request.

Sec. 169A.005. FEES. (a) A prostitution prevention program established under this chapter may collect from a participant in the program a nonrefundable program fee in a reasonable amount not to exceed \$1,000, from which the following must be paid:

- (1) a counseling and services fee in an amount necessary to cover the costs of the counseling and services provided by the program;
- (2) a victim services fee in an amount equal to 10 percent of the amount paid under Subdivision (1), to be deposited to the credit of the general revenue fund to be appropriated only to cover costs associated with the grant program described by Section 531.383, Government Code; and
- (3) a law enforcement training fee, in an amount equal to five percent of the total amount paid under Subdivision (1), to be deposited to the credit of the treasury of the county or municipality that established the program to cover costs associated with the provision of training to law enforcement personnel on domestic violence, prostitution, and the trafficking of persons.

(b) Fees collected under this section may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the prostitution prevention program. The fees must be based on the participant's ability to pay.

Sec. 169A.0055. PROGRAM IN CERTAIN COUNTIES MANDATORY.

(a) The commissioners court of a county shall establish a prostitution prevention program if:

(1) the county has a population of more than 200,000; and

(2) a municipality in the county has not established a prostitution prevention program.

(b) A county required under this section to establish a prostitution prevention program shall apply for federal and state funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection.

(c) Notwithstanding Subsection (a), a county is required to establish a prostitution prevention program under this section only if the county receives sufficient federal or state funding specifically for that purpose.

(d) A county that does not establish a prostitution prevention program as required by this section and maintain the program is ineligible to receive from the state funds for a community supervision and corrections department.

Sec. 169A.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) To encourage participation in a prostitution prevention program established under this chapter, the judge or magistrate administering the program may suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project.

(b) On a participant's successful completion of a prostitution prevention program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

SECTION 2. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.0292 to read as follows:

Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. A nonrefundable program fee for a prostitution prevention program established under Section 169A.002, Health and Safety Code, shall be collected under Section 169A.005, Health and Safety Code, in a reasonable amount based on the defendant's ability to pay and not to exceed \$1,000, which includes:

(1) a counseling and services fee in an amount necessary to cover the costs of counseling and services provided by the program;

(2) a victim services fee in an amount equal to 10 percent of the total fee;  
and

(3) a law enforcement training fee in an amount equal to five percent of the total fee.

SECTION 3. Subdivision (2), Subsection (a), Section 772.0061, Government Code, is amended to read as follows:

(2) "Specialty court" means:

(A) a prostitution prevention program established under Chapter 169A, Health and Safety Code;

(B) a drug court program established under Chapter 469, Health and Safety Code;

(C) ~~(B)~~ a mental health court program established under Chapter 616, Health and Safety Code; and

(D) ~~(C)~~ a veterans court program established under Chapter 617, Health and Safety Code.

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, 2013.

The Conference Committee Report on **SB 484** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 5

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 5** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
WILLIAMS  
VAN DE PUTTE  
SELIGER  
DUNCAN  
On the part of the Senate

AYCOCK  
HUBERTY  
DESHOTEL  
GONZALES, LARRY  
RODRIGUEZ, EDDIE  
On the part of the House

The Conference Committee Report on **HB 5** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1017

Senator Paxton submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1017** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

PAXTON  
CAMPBELL  
HANCOCK  
NICHOLS  
WATSON

On the part of the Senate

LAVENDER  
GOLDMAN  
GUERRA  
PADDIE  
THOMPSON, ED

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the funding for and administration of travel and information operations by the Texas Department of Transportation.

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

SECTION 1. Section 204.003, Transportation Code, is amended to read as follows:

Sec. 204.003. TRAVEL INFORMATION CENTERS. (a) The department shall maintain and operate travel information centers ~~[at the principal gateways to this state]~~ to provide highway information, travel guidance, and descriptive material designed to assist the traveling public and stimulate travel to and within this state.

(b) The department may:

(1) enter into an agreement with:

(A) another state agency for the operation of a travel information center;

or

(B) a local government, including a commission created under Chapter 391, Local Government Code, for the operation of a travel information center that is located within the boundaries of the local government; and

(2) issue a request for proposals to private or nonprofit entities for the operation of a travel information center.

(c) The department may sell commercial advertising space at a travel information center if the advertising is not visible from the main traveled way of the highway. If the department sells commercial advertising space, the department shall set rates for the advertising and other services available at a travel information center at a level that generates receipts approximately sufficient to cover the cost of its travel and information operations.

(d) The department may not engage in an activity authorized under Subsection (c) or another provision of this chapter that would decrease the amount of federal highway funding available to the department.

SECTION 2. The heading to Section 204.009, Transportation Code, is amended to read as follows:

Sec. 204.009. SALE OF PROMOTIONAL ITEMS, ADVERTISING, AND ACKNOWLEDGMENTS.

SECTION 3. Section 204.009, Transportation Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The department may enter into an agreement for the acknowledgment of donations if the acknowledgment does not contain comparative or qualitative descriptions of the donor's products, services, facilities, or companies.

(b) All proceeds from the sale of the items and advertising under this chapter and all donations acknowledged under this section shall be deposited to the credit of a separate account in the state highway fund. Money in the account is dedicated for the department's use in its travel and information operations.

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, 2013.

The Conference Committee Report on **SB 1017** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3459

Senator Taylor submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3459** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

TAYLOR  
FRASER  
HEGAR  
HINOJOSA  
URESTI

On the part of the Senate

EILAND  
DESHOTEL  
GOLDMAN  
SPRINGER  
WALLE

On the part of the House

The Conference Committee Report on **HB 3459** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 401**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas

May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 401** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

LUCIO  
PATRICK  
PAXTON  
VAN DE PUTTE  
WEST

On the part of the Senate

ALLEN  
DESHOTEL  
MILES  
PATRICK

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to a notification requirement if a school counselor is not assigned to a public school campus.

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

SECTION 1. Subchapter A, Chapter 33, Education Code, is amended by adding Section 33.008 to read as follows:

Sec. 33.008. PARENTAL NOTIFICATION CONCERNING SCHOOL COUNSELORS. (a) If a public school, including an open-enrollment charter school, does not have a full-time school counselor certified under Subchapter B, Chapter 21, assigned to the campus for more than 30 consecutive instructional days during the same school year, notice of the absence of a school counselor must be posted on the Internet website of:

(1) the school district; and

(2) the school, if the school maintains an Internet website.

(b) The district and the school shall post the notice required by Subsection (a) not later than the 30th instructional day after the first day the school does not have a full-time school counselor assigned to the campus.

(c) The district and the school may include with the notice required by Subsection (a) information regarding when a school counselor is available at the campus.

(d) The district and the school shall:



(1) make a good faith effort to ensure that the notice required by this section is provided in a bilingual form; and

(2) retain a copy of any notice provided under this section.

(e) The commissioner may adopt necessary rules regarding the notice required by this section.

SECTION 2. This Act applies beginning with the 2013-2014 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

The Conference Committee Report on **SB 401** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3390

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3390** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
ELTIFE  
HANCOCK  
SELIGER

HILDERBRAN  
MURPHY  
DAVIS, JOHN  
EILAND  
DARBY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3390** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3447

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3447** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
HINOJOSA  
CAMPBELL  
ZAFFIRINI  
TAYLOR

On the part of the Senate

GUTIERREZ  
FARIAS  
LARSON  
RODRIGUEZ, JUSTIN  
VILLARREAL

On the part of the House

The Conference Committee Report on **HB 3447** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3569**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3569** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
HEGAR  
HINOJOSA  
SCHWERTNER

On the part of the Senate

KLEINSCHMIDT  
ANDERSON  
GUILLEN  
WHITE  
KACAL

On the part of the House

The Conference Committee Report on **HB 3569** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 7**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 7** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON  
DEUELL  
HINOJOSA  
HUFFMAN  
SCHWERTNER  
On the part of the Senate

RAYMOND  
ALVARADO  
PITTS  
RATLIFF  
ZERWAS  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to improving the delivery and quality of certain health and human services, including the delivery and quality of Medicaid acute care services and long-term services and supports.

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

ARTICLE 1. DELIVERY SYSTEM REDESIGN FOR THE PROVISION OF  
ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS TO  
INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL  
DISABILITIES

SECTION 1.01. Subtitle I, Title 4, Government Code, is amended by adding Chapter 534 to read as follows:

CHAPTER 534. SYSTEM REDESIGN FOR DELIVERY OF MEDICAID ACUTE  
CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS TO  
PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 534.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053.

(2) "Basic attendant services" means assistance with the activities of daily living, including instrumental activities of daily living, provided to an individual because of a physical, cognitive, or behavioral limitation related to the individual's disability or chronic health condition.

(3) "Department" means the Department of Aging and Disability Services.

(4) "Functional need" means the measurement of an individual's services and supports needs, including the individual's intellectual, psychiatric, medical, and physical support needs.

(5) "Habilitation services" includes assistance provided to an individual with acquiring, retaining, or improving:

(A) skills related to the activities of daily living; and

(B) the social and adaptive skills necessary to enable the individual to live and fully participate in the community.

(6) "ICF-IID" means the Medicaid program serving individuals with intellectual and developmental disabilities who receive care in intermediate care facilities other than a state supported living center.

(7) "ICF-IID program" means a program under the Medicaid program serving individuals with intellectual and developmental disabilities who reside in and receive care from:

(A) intermediate care facilities licensed under Chapter 252, Health and Safety Code; or

(B) community-based intermediate care facilities operated by local intellectual and developmental disability authorities.

(8) "Local intellectual and developmental disability authority" means an authority defined by Section 531.002(11), Health and Safety Code.

(9) "Managed care organization," "managed care plan," and "potentially preventable event" have the meanings assigned under Section 536.001.

(10) "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

(11) "Medicaid waiver program" means only the following programs that are authorized under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)) for the provision of services to persons with intellectual and developmental disabilities:

(A) the community living assistance and support services (CLASS) waiver program;

(B) the home and community-based services (HCS) waiver program;

(C) the deaf-blind with multiple disabilities (DBMD) waiver program;

and

(D) the Texas home living (TxHmL) waiver program.

(12) "State supported living center" has the meaning assigned by Section 531.002, Health and Safety Code.

Sec. 534.002. CONFLICT WITH OTHER LAW. To the extent of a conflict between a provision of this chapter and another state law, the provision of this chapter controls.

SUBCHAPTER B. ACUTE CARE SERVICES AND LONG-TERM SERVICES  
AND SUPPORTS SYSTEM

Sec. 534.051. ACUTE CARE SERVICES AND LONG-TERM SERVICES AND SUPPORTS SYSTEM FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. In accordance with this chapter, the commission and the department shall jointly design and implement an acute care services and long-term services and supports system for individuals with intellectual and developmental disabilities that supports the following goals:

(1) provide Medicaid services to more individuals in a cost-efficient manner by providing the type and amount of services most appropriate to the individuals' needs;

(2) improve individuals' access to services and supports by ensuring that the individuals receive information about all available programs and services, including employment and least restrictive housing assistance, and how to apply for the programs and services;

(3) improve the assessment of individuals' needs and available supports, including the assessment of individuals' functional needs;

(4) promote person-centered planning, self-direction, self-determination, community inclusion, and customized, integrated, competitive employment;

(5) promote individualized budgeting based on an assessment of an individual's needs and person-centered planning;

(6) promote integrated service coordination of acute care services and long-term services and supports;

(7) improve acute care and long-term services and supports outcomes, including reducing unnecessary institutionalization and potentially preventable events;

(8) promote high-quality care;

(9) provide fair hearing and appeals processes in accordance with applicable federal law;

(10) ensure the availability of a local safety net provider and local safety net services;

(11) promote independent service coordination and independent ombudsmen services; and

(12) ensure that individuals with the most significant needs are appropriately served in the community and that processes are in place to prevent inappropriate institutionalization of individuals.

Sec. 534.052. IMPLEMENTATION OF SYSTEM REDESIGN. The commission and department shall, in consultation with the advisory committee, jointly implement the acute care services and long-term services and supports system for individuals with intellectual and developmental disabilities in the manner and in the stages described in this chapter.

Sec. 534.053. INTELLECTUAL AND DEVELOPMENTAL DISABILITY SYSTEM REDESIGN ADVISORY COMMITTEE. (a) The Intellectual and Developmental Disability System Redesign Advisory Committee is established to advise the commission and the department on the implementation of the acute care services and long-term services and supports system redesign under this chapter. Subject to Subsection (b), the executive commissioner and the commissioner of the department shall jointly appoint members of the advisory committee who are stakeholders from the intellectual and developmental disabilities community, including:

(1) individuals with intellectual and developmental disabilities who are recipients of services under the Medicaid waiver programs, individuals with intellectual and developmental disabilities who are recipients of services under the ICF-IID program, and individuals who are advocates of those recipients, including at least three representatives from intellectual and developmental disability advocacy organizations;

(2) representatives of Medicaid managed care and nonmanaged care health care providers, including:

(A) physicians who are primary care providers and physicians who are specialty care providers;

(B) nonphysician mental health professionals; and

(C) providers of long-term services and supports, including direct service workers;

(3) representatives of entities with responsibilities for the delivery of Medicaid long-term services and supports or other Medicaid program service delivery, including:

(A) representatives of aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services;

(B) representatives of community mental health and intellectual disability centers;

(C) representatives of and service coordinators or case managers from private and public home and community-based services providers that serve individuals with intellectual and developmental disabilities; and

(D) representatives of private and public ICF-IID providers; and

(4) representatives of managed care organizations contracting with the state to provide services to individuals with intellectual and developmental disabilities.

(b) To the greatest extent possible, the executive commissioner and the commissioner of the department shall appoint members of the advisory committee who reflect the geographic diversity of the state and include members who represent rural Medicaid program recipients.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

(d) The advisory committee must meet at least quarterly or more frequently if the presiding officer determines that it is necessary to address planning and development needs related to implementation of the acute care services and long-term services and supports system.

(e) A member of the advisory committee serves without compensation. A member of the advisory committee who is a Medicaid program recipient or the relative of a Medicaid program recipient is entitled to a per diem allowance and reimbursement at rates established in the General Appropriations Act.

(f) The advisory committee is subject to the requirements of Chapter 551.

(g) On January 1, 2024:

(1) the advisory committee is abolished; and

(2) this section expires.

Sec. 534.054. ANNUAL REPORT ON IMPLEMENTATION. (a) Not later than September 30 of each year, the commission shall submit a report to the legislature regarding:

(1) the implementation of the system required by this chapter, including appropriate information regarding the provision of acute care services and long-term services and supports to individuals with intellectual and developmental disabilities under the Medicaid program; and

(2) recommendations, including recommendations regarding appropriate statutory changes to facilitate the implementation.

(b) This section expires January 1, 2024.

Sec. 534.055. REPORT ON ROLE OF LOCAL INTELLECTUAL AND DEVELOPMENTAL DISABILITY AUTHORITIES AS SERVICE PROVIDERS.

(a) The commission and department shall submit a report to the legislature not later than December 1, 2014, that includes the following information:

(1) the percentage of services provided by each local intellectual and developmental disability authority to individuals receiving ICF-IID or Medicaid waiver program services, compared to the percentage of those services provided by private providers;

(2) the types of evidence provided by local intellectual and developmental disability authorities to the department to demonstrate the lack of available private providers in areas of the state where local authorities provide services to more than 40 percent of the Texas home living (TxHmL) waiver program clients or 20 percent of the home and community-based services (HCS) waiver program clients;

(3) the types and amounts of services received by clients from local intellectual and developmental disability authorities compared to the types and amounts of services received by clients from private providers;

(4) the provider capacity of each local intellectual and developmental disability authority as determined under Section 533.0355(d), Health and Safety Code;

(5) the number of individuals served above or below the applicable provider capacity by each local intellectual and developmental disability authority; and

(6) if a local intellectual and developmental disability authority is serving clients over the authority's provider capacity, the length of time the local authority has served clients above the authority's approved provider capacity.

(b) This section expires September 1, 2015.

SUBCHAPTER C. STAGE ONE: PROGRAMS TO IMPROVE SERVICE DELIVERY MODELS

Sec. 534.101. DEFINITIONS. In this subchapter:

(1) "Capitation" means a method of compensating a provider on a monthly basis for providing or coordinating the provision of a defined set of services and supports that is based on a predetermined payment per services recipient.

(2) "Provider" means a person with whom the commission contracts for the provision of long-term services and supports under the Medicaid program to a specific population based on capitation.

Sec. 534.102. PILOT PROGRAMS TO TEST MANAGED CARE STRATEGIES BASED ON CAPITATION. The commission and the department may develop and implement pilot programs in accordance with this subchapter to test one or more service delivery models involving a managed care strategy based on capitation to deliver long-term services and supports under the Medicaid program to individuals with intellectual and developmental disabilities.

Sec. 534.103. STAKEHOLDER INPUT. As part of developing and implementing a pilot program under this subchapter, the department shall develop a process to receive and evaluate input from statewide stakeholders and stakeholders from the region of the state in which the pilot program will be implemented.

Sec. 534.104. MANAGED CARE STRATEGY PROPOSALS; PILOT PROGRAM SERVICE PROVIDERS. (a) The department shall identify private services providers that are good candidates to develop a service delivery model involving a managed care strategy based on capitation and to test the model in the provision of long-term services and supports under the Medicaid program to individuals with intellectual and developmental disabilities through a pilot program established under this subchapter.

(b) The department shall solicit managed care strategy proposals from the private services providers identified under Subsection (a). In addition, the department may accept and approve a managed care strategy proposal from any qualified entity that is a private services provider if the proposal provides for a comprehensive array of long-term services and supports, including case management and service coordination.

(c) A managed care strategy based on capitation developed for implementation through a pilot program under this subchapter must be designed to:

- (1) increase access to long-term services and supports;
- (2) improve quality of acute care services and long-term services and supports;
- (3) promote meaningful outcomes by using person-centered planning, individualized budgeting, and self-determination, and promote community inclusion and customized, integrated, competitive employment;
- (4) promote integrated service coordination of acute care services and long-term services and supports;
- (5) promote efficiency and the best use of funding;
- (6) promote the placement of an individual in housing that is the least restrictive setting appropriate to the individual's needs;
- (7) promote employment assistance and supported employment;
- (8) provide fair hearing and appeals processes in accordance with applicable federal law; and
- (9) promote sufficient flexibility to achieve the goals listed in this section through the pilot program.

(d) The department, in consultation with the advisory committee, shall evaluate each submitted managed care strategy proposal and determine whether:

- (1) the proposed strategy satisfies the requirements of this section; and
- (2) the private services provider that submitted the proposal has a demonstrated ability to provide the long-term services and supports appropriate to the individuals who will receive services through the pilot program based on the proposed strategy, if implemented.

(e) Based on the evaluation performed under Subsection (d), the department may select as pilot program service providers one or more private services providers.

(f) For each pilot program service provider, the department shall develop and implement a pilot program. Under a pilot program, the pilot program service provider shall provide long-term services and supports under the Medicaid program to persons with intellectual and developmental disabilities to test its managed care strategy based on capitation.



(g) The department shall analyze information provided by the pilot program service providers and any information collected by the department during the operation of the pilot programs for purposes of making a recommendation about a system of programs and services for implementation through future state legislation or rules.

Sec. 534.105. PILOT PROGRAM: MEASURABLE GOALS. (a) The department, in consultation with the advisory committee, shall identify measurable goals to be achieved by each pilot program implemented under this subchapter. The identified goals must:

- (1) align with information that will be collected under Section 534.108(a);  
and
- (2) be designed to improve the quality of outcomes for individuals receiving services through the pilot program.

(b) The department, in consultation with the advisory committee, shall propose specific strategies for achieving the identified goals. A proposed strategy may be evidence-based if there is an evidence-based strategy available for meeting the pilot program's goals.

Sec. 534.106. IMPLEMENTATION, LOCATION, AND DURATION. (a) The commission and the department shall implement any pilot programs established under this subchapter not later than September 1, 2016.

(b) A pilot program established under this subchapter must operate for not less than 24 months, except that a pilot program may cease operation before the expiration of 24 months if the pilot program service provider terminates the contract with the commission before the agreed-to termination date.

(c) A pilot program established under this subchapter shall be conducted in one or more regions selected by the department.

Sec. 534.1065. RECIPIENT PARTICIPATION IN PROGRAM VOLUNTARY. Participation in a pilot program established under this subchapter by an individual with an intellectual or developmental disability is voluntary, and the decision whether to participate in a program and receive long-term services and supports from a provider through that program may be made only by the individual or the individual's legally authorized representative.

Sec. 534.107. COORDINATING SERVICES. In providing long-term services and supports under the Medicaid program to individuals with intellectual and developmental disabilities, a pilot program service provider shall:

(1) coordinate through the pilot program institutional and community-based services available to the individuals, including services provided through:

- (A) a facility licensed under Chapter 252, Health and Safety Code;
- (B) a Medicaid waiver program; or
- (C) a community-based ICF-IID operated by local authorities;

(2) collaborate with managed care organizations to provide integrated coordination of acute care services and long-term services and supports, including discharge planning from acute care services to community-based long-term services and supports;

(3) have a process for preventing inappropriate institutionalizations of individuals; and

(4) accept the risk of inappropriate institutionalizations of individuals previously residing in community settings.

Sec. 534.108. PILOT PROGRAM INFORMATION. (a) The commission and the department shall collect and compute the following information with respect to each pilot program implemented under this subchapter to the extent it is available:

(1) the difference between the average monthly cost per person for all acute care services and long-term services and supports received by individuals participating in the pilot program while the program is operating, including services provided through the pilot program and other services with which pilot program services are coordinated as described by Section 534.107, and the average monthly cost per person for all services received by the individuals before the operation of the pilot program;

(2) the percentage of individuals receiving services through the pilot program who begin receiving services in a nonresidential setting instead of from a facility licensed under Chapter 252, Health and Safety Code, or any other residential setting;

(3) the difference between the percentage of individuals receiving services through the pilot program who live in non-provider-owned housing during the operation of the pilot program and the percentage of individuals receiving services through the pilot program who lived in non-provider-owned housing before the operation of the pilot program;

(4) the difference between the average total Medicaid cost, by level of need, for individuals in various residential settings receiving services through the pilot program during the operation of the program and the average total Medicaid cost, by level of need, for those individuals before the operation of the program;

(5) the difference between the percentage of individuals receiving services through the pilot program who obtain and maintain employment in meaningful, integrated settings during the operation of the program and the percentage of individuals receiving services through the program who obtained and maintained employment in meaningful, integrated settings before the operation of the program;

(6) the difference between the percentage of individuals receiving services through the pilot program whose behavioral, medical, life-activity, and other personal outcomes have improved since the beginning of the program and the percentage of individuals receiving services through the program whose behavioral, medical, life-activity, and other personal outcomes improved before the operation of the program, as measured over a comparable period; and

(7) a comparison of the overall client satisfaction with services received through the pilot program, including for individuals who leave the program after a determination is made in the individuals' cases at hearings or on appeal, and the overall client satisfaction with services received before the individuals entered the pilot program.

(b) The pilot program service provider shall collect any information described by Subsection (a) that is available to the provider and provide the information to the department and the commission not later than the 30th day before the date the program's operation concludes.

(c) In addition to the information described by Subsection (a), the pilot program service provider shall collect any information specified by the department for use by the department in making an evaluation under Section 534.104(g).

(d) On or before December 1, 2016, and December 1, 2017, the commission and the department, in consultation with the advisory committee, shall review and evaluate the progress and outcomes of each pilot program implemented under this subchapter and submit a report to the legislature during the operation of the pilot programs. Each report must include recommendations for program improvement and continued implementation.

Sec. 534.109. PERSON-CENTERED PLANNING. The commission, in cooperation with the department, shall ensure that each individual with an intellectual or developmental disability who receives services and supports under the Medicaid program through a pilot program established under this subchapter, or the individual's legally authorized representative, has access to a facilitated, person-centered plan that identifies outcomes for the individual and drives the development of the individualized budget. The consumer direction model, as defined by Section 531.051, may be an outcome of the plan.

Sec. 534.110. TRANSITION BETWEEN PROGRAMS. The commission shall ensure that there is a comprehensive plan for transitioning the provision of Medicaid program benefits between a Medicaid waiver program or an ICF-IID program and a pilot program under this subchapter to protect continuity of care.

Sec. 534.111. CONCLUSION OF PILOT PROGRAMS; EXPIRATION. On September 1, 2018:

(1) each pilot program established under this subchapter that is still in operation must conclude; and

(2) this subchapter expires.

#### SUBCHAPTER D. STAGE ONE: PROVISION OF ACUTE CARE AND CERTAIN OTHER SERVICES

Sec. 534.151. DELIVERY OF ACUTE CARE SERVICES FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. Subject to Section 533.0025, the commission shall provide acute care Medicaid program benefits to individuals with intellectual and developmental disabilities through the STAR + PLUS Medicaid managed care program or the most appropriate integrated capitated managed care program delivery model and monitor the provision of those benefits.

Sec. 534.152. DELIVERY OF CERTAIN OTHER SERVICES UNDER STAR + PLUS MEDICAID MANAGED CARE PROGRAM. (a) The commission shall:

(1) implement the most cost-effective option for the delivery of basic attendant and habilitation services for individuals with intellectual and developmental disabilities under the STAR + PLUS Medicaid managed care program that maximizes federal funding for the delivery of services for that program and other similar programs; and

(2) provide voluntary training to individuals receiving services under the STAR + PLUS Medicaid managed care program or their legally authorized representatives regarding how to select, manage, and dismiss personal attendants providing basic attendant and habilitation services under the program.

(b) The commission shall require that each managed care organization that contracts with the commission for the provision of basic attendant and habilitation services under the STAR + PLUS Medicaid managed care program in accordance with this section:

(1) include in the organization's provider network for the provision of those services:

(A) home and community support services agencies licensed under Chapter 142, Health and Safety Code, with which the department has a contract to provide services under the community living assistance and support services (CLASS) waiver program; and

(B) persons exempted from licensing under Section 142.003(a)(19), Health and Safety Code, with which the department has a contract to provide services under:

(i) the home and community-based services (HCS) waiver program; or

(ii) the Texas home living (TxHmL) waiver program;

(2) review and consider any assessment conducted by a local intellectual and developmental disability authority providing intellectual and developmental disability service coordination under Subsection (c); and

(3) enter into a written agreement with each local intellectual and developmental disability authority in the service area regarding the processes the organization and the authority will use to coordinate the services of individuals with intellectual and developmental disabilities.

(c) The department shall contract with and make contract payments to local intellectual and developmental disability authorities to conduct the following activities under this section:

(1) provide intellectual and developmental disability service coordination to individuals with intellectual and developmental disabilities under the STAR + PLUS Medicaid managed care program by assisting those individuals who are eligible to receive services in a community-based setting, including individuals transitioning to a community-based setting;

(2) provide an assessment to the appropriate managed care organization regarding whether an individual with an intellectual or developmental disability needs attendant or habilitation services, based on the individual's functional need, risk factors, and desired outcomes;

(3) assist individuals with intellectual and developmental disabilities with developing the individuals' plans of care under the STAR + PLUS Medicaid managed care program, including with making any changes resulting from periodic reassessments of the plans;

(4) provide to the appropriate managed care organization and the department information regarding the recommended plans of care with which the authorities provide assistance as provided by Subdivision (3), including documentation necessary to demonstrate the need for care described by a plan; and

(5) on an annual basis, provide to the appropriate managed care organization and the department a description of outcomes based on an individual's plan of care.

(d) Local intellectual and developmental disability authorities providing service coordination under this section may not also provide attendant and habilitation services under this section.

(e) During the first three years basic attendant and habilitation services are provided to individuals with intellectual and developmental disabilities under the STAR + PLUS Medicaid managed care program in accordance with this section, providers eligible to participate in the home and community-based services (HCS) waiver program, the Texas home living (TxHmL) waiver program, or the community living assistance and support services (CLASS) waiver program on September 1, 2013, are considered significant traditional providers.

(f) A local intellectual and developmental disability authority with which the department contracts under Subsection (c) may subcontract with an eligible person, including a nonprofit entity, to coordinate the services of individuals with intellectual and developmental disabilities under this section. The executive commissioner by rule shall establish minimum qualifications a person must meet to be considered an "eligible person" under this subsection.

SUBCHAPTER E. STAGE TWO: TRANSITION OF LONG-TERM CARE  
MEDICAID WAIVER PROGRAM RECIPIENTS TO INTEGRATED MANAGED  
CARE SYSTEM

Sec. 534.201. TRANSITION OF RECIPIENTS UNDER TEXAS HOME  
LIVING (TxHmL) WAIVER PROGRAM TO MANAGED CARE PROGRAM.

(a) This section applies to individuals with intellectual and developmental disabilities who are receiving long-term services and supports under the Texas home living (TxHmL) waiver program on the date the commission implements the transition described by Subsection (b).

(b) Not later than September 1, 2017, the commission shall transition the provision of Medicaid program benefits to individuals to whom this section applies to the STAR + PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by the commission based on cost-effectiveness and the experience of the STAR + PLUS Medicaid managed care program in providing basic attendant and habilitation services and of the pilot programs established under Subchapter C, subject to Subsection (c)(1).

(c) At the time of the transition described by Subsection (b), the commission shall determine whether to:

(1) continue operation of the Texas home living (TxHmL) waiver program for purposes of providing supplemental long-term services and supports not available under the managed care program delivery model selected by the commission; or

(2) provide all or a portion of the long-term services and supports previously available under the Texas home living (TxHmL) waiver program through the managed care program delivery model selected by the commission.

(d) In implementing the transition described by Subsection (b), the commission shall develop a process to receive and evaluate input from interested statewide stakeholders that is in addition to the input provided by the advisory committee.

(e) The commission shall ensure that there is a comprehensive plan for transitioning the provision of Medicaid program benefits under this section that protects the continuity of care provided to individuals to whom this section applies.

(f) In addition to the requirements of Section 533.005, a contract between a managed care organization and the commission for the organization to provide Medicaid program benefits under this section must contain a requirement that the organization implement a process for individuals with intellectual and developmental disabilities that:

(1) ensures that the individuals have a choice among providers;

(2) to the greatest extent possible, protects those individuals' continuity of care with respect to access to primary care providers, including the use of single-case agreements with out-of-network providers; and

(3) provides access to a member services phone line for individuals or their legally authorized representatives to obtain information on and assistance with accessing services through network providers, including providers of primary, specialty, and other long-term services and supports.

Sec. 534.202. TRANSITION OF ICF-IID PROGRAM RECIPIENTS AND CERTAIN OTHER MEDICAID WAIVER PROGRAM RECIPIENTS TO MANAGED CARE PROGRAM. (a) This section applies to individuals with intellectual and developmental disabilities who, on the date the commission implements the transition described by Subsection (b), are receiving long-term services and supports under:

(1) a Medicaid waiver program other than the Texas home living (TxHmL) waiver program; or

(2) an ICF-IID program.

(b) After implementing the transition required by Section 534.201 but not later than September 1, 2020, the commission shall transition the provision of Medicaid program benefits to individuals to whom this section applies to the STAR + PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by the commission based on cost-effectiveness and the experience of the transition of Texas home living (TxHmL) waiver program recipients to a managed care program delivery model under Section 534.201, subject to Subsections (c)(1) and (g).

(c) At the time of the transition described by Subsection (b), the commission shall determine whether to:

(1) continue operation of the Medicaid waiver programs or ICF-IID program only for purposes of providing, if applicable:

(A) supplemental long-term services and supports not available under the managed care program delivery model selected by the commission; or

(B) long-term services and supports to Medicaid waiver program recipients who choose to continue receiving benefits under the waiver program as provided by Subsection (g); or

(2) subject to Subsection (g), provide all or a portion of the long-term services and supports previously available under the Medicaid waiver programs or ICF-IID program through the managed care program delivery model selected by the commission.

(d) In implementing the transition described by Subsection (b), the commission shall develop a process to receive and evaluate input from interested statewide stakeholders that is in addition to the input provided by the advisory committee.

(e) The commission shall ensure that there is a comprehensive plan for transitioning the provision of Medicaid program benefits under this section that protects the continuity of care provided to individuals to whom this section applies.

(f) Before transitioning the provision of Medicaid program benefits for children under this section, a managed care organization providing services under the managed care program delivery model selected by the commission must demonstrate to the satisfaction of the commission that the organization's network of providers has experience and expertise in the provision of services to children with intellectual and developmental disabilities. Before transitioning the provision of Medicaid program benefits for adults with intellectual and developmental disabilities under this section, a managed care organization providing services under the managed care program delivery model selected by the commission must demonstrate to the satisfaction of the commission that the organization's network of providers has experience and expertise in the provision of services to adults with intellectual and developmental disabilities.

(g) If the commission determines that all or a portion of the long-term services and supports previously available under the Medicaid waiver programs should be provided through a managed care program delivery model under Subsection (c)(2), the commission shall, at the time of the transition, allow each recipient receiving long-term services and supports under a Medicaid waiver program the option of:

(1) continuing to receive the services and supports under the Medicaid waiver program; or

(2) receiving the services and supports through the managed care program delivery model selected by the commission.

(h) A recipient who chooses to receive long-term services and supports through a managed care program delivery model under Subsection (g) may not, at a later time, choose to receive the services and supports under a Medicaid waiver program.

(i) In addition to the requirements of Section 533.005, a contract between a managed care organization and the commission for the organization to provide Medicaid program benefits under this section must contain a requirement that the organization implement a process for individuals with intellectual and developmental disabilities that:

(1) ensures that the individuals have a choice among providers;

(2) to the greatest extent possible, protects those individuals' continuity of care with respect to access to primary care providers, including the use of single-case agreements with out-of-network providers; and

(3) provides access to a member services phone line for individuals or their legally authorized representatives to obtain information on and assistance with accessing services through network providers, including providers of primary, specialty, and other long-term services and supports.

Sec. 534.203. RESPONSIBILITIES OF COMMISSION UNDER SUBCHAPTER. In administering this subchapter, the commission shall ensure:

(1) that the commission is responsible for setting the minimum reimbursement rate paid to a provider of ICF-IID services or a group home provider under the integrated managed care system, including the staff rate enhancement paid to a provider of ICF-IID services or a group home provider;

(2) that an ICF-IID service provider or a group home provider is paid not later than the 10th day after the date the provider submits a clean claim in accordance with the criteria used by the department for the reimbursement of ICF-IID service providers or a group home provider, as applicable; and

(3) the establishment of an electronic portal through which a provider of ICF-IID services or a group home provider participating in the STAR + PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as appropriate, may submit long-term services and supports claims to any participating managed care organization.

SECTION 1.02. Subsection (a), Section 142.003, Health and Safety Code, is amended to read as follows:

(a) The following persons need not be licensed under this chapter:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the laws of this state who provides home health services to a client only as a part of and incidental to that person's private office practice;

(2) a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker, or any other health care professional as determined by the department who provides home health services as a sole practitioner;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) an individual whose permanent residence is in the client's residence;

(5) an employee of a person licensed under this chapter who provides home health, hospice, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that provides home health or personal assistance services only to residents of the home or institution;

(7) a person who provides one health service through a contract with a person licensed under this chapter;

(8) a durable medical equipment supply company;

(9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;

(10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;



(11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code;

(12) a visiting nurse service that:

(A) is conducted by and for the adherents of a well-recognized church or religious denomination; and

(B) provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;

(13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;

(14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, school's, or camp's programs;

(15) a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services;

(16) a licensed health care facility that provides hospice services under a contract with a hospice;

(17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice under Chapter 248;

(18) the Texas Department of Criminal Justice;

(19) a person that provides home health, hospice, or personal assistance services only to persons receiving benefits under:

(A) the home and community-based services (HCS) waiver program;

(B) the Texas home living (TxHmL) waiver program; or

(C) Section 534.152, Government Code [enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation and monitored by the Texas Department of Mental Health and Mental Retardation or its designated local authority in accordance with standards set by the Texas Department of Mental Health and Mental Retardation]; or

(20) an individual who provides home health or personal assistance services as the employee of a consumer or an entity or employee of an entity acting as a consumer's fiscal agent under Section 531.051, Government Code.

SECTION 1.03. Not later than October 1, 2013, the executive commissioner of the Health and Human Services Commission and the commissioner of the Department of Aging and Disability Services shall appoint the members of the Intellectual and Developmental Disability System Redesign Advisory Committee as required by Section 534.053, Government Code, as added by this article.

SECTION 1.04. (a) In this section, "health and human services agencies" has the meaning assigned by Section 531.001, Government Code.

(b) The Health and Human Services Commission and any other health and human services agency implementing a provision of this Act that affects individuals with intellectual and developmental disabilities shall consult with the Intellectual and

Developmental Disability System Redesign Advisory Committee established under Section 534.053, Government Code, as added by this article, regarding implementation of the provision.

SECTION 1.05. The Health and Human Services Commission shall submit:

(1) the initial report on the implementation of the Medicaid acute care services and long-term services and supports delivery system for individuals with intellectual and developmental disabilities as required by Section 534.054, Government Code, as added by this article, not later than September 30, 2014; and

(2) the final report under that section not later than September 30, 2023.

SECTION 1.06. Not later than June 1, 2016, the Health and Human Services Commission shall submit a report to the legislature regarding the commission's experience in, including the cost-effectiveness of, delivering basic attendant and habilitation services for individuals with intellectual and developmental disabilities under the STAR + PLUS Medicaid managed care program under Section 534.152, Government Code, as added by this article.

SECTION 1.07. The Health and Human Services Commission and the Department of Aging and Disability Services shall implement any pilot program to be established under Subchapter C, Chapter 534, Government Code, as added by this article, as soon as practicable after the effective date of this Act.

SECTION 1.08. (a) The Health and Human Services Commission and the Department of Aging and Disability Services shall:

(1) in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, Government Code, as added by this article, review and evaluate the outcomes of:

(A) the transition of the provision of benefits to individuals under the Texas home living (TxHmL) waiver program to a managed care program delivery model under Section 534.201, Government Code, as added by this article; and

(B) the transition of the provision of benefits to individuals under the Medicaid waiver programs, other than the Texas home living (TxHmL) waiver program, and the ICF-IID program to a managed care program delivery model under Section 534.202, Government Code, as added by this article; and

(2) submit as part of an annual report required by Section 534.054, Government Code, as added by this article, due on or before September 30 of 2018, 2019, and 2020, a report on the review and evaluation conducted under Paragraphs (A) and (B), Subdivision (1), of this subsection that includes recommendations for continued implementation of and improvements to the acute care and long-term services and supports system under Chapter 534, Government Code, as added by this article.

(b) This section expires September 1, 2024.

## ARTICLE 2. MEDICAID MANAGED CARE EXPANSION

SECTION 2.01. Section 533.0025, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (f), (g), (h), and (i) to read as follows:

(a) In this section and Sections 533.00251, 533.002515, 533.00252, 533.00253, and 533.00254, "medical assistance" has the meaning assigned by Section 32.003, Human Resources Code.

(b) Except as otherwise provided by this section and notwithstanding any other law, the commission shall provide medical assistance for acute care services through the most cost-effective model of Medicaid capitated managed care as determined by the commission. The [If the] commission shall require mandatory participation in a Medicaid capitated managed care program for all persons eligible for acute care [determines that it is more cost effective, the commission may provide] medical assistance benefits, but may implement alternative models or arrangements, including a traditional fee-for-service arrangement, if the commission determines the alternative would be more cost-effective or efficient [for acute care in a certain part of this state or to a certain population of recipients using:

(1) a health maintenance organization model, including the acute care portion of Medicaid Star + Plus pilot programs;

(2) a primary care case management model;

(3) a prepaid health plan model;

(4) an exclusive provider organization model; or

(5) another Medicaid managed care model or arrangement].

(f) The commission shall:

(1) conduct a study to evaluate the feasibility of automatically enrolling applicants determined eligible for benefits under the medical assistance program in a Medicaid managed care plan chosen by the applicant; and

(2) report the results of the study to the legislature not later than December 1, 2014.

(g) Subsection (f) and this subsection expire September 1, 2015.

(h) If the commission determines that it is feasible, the commission may, notwithstanding any other law, implement an automatic enrollment process under which applicants determined eligible for medical assistance benefits are automatically enrolled in a Medicaid managed care plan chosen by the applicant. The commission may elect to implement the automatic enrollment process as to certain populations of recipients under the medical assistance program.

(i) Subject to Section 534.152, the commission shall:

(1) implement the most cost-effective option for the delivery of basic attendant and habilitation services for individuals with disabilities under the STAR + PLUS Medicaid managed care program that maximizes federal funding for the delivery of services for that program and other similar programs; and

(2) provide voluntary training to individuals receiving services under the STAR + PLUS Medicaid managed care program or their legally authorized representatives regarding how to select, manage, and dismiss personal attendants providing basic attendant and habilitation services under the program.

SECTION 2.02. Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.00251, 533.002515, 533.00252, 533.00253, and 533.00254 to read as follows:

Sec. 533.00251. DELIVERY OF CERTAIN BENEFITS, INCLUDING NURSING FACILITY BENEFITS, THROUGH STAR + PLUS MEDICAID MANAGED CARE PROGRAM. (a) In this section and Sections 533.002515 and 533.00252:

(1) "Advisory committee" means the STAR + PLUS Nursing Facility Advisory Committee established under Section 533.00252.

(2) "Clean claim" means a claim that meets the same criteria for a clean claim used by the Department of Aging and Disability Services for the reimbursement of nursing facility claims.

(3) "Nursing facility" means a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, that provides long-term services and supports to Medicaid recipients.

(4) "Potentially preventable event" has the meaning assigned by Section 536.001.

(b) Subject to Section 533.0025, the commission shall expand the STAR + PLUS Medicaid managed care program to all areas of this state to serve individuals eligible for acute care services and long-term services and supports under the medical assistance program.

(c) Subject to Section 533.0025 and notwithstanding any other law, the commission, in consultation with the advisory committee, shall provide benefits under the medical assistance program to recipients who reside in nursing facilities through the STAR + PLUS Medicaid managed care program. In implementing this subsection, the commission shall ensure:

(1) that the commission is responsible for setting the minimum reimbursement rate paid to a nursing facility under the managed care program, including the staff rate enhancement paid to a nursing facility that qualifies for the enhancement;

(2) that a nursing facility is paid not later than the 10th day after the date the facility submits a clean claim;

(3) the appropriate utilization of services consistent with criteria adopted by the commission;

(4) a reduction in the incidence of potentially preventable events and unnecessary institutionalizations;

(5) that a managed care organization providing services under the managed care program provides discharge planning, transitional care, and other education programs to physicians and hospitals regarding all available long-term care settings;

(6) that a managed care organization providing services under the managed care program:

(A) assists in collecting applied income from recipients; and

(B) provides payment incentives to nursing facility providers that reward reductions in preventable acute care costs and encourage transformative efforts in the delivery of nursing facility services, including efforts to promote a resident-centered care culture through facility design and services provided;

(7) the establishment of a portal that is in compliance with state and federal regulations, including standard coding requirements, through which nursing facility providers participating in the STAR + PLUS Medicaid managed care program may submit claims to any participating managed care organization;

(8) that rules and procedures relating to the certification and decertification of nursing facility beds under the medical assistance program are not affected; and

(9) that a managed care organization providing services under the managed care program, to the greatest extent possible, offers nursing facility providers access to:

(A) acute care professionals; and

(B) telemedicine, when feasible and in accordance with state law, including rules adopted by the Texas Medical Board.

(d) Subject to Subsection (e), the commission shall ensure that a nursing facility provider authorized to provide services under the medical assistance program on September 1, 2013, is allowed to participate in the STAR + PLUS Medicaid managed care program through August 31, 2017.

(e) The commission shall establish credentialing and minimum performance standards for nursing facility providers seeking to participate in the STAR + PLUS Medicaid managed care program that are consistent with adopted federal and state standards. A managed care organization may refuse to contract with a nursing facility provider if the nursing facility does not meet the minimum performance standards established by the commission under this section.

(f) A managed care organization may not require prior authorization for a nursing facility resident in need of emergency hospital services.

(g) Subsections (c), (d), (e), and (f) and this subsection expire September 1, 2019.

Sec. 533.002515. PLANNED PREPARATION FOR DELIVERY OF NURSING FACILITY BENEFITS THROUGH STAR + PLUS MEDICAID MANAGED CARE PROGRAM. (a) The commission shall develop a plan in preparation for implementing the requirement under Section 533.00251(c) that the commission provide benefits under the medical assistance program to recipients who reside in nursing facilities through the STAR + PLUS Medicaid managed care program. The plan required by this section must be completed in two phases as follows:

(1) phase one: contract planning phase; and

(2) phase two: initial testing phase.

(b) In phase one, the commission shall develop a contract template to be used by the commission when the commission contracts with a managed care organization to provide nursing facility services under the STAR + PLUS Medicaid managed care program. In addition to the requirements of Section 533.005 and any other applicable law, the template must include:

(1) nursing home credentialing requirements;

(2) appeals processes;

(3) termination provisions;

(4) prompt payment requirements and a liquidated damages provision that contains financial penalties for failure to meet prompt payment requirements;

(5) a description of medical necessity criteria;

(6) a requirement that the managed care organization provide recipients and recipients' families freedom of choice in selecting a nursing facility; and

(7) a description of the managed care organization's role in discharge planning and imposing prior authorization requirements.

(c) In phase two, the commission shall:

(1) design and test the portal required under Section 533.00251(c)(7);  
(2) establish and inform managed care organizations of the minimum technological or system requirements needed to use the portal required under Section 533.00251(c)(7);

(3) establish operating policies that require that managed care organizations maintain a portal through which providers may confirm recipient eligibility on a monthly basis; and

(4) establish the manner in which managed care organizations are to assist the commission in collecting from recipients applied income or cost-sharing payments, including copayments, as applicable.

(d) This section expires September 1, 2015.

Sec. 533.00252. STAR + PLUS NURSING FACILITY ADVISORY COMMITTEE. (a) The STAR + PLUS Nursing Facility Advisory Committee is established to advise the commission on the implementation of and other activities related to the provision of medical assistance benefits to recipients who reside in nursing facilities through the STAR + PLUS Medicaid managed care program under Section 533.00251, including advising the commission regarding its duties with respect to:

(1) developing quality-based outcomes and process measures for long-term services and supports provided in nursing facilities;

(2) developing quality-based long-term care payment systems and quality initiatives for nursing facilities;

(3) transparency of information received from managed care organizations;

(4) the reporting of outcome and process measures;

(5) the sharing of data among health and human services agencies; and

(6) patient care coordination, quality of care improvement, and cost savings.

(b) The governor, lieutenant governor, and speaker of the house of representatives shall each appoint five members of the advisory committee as follows:

(1) one member who is a physician and medical director of a nursing facility provider with experience providing the long-term continuum of care, including home care and hospice;

(2) one member who is a nonprofit nursing facility provider;

(3) one member who is a for-profit nursing facility provider;

(4) one member who is a consumer representative; and

(5) one member who is from a managed care organization providing services as provided by Section 533.00251.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

(d) A member of the advisory committee serves without compensation.

(e) The advisory committee is subject to the requirements of Chapter 551.

(f) On September 1, 2016:

(1) the advisory committee is abolished; and

(2) this section expires.

Sec. 533.00253. STAR KIDS MEDICAID MANAGED CARE PROGRAM. (a) In this section:

(1) "Advisory committee" means the STAR Kids Managed Care Advisory Committee established under Section 533.00254.

(2) "Health home" means a primary care provider practice, or, if appropriate, a specialty care provider practice, incorporating several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under the medical assistance program.

(3) "Potentially preventable event" has the meaning assigned by Section 536.001.

(b) Subject to Section 533.0025, the commission shall, in consultation with the advisory committee and the Children's Policy Council established under Section 22.035, Human Resources Code, establish a mandatory STAR Kids capitated managed care program tailored to provide medical assistance benefits to children with disabilities. The managed care program developed under this section must:

(1) provide medical assistance benefits that are customized to meet the health care needs of recipients under the program through a defined system of care;

(2) better coordinate care of recipients under the program;

(3) improve the health outcomes of recipients;

(4) improve recipients' access to health care services;

(5) achieve cost containment and cost efficiency;

(6) reduce the administrative complexity of delivering medical assistance benefits;

(7) reduce the incidence of unnecessary institutionalizations and potentially preventable events by ensuring the availability of appropriate services and care management;

(8) require a health home; and

(9) coordinate and collaborate with long-term care service providers and long-term care management providers, if recipients are receiving long-term services and supports outside of the managed care organization.

(c) The commission may require that care management services made available as provided by Subsection (b)(7):

(1) incorporate best practices, as determined by the commission;

(2) integrate with a nurse advice line to ensure appropriate redirection rates;

(3) use an identification and stratification methodology that identifies recipients who have the greatest need for services;

(4) provide a care needs assessment for a recipient that is comprehensive, holistic, consumer-directed, evidence-based, and takes into consideration social and medical issues, for purposes of prioritizing the recipient's needs that threaten independent living;

(5) are delivered through multidisciplinary care teams located in different geographic areas of this state that use in-person contact with recipients and their caregivers;

(6) identify immediate interventions for transition of care;

(7) include monitoring and reporting outcomes that, at a minimum, include:

(A) recipient quality of life;

(B) recipient satisfaction; and

(C) other financial and clinical metrics determined appropriate by the commission; and

(8) use innovations in the provision of services.

(d) The commission shall provide medical assistance benefits through the STAR Kids managed care program established under this section to children who are receiving benefits under the medically dependent children (MDCP) waiver program. The commission shall ensure that the STAR Kids managed care program provides all of the benefits provided under the medically dependent children (MDCP) waiver program to the extent necessary to implement this subsection.

(e) The commission shall ensure that there is a plan for transitioning the provision of Medicaid program benefits to recipients 21 years of age or older from under the STAR Kids program to under the STAR + PLUS Medicaid managed care program that protects continuity of care. The plan must ensure that coordination between the programs begins when a recipient reaches 18 years of age.

(f) The commission shall seek ongoing input from the Children's Policy Council regarding the establishment and implementation of the STAR Kids managed care program.

Sec. 533.00254. STAR KIDS MANAGED CARE ADVISORY COMMITTEE.

(a) The STAR Kids Managed Care Advisory Committee is established to advise the commission on the establishment and implementation of the STAR Kids managed care program under Section 533.00253.

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of:

(1) families whose children will receive private duty nursing under the program;

(2) health care providers;

(3) providers of home and community-based services, including at least one private duty nursing provider and one pediatric therapy provider; and

(4) other stakeholders as the executive commissioner determines appropriate.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

(d) A member of the advisory committee serves without compensation.

(e) The advisory committee is subject to the requirements of Chapter 551.

(f) On September 1, 2016:

(1) the advisory committee is abolished; and

(2) this section expires.

SECTION 2.03. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00285 to read as follows:

Sec. 533.00285. STAR + PLUS QUALITY COUNCIL. (a) The STAR + PLUS Quality Council is established to advise the commission on the development of policy recommendations that will ensure eligible recipients receive quality, person-centered, consumer-directed acute care services and long-term services and supports in an integrated setting under the STAR + PLUS Medicaid managed care program.



(b) The executive commissioner shall appoint the members of the council, who must be stakeholders from the acute care services and long-term services and supports community, including:

(1) representatives of health and human services agencies;  
(2) recipients under the STAR + PLUS Medicaid managed care program;  
(3) representatives of advocacy groups representing individuals with disabilities and seniors who are recipients under the STAR + PLUS Medicaid managed care program;

(4) representatives of service providers for individuals with disabilities; and  
(5) representatives of health maintenance organizations.

(c) The executive commissioner shall appoint the presiding officer of the council.

(d) The council shall meet at least quarterly or more frequently if the presiding officer determines that it is necessary to carry out the responsibilities of the council.

(e) Not later than November 1 of each year, the council in coordination with the commission shall submit a report to the executive commissioner that includes:

(1) an analysis and assessment of the quality of acute care services and long-term services and supports provided under the STAR + PLUS Medicaid managed care program;

(2) recommendations regarding how to improve the quality of acute care services and long-term services and supports provided under the program; and

(3) recommendations regarding how to ensure that recipients eligible to receive services and supports under the program receive person-centered, consumer-directed care in the most integrated setting achievable.

(f) Not later than December 1 of each even-numbered year, the commission, in consultation with the council, shall submit a report to the legislature regarding the assessments and recommendations contained in any report submitted by the council under Subsection (e) during the most recent state fiscal biennium.

(g) The council is subject to the requirements of Chapter 551.

(h) A member of the council serves without compensation.

(i) On January 1, 2017:

(1) the council is abolished; and

(2) this section expires.

SECTION 2.04. Section 533.005, Government Code, is amended by amending Subsections (a) and (a-1) and adding Subsection (a-3) to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan on any [not later than the 45th day after the date a] claim for payment that is received with documentation reasonably necessary for the managed care organization to process the claim:

(A) not later than:

(i) the 10th day after the date the claim is received if the claim relates to services provided by a nursing facility, intermediate care facility, or group home;

(ii) the 30th day after the date the claim is received if the claim relates to the provision of long-term services and supports not subject to Subparagraph (i); and

(iii) the 45th day after the date the claim is received if the claim is not subject to Subparagraph (i) or (ii);[s] or

(B) within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(7-a) a requirement that the managed care organization demonstrate to the commission that the organization pays claims described by Subdivision (7)(A)(ii) on average not later than the 21st day after the date the claim is received by the organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician;

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; ~~and~~

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider; ~~and~~

(D) the managed care organization to allow a provider with a claim that has not been paid before the time prescribed by Subdivision (7)(A)(ii) to initiate an appeal of that claim;

(16) a requirement that a medical director who is authorized to make medical necessity determinations is available to the region where the managed care organization provides health care services;

(17) a requirement that the managed care organization ensure that a medical director and patient care coordinators and provider and recipient support services personnel are located in the South Texas service region, if the managed care organization provides a managed care plan in that region;

(18) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;

(19) a requirement that the managed care organization develop and establish a process for responding to provider appeals in the region where the organization provides health care services;

(20) a requirement that the managed care organization:

(A) develop and submit to the commission, before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to:

(i) [~~(A)~~] preventive care;

(ii) [~~(B)~~] primary care;

(iii) [~~(C)~~] specialty care;

(iv) [~~(D)~~] after-hours urgent care; ~~and~~

(v) [~~(E)~~] chronic care;

(vi) long-term services and supports;  
(vii) nursing services; and  
(viii) therapy services, including services provided in a clinical setting or in a home or community-based setting; and

(B) regularly, as determined by the commission, submit to the commission and make available to the public a report containing data on the sufficiency of the organization's provider network with regard to providing the care and services described under Paragraph (A) and specific data with respect to Paragraphs (A)(iii), (vi), (vii), and (viii) on the average length of time between:

(i) the date a provider makes a referral for the care or service and the date the organization approves or denies the referral; and

(ii) the date the organization approves a referral for the care or service and the date the care or service is initiated;

(21) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that:

(A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization;

(B) the organization's provider network includes:

(i) a sufficient number of primary care providers;

(ii) a sufficient variety of provider types; ~~and~~

(iii) a sufficient number of providers of long-term services and supports and specialty pediatric care providers of home and community-based services; and

(iv) providers located throughout the region where the organization will provide health care services; and

(C) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care;

(22) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures;

(B) focuses on measuring outcomes; and

(C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse;

(23) subject to Subsection (a-1), a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A) that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program;

(B) that adheres to the applicable preferred drug list adopted by the commission under Section 531.072;

(C) that includes the prior authorization procedures and requirements prescribed by or implemented under Sections 531.073(b), (c), and (g) for the vendor drug program;

(D) for purposes of which the managed care organization:

(i) may not negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; and

(ii) may not receive drug rebate or pricing information that is confidential under Section 531.071;

(E) that complies with the prohibition under Section 531.089;

(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) that allows the managed care organization or any subcontracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager are prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or partly by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager must adopt policies and procedures for reclassifying prescription drugs from retail to specialty drugs, and those policies and procedures must be consistent with rules adopted by the executive commissioner and include notice to network pharmacy providers from the managed care organization;

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract;

(I) under which the managed care organization may include mail-order pharmacies in its networks, but may not require enrolled recipients to use those pharmacies, and may not charge an enrolled recipient who opts to use this service a fee, including postage and handling fees; and

(J) under which the managed care organization or pharmacy benefit manager, as applicable, must pay claims in accordance with Section 843.339, Insurance Code; ~~and~~

(24) a requirement that the managed care organization and any entity with which the managed care organization contracts for the performance of services under a managed care plan disclose, at no cost, to the commission and, on request, the office of the attorney general all discounts, incentives, rebates, fees, free goods, bundling arrangements, and other agreements affecting the net cost of goods or services provided under the plan; and

(25) a requirement that the managed care organization not implement significant, nonnegotiated, across-the-board provider reimbursement rate reductions unless:

(A) subject to Subsection (a-3), the organization has the prior approval of the commission to make the reduction; or

(B) the rate reductions are based on changes to the Medicaid fee schedule or cost containment initiatives implemented by the commission.

(a-1) The requirements imposed by Subsections (a)(23)(A), (B), and (C) do not apply, and may not be enforced, on and after August 31, 2018 ~~2013~~.

(a-3) For purposes of Subsection (a)(25)(A), a provider reimbursement rate reduction is considered to have received the commission's prior approval unless the commission issues a written statement of disapproval not later than the 45th day after the date the commission receives notice of the proposed rate reduction from the managed care organization.

SECTION 2.05. Section 533.041, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The executive commissioner ~~[commissioner]~~ shall appoint a state Medicaid managed care advisory committee. The advisory committee consists of representatives of:

- (1) hospitals;
- (2) managed care organizations and participating health care providers;
- (3) primary care providers and specialty care providers;
- (4) state agencies;
- (5) low-income recipients or consumer advocates representing low-income recipients;
- (6) recipients with disabilities, including recipients with intellectual and developmental disabilities or physical disabilities, or consumer advocates representing those recipients [with a disability];
- (7) parents of children who are recipients;
- (8) rural providers;
- (9) advocates for children with special health care needs;
- (10) pediatric health care providers, including specialty providers;
- (11) long-term services and supports [care] providers, including nursing facility [home] providers and direct service workers;
- (12) obstetrical care providers;
- (13) community-based organizations serving low-income children and their families; ~~[and]~~
- (14) community-based organizations engaged in perinatal services and outreach;
- (15) recipients who are 65 years of age or older;
- (16) recipients with mental illness;
- (17) nonphysician mental health providers participating in the Medicaid managed care program; and
- (18) entities with responsibilities for the delivery of long-term services and supports or other Medicaid program service delivery, including:
  - (A) independent living centers;

(B) area agencies on aging;  
(C) aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services;  
(D) community mental health and intellectual disability centers; and  
(E) the NorthSTAR Behavioral Health Program provided under Chapter 534, Health and Safety Code.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

(d) To the greatest extent possible, the executive commissioner shall appoint members of the advisory committee who reflect the geographic diversity of the state and include members who represent rural Medicaid program recipients.

SECTION 2.06. Section 533.042, Government Code, is amended to read as follows:

Sec. 533.042. MEETINGS. (a) The advisory committee shall meet at the call of the presiding officer at least semiannually, but no more frequently than quarterly.

(b) The advisory committee:

(1) [;] shall develop procedures that provide the public with reasonable opportunity to appear before the committee [committee] and speak on any issue under the jurisdiction of the committee;[;] and

(2) is subject to Chapter 551.

SECTION 2.07. Section 533.043, Government Code, is amended to read as follows:

Sec. 533.043. POWERS AND DUTIES. (a) The advisory committee shall:

(1) provide recommendations and ongoing advisory input to the commission on the statewide implementation and operation of Medicaid managed care, including:

(A) program design and benefits;

(B) systemic concerns from consumers and providers;

(C) the efficiency and quality of services delivered by Medicaid managed care organizations;

(D) contract requirements for Medicaid managed care organizations;

(E) Medicaid managed care provider network adequacy;

(F) trends in claims processing; and

(G) other issues as requested by the executive commissioner;

(2) assist the commission with issues relevant to Medicaid managed care to improve the policies established for and programs operating under Medicaid managed care, including the early and periodic screening, diagnosis, and treatment program, provider and patient education issues, and patient eligibility issues; and

(3) disseminate or make available to each regional advisory committee appointed under Subchapter B information on best practices with respect to Medicaid managed care that is obtained from a regional advisory committee.

(b) The commission and the Department of Aging and Disability Services shall ensure coordination and communication between the advisory committee, regional Medicaid managed care advisory committees appointed by the commission under Subchapter B, and other advisory committees or groups that perform functions related

to Medicaid managed care, including the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, in a manner that enables the state Medicaid managed care advisory committee to act as a central source of agency information and stakeholder input relevant to the implementation and operation of Medicaid managed care.

(c) The advisory committee may establish work groups that meet at other times for purposes of studying and making recommendations on issues the committee determines appropriate.

SECTION 2.08. Section 533.044, Government Code, is amended to read as follows:

Sec. 533.044. OTHER LAW. (a) Except as provided by Subsection (b) and other provisions of this subchapter, the advisory committee is subject to Chapter 2110.

(b) Section 2110.008 does not apply to the advisory committee.

SECTION 2.09. Subchapter C, Chapter 533, Government Code, is amended by adding Section 533.045 to read as follows:

Sec. 533.045. COMPENSATION; REIMBURSEMENT. (a) Except as provided by Subsection (b), a member of the advisory committee is not entitled to receive compensation or reimbursement for travel expenses.

(b) A member of the advisory committee who is a Medicaid program recipient or the relative of a Medicaid program recipient is entitled to a per diem allowance and reimbursement at rates established in the General Appropriations Act.

SECTION 2.10. Section 32.0212, Human Resources Code, is amended to read as follows:

Sec. 32.0212. DELIVERY OF MEDICAL ASSISTANCE. Notwithstanding any other law and subject to Section 533.0025, Government Code, the department shall provide medical assistance for acute care services through the Medicaid managed care system implemented under Chapter 533, Government Code, or another Medicaid capitated managed care program.

SECTION 2.11. (a) The senate health and human services committee and the house human services committee shall study and review:

(1) the requirement under Subsection (c), Section 533.00251, Government Code, as added by this article, that medical assistance program recipients who reside in nursing facilities receive nursing facility benefits through the STAR + PLUS Medicaid managed care program; and

(2) the implementation of that requirement.

(b) Not later than January 15, 2015, the committees shall report the committees' findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committees shall include in the recommendations specific statutory, rule, and procedural changes that appear necessary from the results of the committees' study under Subsection (a) of this section.

(c) This section expires September 1, 2015.

SECTION 2.12. (a) The Health and Human Services Commission and the Department of Aging and Disability Services shall:



(1) review and evaluate the outcomes of the transition of the provision of benefits to recipients under the medically dependent children (MDCP) waiver program to the STAR Kids managed care program delivery model established under Section 533.00253, Government Code, as added by this article;

(2) not later than December 1, 2016, submit an initial report to the legislature on the review and evaluation conducted under Subdivision (1) of this subsection, including recommendations for continued implementation and improvement of the program; and

(3) not later than December 1 of each year after 2016 and until December 1, 2020, submit additional reports that include the information described by Subdivision (1) of this subsection.

(b) This section expires September 1, 2021.

SECTION 2.13. (a) Not later than October 1, 2013, the executive commissioner of the Health and Human Services Commission shall appoint the members of the STAR + PLUS Quality Council as required by Section 533.00285, Government Code, as added by this article.

(b) The STAR + PLUS Quality Council, in coordination with the Health and Human Services Commission, shall submit:

(1) the initial report required under Subsection (e), Section 533.00285, Government Code, as added by this article, not later than November 1, 2014; and

(2) the final report required under that subsection not later than November 1, 2016.

(c) The Health and Human Services Commission shall submit:

(1) the initial report required under Subsection (f), Section 533.00285, Government Code, as added by this article, not later than December 1, 2014; and

(2) the final report required under that subsection not later than December 1, 2016.

SECTION 2.14. Not later than June 1, 2016, the Health and Human Services Commission shall submit a report to the legislature regarding the commission's experience in, including the cost-effectiveness of, delivering basic attendant and habilitation services for individuals with disabilities under the STAR + PLUS Medicaid managed care program under Subsection (i), Section 533.0025, Government Code, as added by this article. The commission may combine the report required under this section with the report required under Section 1.06 of this Act.

SECTION 2.15. (a) The Health and Human Services Commission shall, in a contract between the commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, require that the managed care organization comply with applicable provisions of Subsection (a), Section 533.005, Government Code, as amended by this article.

(b) The Health and Human Services Commission shall seek to amend contracts entered into with managed care organizations under Chapter 533, Government Code, before the effective date of this Act to require those managed care organizations to comply with applicable provisions of Subsection (a), Section 533.005, Government Code, as amended by this article. To the extent of a conflict between the applicable

provisions of that subsection and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

SECTION 2.16. Not later than September 15, 2013, the governor, lieutenant governor, and speaker of the house of representatives shall appoint the members of the STAR + PLUS Nursing Facility Advisory Committee as required by Section 533.00252, Government Code, as added by this article.

SECTION 2.17. (a) Not later than October 1, 2013, the Health and Human Services Commission shall:

(1) complete phase one of the plan required under Section 533.002515, Government Code, as added by this article; and

(2) submit a report regarding the implementation of phase one of the plan together with a copy of the contract template required by that section to the STAR + PLUS Nursing Facility Advisory Committee established under Section 533.00252, Government Code, as added by this article.

(b) Not later than July 15, 2014, the Health and Human Services Commission shall:

(1) complete phase two of the plan required under Section 533.002515, Government Code, as added by this article; and

(2) submit a report regarding the implementation of phase two to the STAR + PLUS Nursing Facility Advisory Committee established under Section 533.00252, Government Code, as added by this article.

SECTION 2.18. (a) The Health and Human Services Commission may not:

(1) implement Paragraph (B), Subdivision (6), Subsection (c), Section 533.00251, Government Code, as added by this article, unless the commission seeks and obtains a waiver or other authorization from the federal Centers for Medicare and Medicaid Services or other appropriate entity that ensures a significant portion, but not more than 80 percent, of accrued savings to the Medicare program as a result of reduced hospitalizations and institutionalizations and other care and efficiency improvements to nursing facilities participating in the medical assistance program in this state will be returned to this state and distributed to those facilities; and

(2) begin providing medical assistance benefits to recipients under Section 533.00251, Government Code, as added by this article, before September 1, 2014.

(b) As soon as practicable after the implementation date of Section 533.00251, Government Code, as added by this article, the Health and Human Services Commission shall provide a portal through which nursing facility providers participating in the STAR + PLUS Medicaid managed care program may submit claims in accordance with Subdivision (7), Subsection (c), Section 533.00251, Government Code, as added by this article.

SECTION 2.19. (a) Not later than October 1, 2013, the executive commissioner of the Health and Human Services Commission shall appoint additional members to the state Medicaid managed care advisory committee to comply with Section 533.041, Government Code, as amended by this article.

(b) Not later than December 1, 2013, the presiding officer of the state Medicaid managed care advisory committee shall convene the first meeting of the advisory committee following appointment of additional members as required by Subsection (a) of this section.

SECTION 2.20. As soon as practicable after the effective date of this Act, but not later than January 1, 2014, the executive commissioner of the Health and Human Services Commission shall adopt rules and managed care contracting guidelines governing the transition of appropriate duties and functions from the commission and other health and human services agencies to managed care organizations that are required as a result of the changes in law made by this article.

SECTION 2.21. The changes in law made by this article are not intended to negatively affect Medicaid recipients' access to quality health care. The Health and Human Services Commission, as the state agency designated to supervise the administration and operation of the Medicaid program and to plan and direct the Medicaid program in each state agency that operates a portion of the Medicaid program, including directing the Medicaid managed care system, shall continue to timely enforce all laws applicable to the Medicaid program and the Medicaid managed care system, including laws relating to provider network adequacy, the prompt payment of claims, and the resolution of patient and provider complaints.

### ARTICLE 3. OTHER PROVISIONS RELATING TO INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

SECTION 3.01. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0335 to read as follows:

Sec. 533.0335. COMPREHENSIVE ASSESSMENT AND RESOURCE ALLOCATION PROCESS. (a) In this section:

(1) "Advisory committee" means the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, Government Code.

(2) "Department" means the Department of Aging and Disability Services.

(3) "Functional need," "ICF-IID program," and "Medicaid waiver program" have the meanings assigned those terms by Section 534.001, Government Code.

(b) Subject to the availability of federal funding, the department shall develop and implement a comprehensive assessment instrument and a resource allocation process for individuals with intellectual and developmental disabilities as needed to ensure that each individual with an intellectual or developmental disability receives the type, intensity, and range of services that are both appropriate and available, based on the functional needs of that individual, if the individual receives services through one of the following:

(1) a Medicaid waiver program;

(2) the ICF-IID program; or

(3) an intermediate care facility operated by the state and providing services for individuals with intellectual and developmental disabilities.

(b-1) In developing a comprehensive assessment instrument for purposes of Subsection (b), the department shall evaluate any assessment instrument in use by the department. In addition, the department may implement an evidence-based, nationally recognized, comprehensive assessment instrument that assesses the functional needs

of an individual with intellectual and developmental disabilities as the comprehensive assessment instrument required by Subsection (b). This subsection expires September 1, 2015.

(c) The department, in consultation with the advisory committee, shall establish a prior authorization process for requests for supervised living or residential support services available in the home and community-based services (HCS) Medicaid waiver program. The process must ensure that supervised living or residential support services available in the home and community-based services (HCS) Medicaid waiver program are available only to individuals for whom a more independent setting is not appropriate or available.

(d) The department shall cooperate with the advisory committee to establish the prior authorization process required by Subsection (c). This subsection expires January 1, 2024.

SECTION 3.02. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Sections 533.03551 and 533.03552 to read as follows:

Sec. 533.03551. FLEXIBLE, LOW-COST HOUSING OPTIONS. (a) To the extent permitted under federal law and regulations, the executive commissioner shall adopt or amend rules as necessary to allow for the development of additional housing supports for individuals with disabilities, including individuals with intellectual and developmental disabilities, in urban and rural areas, including:

(1) a selection of community-based housing options that comprise a continuum of integration, varying from most to least restrictive, that permits individuals to select the most integrated and least restrictive setting appropriate to the individual's needs and preferences;

(2) provider-owned and non-provider-owned residential settings;

(3) assistance with living more independently; and

(4) rental properties with on-site supports.

(b) The Department of Aging and Disability Services, in cooperation with the Texas Department of Housing and Community Affairs, the Department of Agriculture, the Texas State Affordable Housing Corporation, and the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, Government Code, shall coordinate with federal, state, and local public housing entities as necessary to expand opportunities for accessible, affordable, and integrated housing to meet the complex needs of individuals with disabilities, including individuals with intellectual and developmental disabilities.

(c) The Department of Aging and Disability Services shall develop a process to receive input from statewide stakeholders to ensure the most comprehensive review of opportunities and options for housing services described by this section.

Sec. 533.03552. BEHAVIORAL SUPPORTS FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AT RISK OF INSTITUTIONALIZATION; INTERVENTION TEAMS. (a) In this section, "department" means the Department of Aging and Disability Services.

(b) Subject to the availability of federal funding, the department shall develop and implement specialized training for providers, family members, caregivers, and first responders providing direct services and supports to individuals with intellectual and developmental disabilities and behavioral health needs who are at risk of institutionalization.

(c) Subject to the availability of federal funding, the department shall establish one or more behavioral health intervention teams to provide services and supports to individuals with intellectual and developmental disabilities and behavioral health needs who are at risk of institutionalization. An intervention team may include a:

- (1) psychiatrist or psychologist;
- (2) physician;
- (3) registered nurse;
- (4) pharmacist or representative of a pharmacy;
- (5) behavior analyst;
- (6) social worker;
- (7) crisis coordinator;
- (8) peer specialist; and
- (9) family partner.

(d) In providing services and supports, a behavioral health intervention team established by the department shall:

- (1) use the team's best efforts to ensure that an individual remains in the community and avoids institutionalization;
- (2) focus on stabilizing the individual and assessing the individual for intellectual, medical, psychiatric, psychological, and other needs;
- (3) provide support to the individual's family members and other caregivers;
- (4) provide intensive behavioral assessment and training to assist the individual in establishing positive behaviors and continuing to live in the community; and
- (5) provide clinical and other referrals.

(e) The department shall ensure that members of a behavioral health intervention team established under this section receive training on trauma-informed care, which is an approach to providing care to individuals with behavioral health needs based on awareness that a history of trauma or the presence of trauma symptoms may create the behavioral health needs of the individual.

SECTION 3.03. (a) The Health and Human Services Commission and the Department of Aging and Disability Services shall conduct a study to identify crisis intervention programs currently available to, evaluate the need for appropriate housing for, and develop strategies for serving the needs of persons in this state with Prader-Willi syndrome.

(b) In conducting the study, the Health and Human Services Commission and the Department of Aging and Disability Services shall seek stakeholder input.

(c) Not later than December 1, 2014, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having jurisdiction over the Medicaid program regarding the study required by this section.

(d) This section expires September 1, 2015.

SECTION 3.04. (a) In this section:

(1) "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

(2) "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The Health and Human Services Commission shall conduct a study to evaluate the need for applying income disregards to persons with intellectual and developmental disabilities receiving benefits under the medical assistance program, including through a Section 1915(c) waiver program.

(c) Not later than January 15, 2015, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having jurisdiction over the Medicaid program regarding the study required by this section.

(d) This section expires September 1, 2015.

#### ARTICLE 4. QUALITY-BASED OUTCOMES AND PAYMENT PROVISIONS

SECTION 4.01. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00256 to read as follows:

Sec. 533.00256. MANAGED CARE CLINICAL IMPROVEMENT PROGRAM. (a) In consultation with the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002 and other appropriate stakeholders with an interest in the provision of acute care services and long-term services and supports under the Medicaid managed care program, the commission shall:

(1) establish a clinical improvement program to identify goals designed to improve quality of care and care management and to reduce potentially preventable events, as defined by Section 536.001; and

(2) require managed care organizations to develop and implement collaborative program improvement strategies to address the goals.

(b) Goals established under this section may be set by geographic region and program type.

SECTION 4.02. Subsections (a) and (g), Section 533.0051, Government Code, are amended to read as follows:

(a) The commission shall establish outcome-based performance measures and incentives to include in each contract between a health maintenance organization and the commission for the provision of health care services to recipients that is procured and managed under a value-based purchasing model. The performance measures and incentives must:

(1) be designed to facilitate and increase recipients' access to appropriate health care services; and

(2) to the extent possible, align with other state and regional quality care improvement initiatives.

(g) In performing the commission's duties under Subsection (d) with respect to assessing feasibility and cost-effectiveness, the commission may consult with participating Medicaid providers [physicians], including those with expertise in quality improvement and performance measurement[, and hospitals].

SECTION 4.03. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00511 to read as follows:

Sec. 533.00511. QUALITY-BASED ENROLLMENT INCENTIVE PROGRAM FOR MANAGED CARE ORGANIZATIONS. (a) In this section, "potentially preventable event" has the meaning assigned by Section 536.001.

(b) The commission shall create an incentive program that automatically enrolls a greater percentage of recipients who did not actively choose their managed care plan in a managed care plan, based on:

(1) the quality of care provided through the managed care organization offering that managed care plan;

(2) the organization's ability to efficiently and effectively provide services, taking into consideration the acuity of populations primarily served by the organization; and

(3) the organization's performance with respect to exceeding, or failing to achieve, appropriate outcome and process measures developed by the commission, including measures based on potentially preventable events.

SECTION 4.04. Section 533.0071, Government Code, is amended to read as follows:

Sec. 533.0071. ADMINISTRATION OF CONTRACTS. The commission shall make every effort to improve the administration of contracts with managed care organizations. To improve the administration of these contracts, the commission shall:

(1) ensure that the commission has appropriate expertise and qualified staff to effectively manage contracts with managed care organizations under the Medicaid managed care program;

(2) evaluate options for Medicaid payment recovery from managed care organizations if the enrollee dies or is incarcerated or if an enrollee is enrolled in more than one state program or is covered by another liable third party insurer;

(3) maximize Medicaid payment recovery options by contracting with private vendors to assist in the recovery of capitation payments, payments from other liable third parties, and other payments made to managed care organizations with respect to enrollees who leave the managed care program;

(4) decrease the administrative burdens of managed care for the state, the managed care organizations, and the providers under managed care networks to the extent that those changes are compatible with state law and existing Medicaid managed care contracts, including decreasing those burdens by:

(A) where possible, decreasing the duplication of administrative reporting and process requirements for the managed care organizations and providers, such as requirements for the submission of encounter data, quality reports, historically underutilized business reports, and claims payment summary reports;

(B) allowing managed care organizations to provide updated address information directly to the commission for correction in the state system;

(C) promoting consistency and uniformity among managed care organization policies, including policies relating to the preauthorization process, lengths of hospital stays, filing deadlines, levels of care, and case management services;

(D) reviewing the appropriateness of primary care case management requirements in the admission and clinical criteria process, such as requirements relating to including a separate cover sheet for all communications, submitting handwritten communications instead of electronic or typed review processes, and admitting patients listed on separate notifications; and

(E) providing a ~~[single]~~ portal through which providers in any managed care organization's provider network may submit acute care services and long-term services and supports claims; and

(5) reserve the right to amend the managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process established by the commission for final determination of these disputes.

SECTION 4.05. Section 533.014, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), any ~~[Any]~~ amount received by the state under this section shall be deposited in the general revenue fund for the purpose of funding the state Medicaid program.

(c) If cost-effective, the commission may use amounts received by the state under this section to provide incentives to specific managed care organizations to promote quality of care, encourage payment reform, reward local service delivery reform, increase efficiency, and reduce inappropriate or preventable service utilization.

SECTION 4.06. Subsection (b), Section 536.002, Government Code, is amended to read as follows:

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

(1) at least one member who is a physician with clinical practice experience in obstetrics and gynecology;

(2) at least one member who is a physician with clinical practice experience in pediatrics;

(3) at least one member who is a physician with clinical practice experience in internal medicine or family medicine;

(4) at least one member who is a physician with clinical practice experience in geriatric medicine;

(5) at least three members ~~[one member]~~ who are ~~[is]~~ or who represent ~~[represents]~~ a health care provider that primarily provides long-term ~~[care]~~ services and supports;

(6) at least one member who is a consumer representative; and



(7) at least one member who is a member of the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events who meets the qualifications prescribed by Section 98.052(a)(4), Health and Safety Code.

SECTION 4.07. Section 536.003, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) The commission, in consultation with the advisory committee, shall develop quality-based outcome and process measures that promote the provision of efficient, quality health care and that can be used in the child health plan and Medicaid programs to implement quality-based payments for acute ~~and long-term~~ care services and long-term services and supports across all delivery models and payment systems, including fee-for-service and managed care payment systems. Subject to Subsection (a-1), the [The] commission, in developing outcome and process measures under this section, must include measures that are based on [consider measures addressing] potentially preventable events and that advance quality improvement and innovation. The commission may change measures developed:

(1) to promote continuous system reform, improved quality, and reduced costs; and

(2) to account for managed care organizations added to a service area.

(a-1) The outcome measures based on potentially preventable events must:

(1) allow for rate-based determination of health care provider performance compared to statewide norms; and

(2) be risk-adjusted to account for the severity of the illnesses of patients served by the provider.

(b) To the extent feasible, the commission shall develop outcome and process measures:

(1) consistently across all child health plan and Medicaid program delivery models and payment systems;

(2) in a manner that takes into account appropriate patient risk factors, including the burden of chronic illness on a patient and the severity of a patient's illness;

(3) that will have the greatest effect on improving quality of care and the efficient use of services, including acute care services and long-term services and supports; ~~and~~

(4) that are similar to outcome and process measures used in the private sector, as appropriate;

(5) that reflect effective coordination of acute care services and long-term services and supports;

(6) that can be tied to expenditures; and

(7) that reduce preventable health care utilization and costs.

SECTION 4.08. Subsection (a), Section 536.004, Government Code, is amended to read as follows:

(a) Using quality-based outcome and process measures developed under Section 536.003 and subject to this section, the commission, after consulting with the advisory committee and other appropriate stakeholders with an interest in the provision of acute care and long-term services and supports under the child health plan and Medicaid programs, shall develop quality-based payment systems, and require managed care

organizations to develop quality-based payment systems, for compensating a physician or other health care provider participating in the child health plan or Medicaid program that:

- (1) align payment incentives with high-quality, cost-effective health care;
- (2) reward the use of evidence-based best practices;
- (3) promote the coordination of health care;
- (4) encourage appropriate physician and other health care provider collaboration;
- (5) promote effective health care delivery models; and
- (6) take into account the specific needs of the child health plan program enrollee and Medicaid recipient populations.

SECTION 4.09. Section 536.005, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a) and to the extent possible, the commission shall convert outpatient hospital reimbursement systems under the child health plan and Medicaid programs to an appropriate prospective payment system that will allow the commission to:

- (1) more accurately classify the full range of outpatient service episodes;
- (2) more accurately account for the intensity of services provided; and
- (3) motivate outpatient service providers to increase efficiency and effectiveness.

SECTION 4.10. Section 536.006, Government Code, is amended to read as follows:

Sec. 536.006. TRANSPARENCY. (a) The commission and the advisory committee shall:

- (1) ensure transparency in the development and establishment of:
  - (A) quality-based payment and reimbursement systems under Section 536.004 and Subchapters B, C, and D, including the development of outcome and process measures under Section 536.003; and
  - (B) quality-based payment initiatives under Subchapter E, including the development of quality of care and cost-efficiency benchmarks under Section 536.204(a) and efficiency performance standards under Section 536.204(b);
- (2) develop guidelines establishing procedures for providing notice and information to, and receiving input from, managed care organizations, health care providers, including physicians and experts in the various medical specialty fields, and other stakeholders, as appropriate, for purposes of developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1); ~~and~~
- (3) in developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1), consider that as the performance of a managed care organization or physician or other health care provider improves with respect to an outcome or process measure, quality of care and cost-efficiency benchmark, or efficiency performance standard, as applicable, there will be a diminishing rate of improved performance over time; and

(4) develop web-based capability to provide managed care organizations and health care providers with data on their clinical and utilization performance, including comparisons to peer organizations and providers located in this state and in the provider's respective region.

(b) The web-based capability required by Subsection (a)(4) must support the requirements of the electronic health information exchange system under Sections 531.907 through 531.909.

SECTION 4.11. Section 536.008, Government Code, is amended to read as follows:

Sec. 536.008. ANNUAL REPORT. (a) The commission shall submit to the legislature and make available to the public an annual report ~~[to the legislature]~~ regarding:

(1) the quality-based outcome and process measures developed under Section 536.003, including measures based on each potentially preventable event; and

(2) the progress of the implementation of quality-based payment systems and other payment initiatives implemented under this chapter.

(b) As appropriate, the ~~[The]~~ commission shall report outcome and process measures under Subsection (a)(1) by:

(1) geographic location, which may require reporting by county, health care service region, or other appropriately defined geographic area;

(2) recipient population or eligibility group served;

(3) type of health care provider, such as acute care or long-term care provider;

(4) number of recipients who relocated to a community-based setting from a less integrated setting;

(5) quality-based payment system; and

(6) service delivery model.

(c) The report required under this section may not identify specific health care providers.

SECTION 4.12. Subsection (a), Section 536.051, Government Code, is amended to read as follows:

(a) Subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other applicable federal law, the commission shall base a percentage of the premiums paid to a managed care organization participating in the child health plan or Medicaid program on the organization's performance with respect to outcome and process measures developed under Section 536.003 ~~that address[; including outcome measures addressing]~~ potentially preventable events. The percentage of the premiums paid may increase each year.

SECTION 4.13. Subsection (a), Section 536.052, Government Code, is amended to read as follows:

(a) The commission may allow a managed care organization participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan offered by the organization, including flexibility with respect to financial arrangements, in order to:

(1) achieve high-quality, cost-effective health care;

(2) increase the use of high-quality, cost-effective delivery models; ~~[and]~~

(3) reduce the incidence of unnecessary institutionalization and potentially preventable events; and

(4) increase the use of alternative payment systems, including shared savings models, in collaboration with physicians and other health care providers.

SECTION 4.14. Section 536.151, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (d) to read as follows:

(a) The executive commissioner shall adopt rules for identifying:

(1) potentially preventable admissions and readmissions of child health plan program enrollees and Medicaid recipients, including preventable admissions to long-term care facilities;

(2) potentially preventable ancillary services provided to or ordered for child health plan program enrollees and Medicaid recipients;

(3) potentially preventable emergency room visits by child health plan program enrollees and Medicaid recipients; and

(4) potentially preventable complications experienced by child health plan program enrollees and Medicaid recipients.

(a-1) The commission shall collect data from hospitals on present-on-admission indicators for purposes of this section.

(b) The commission shall establish a program to provide a confidential report to each hospital in this state that participates in the child health plan or Medicaid program regarding the hospital's performance with respect to each potentially preventable event described under Subsection (a) [~~readmissions and potentially preventable complications~~]. To the extent possible, a report provided under this section should include all potentially preventable events [~~readmissions and potentially preventable complications information~~] across all child health plan and Medicaid program payment systems. A hospital shall distribute the information contained in the report to physicians and other health care providers providing services at the hospital.

(c) Except as provided by Subsection (d), a [~~A~~] report provided to a hospital under this section is confidential and is not subject to Chapter 552.

(d) The commission may release the information in the report described by Subsection (b):

(1) not earlier than one year after the date the report is submitted to the hospital; and

(2) only after deleting any data that relates to a hospital's performance with respect to particular diagnosis-related groups or individual patients.

SECTION 4.15. Subsection (a), Section 536.152, Government Code, is amended to read as follows:

(a) Subject to Subsection (b), using the data collected under Section 536.151 and the diagnosis-related groups (DRG) methodology implemented under Section 536.005, if applicable, the commission, after consulting with the advisory committee, shall to the extent feasible adjust child health plan and Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, [~~in a manner that may reward or penalize a hospital~~] based on the hospital's performance with respect to exceeding,

or failing to achieve, outcome and process measures developed under Section 536.003 that address the rates of potentially preventable readmissions and potentially preventable complications.

SECTION 4.16. Subsection (a), Section 536.202, Government Code, is amended to read as follows:

(a) The commission shall, after consulting with the advisory committee, establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for child health plan program enrollees or Medicaid recipients, or both, that will:

- (1) improve the quality of health care provided to the enrollees or recipients;
- (2) reduce potentially preventable events;
- (3) promote prevention and wellness;
- (4) increase the use of evidence-based best practices;
- (5) increase appropriate physician and other health care provider collaboration; ~~and~~

- (6) contain costs; and

- (7) improve integration of acute care services and long-term services and supports, including discharge planning from acute care services to community-based long-term services and supports.

SECTION 4.17. Chapter 536, Government Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. QUALITY-BASED LONG-TERM SERVICES AND SUPPORTS  
PAYMENT SYSTEMS**

Sec. 536.251. QUALITY-BASED LONG-TERM SERVICES AND SUPPORTS PAYMENTS. (a) Subject to this subchapter, the commission, after consulting with the advisory committee and other appropriate stakeholders representing nursing facility providers with an interest in the provision of long-term services and supports, may develop and implement quality-based payment systems for Medicaid long-term services and supports providers designed to improve quality of care and reduce the provision of unnecessary services. A quality-based payment system developed under this section must base payments to providers on quality and efficiency measures that may include measurable wellness and prevention criteria and use of evidence-based best practices, sharing a portion of any realized cost savings achieved by the provider, and ensuring quality of care outcomes, including a reduction in potentially preventable events.

(b) The commission may develop a quality-based payment system for Medicaid long-term services and supports providers under this subchapter only if implementing the system would be feasible and cost-effective.

Sec. 536.252. EVALUATION OF DATA SETS. To ensure that the commission is using the best data to inform the development and implementation of quality-based payment systems under Section 536.251, the commission shall evaluate the reliability, validity, and functionality of post-acute and long-term services and supports data sets. The commission's evaluation under this section should assess:

- (1) to what degree data sets relied on by the commission meet a standard:

(A) for integrating care;  
(B) for developing coordinated care plans; and  
(C) that would allow for the meaningful development of risk adjustment techniques;

(2) whether the data sets will provide value for outcome or performance measures and cost containment; and

(3) how classification systems and data sets used for Medicaid long-term services and supports providers can be standardized and, where possible, simplified.

Sec. 536.253. COLLECTION AND REPORTING OF CERTAIN INFORMATION. (a) The executive commissioner shall adopt rules for identifying the incidence of potentially preventable admissions, potentially preventable readmissions, and potentially preventable emergency room visits by Medicaid long-term services and supports recipients.

(b) The commission shall establish a program to provide a report to each Medicaid long-term services and supports provider in this state regarding the provider's performance with respect to potentially preventable admissions, potentially preventable readmissions, and potentially preventable emergency room visits. To the extent possible, a report provided under this section should include applicable potentially preventable events information across all Medicaid program payment systems.

(c) Subject to Subsection (d), a report provided to a provider under this section is confidential and is not subject to Chapter 552.

(d) The commission may release the information in the report described by Subsection (b):

(1) not earlier than one year after the date the report is submitted to the provider; and

(2) only after deleting any data that relates to a provider's performance with respect to particular resource utilization groups or individual recipients.

SECTION 4.18. As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall provide a portal through which providers in any managed care organization's provider network may submit acute care services and long-term services and supports claims as required by Paragraph (E), Subdivision (4), Section 533.0071, Government Code, as amended by this article.

SECTION 4.19. Not later than September 1, 2013, the Health and Human Services Commission shall convert outpatient hospital reimbursement systems as required by Subsection (c), Section 536.005, Government Code, as added by this article.

#### ARTICLE 5. SPECIFIC PROVISIONS RELATING TO PREMIUMS UNDER THE MEDICAL ASSISTANCE PROGRAM

SECTION 5.01. Section 533.013, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall pursue and, if appropriate, implement premium rate-setting strategies that encourage provider payment reform and more efficient service delivery and provider practices. In pursuing premium rate-setting strategies under this section, the commission shall review and consider strategies employed or

under consideration by other states. If necessary, the commission may request a waiver or other authorization from a federal agency to implement strategies identified under this subsection.

ARTICLE 6. ADDITIONAL PROVISIONS RELATING TO QUALITY AND DELIVERY OF HEALTH AND HUMAN SERVICES

SECTION 6.01. The heading to Section 531.024, Government Code, is amended to read as follows:

Sec. 531.024. PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES; DATA SHARING.

SECTION 6.02. Section 531.024, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) To the extent permitted under applicable federal law and notwithstanding any provision of Chapter 191 or 192, Health and Safety Code, the commission and other health and human services agencies shall share data to facilitate patient care coordination, quality improvement, and cost savings in the Medicaid program, child health plan program, and other health and human services programs funded using money appropriated from the general revenue fund.

SECTION 6.03. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.024115 to read as follows:

Sec. 531.024115. SERVICE DELIVERY AREA ALIGNMENT. Notwithstanding Section 533.0025(e) or any other law, to the extent possible, the commission shall align service delivery areas under the Medicaid and child health plan programs.

SECTION 6.04. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0981 to read as follows:

Sec. 531.0981. WELLNESS SCREENING PROGRAM. If cost-effective, the commission may implement a wellness screening program for Medicaid recipients designed to evaluate a recipient's risk for having certain diseases and medical conditions for purposes of establishing a health baseline for each recipient that may be used to tailor the recipient's treatment plan or for establishing the recipient's health goals.

SECTION 6.05. Section 531.024115, Government Code, as added by this article:

(1) applies only with respect to a contract between the Health and Human Services Commission and a managed care organization, service provider, or other person or entity under the medical assistance program, including Chapter 533, Government Code, or the child health plan program established under Chapter 62, Health and Safety Code, that is entered into or renewed on or after the effective date of this Act; and

(2) does not authorize the Health and Human Services Commission to alter the terms of a contract that was entered into or renewed before the effective date of this Act.

SECTION 6.06. Section 533.0354, Health and Safety Code, is amended by adding Subsections (a-1), (a-2), and (b-1) to read as follows:

(a-1) In addition to the services required under Subsection (a) and using money appropriated for that purpose or money received under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), a local mental health authority may ensure, to the extent feasible, the provision of assessment services, crisis services, and intensive and comprehensive services using disease management practices for children with serious emotional, behavioral, or mental disturbance not described by Subsection (a) and adults with severe mental illness who are experiencing significant functional impairment due to a mental health disorder not described by Subsection (a) that is defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), including:

(1) major depressive disorder, including single episode or recurrent major depressive disorder;

(2) post-traumatic stress disorder;

(3) schizoaffective disorder, including bipolar and depressive types;

(4) obsessive-compulsive disorder;

(5) anxiety disorder;

(6) attention deficit disorder;

(7) delusional disorder;

(8) bulimia nervosa, anorexia nervosa, or other eating disorders not otherwise specified; or

(9) any other diagnosed mental health disorder.

(a-2) The local mental health authority shall ensure that individuals described by Subsection (a-1) are engaged with treatment services in a clinically appropriate manner.

(b-1) The department shall require each local mental health authority to incorporate jail diversion strategies into the authority's disease management practices to reduce the involvement of the criminal justice system in managing adults with the following disorders as defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), who are not described by Subsection (b):

(1) post-traumatic stress disorder;

(2) schizoaffective disorder, including bipolar and depressive types;

(3) anxiety disorder; or

(4) delusional disorder.

SECTION 6.07. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0284 to read as follows:

Sec. 32.0284. CALCULATION OF PAYMENTS UNDER CERTAIN SUPPLEMENTAL HOSPITAL PAYMENT PROGRAMS. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Supplemental hospital payment program" means:

(A) the disproportionate share hospitals supplemental payment program administered according to 42 U.S.C. Section 1396r-4; and

(B) the uncompensated care payment program established under the Texas Health Care Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315).



(b) For purposes of calculating the hospital-specific limit used to determine a hospital's uncompensated care payment under a supplemental hospital payment program, the commission shall ensure that to the extent a third-party commercial payment exceeds the Medicaid allowable cost for a service provided to a recipient and for which reimbursement was not paid under the medical assistance program, the payment is not considered a medical assistance payment.

SECTION 6.08. Section 32.053, Human Resources Code, is amended by adding Subsection (i) to read as follows:

(i) To the extent allowed by the General Appropriations Act, the Health and Human Services Commission may transfer general revenue funds appropriated to the commission for the medical assistance program to the Department of Aging and Disability Services to provide PACE services in PACE program service areas to eligible recipients whose medical assistance benefits would otherwise be delivered as home and community-based services through the STAR + PLUS Medicaid managed care program and whose personal incomes are at or below the level of income required to receive Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.

SECTION 6.09. LIMITATION ON PROVISION OF MEDICAL ASSISTANCE. Under this Act, the Health and Human Services Commission may only provide medical assistance to a person who would have been otherwise eligible for medical assistance or for whom federal matching funds were available under the eligibility criteria for medical assistance in effect on December 31, 2013.

#### ARTICLE 7. FEDERAL AUTHORIZATIONS, FUNDING, AND EFFECTIVE DATE

SECTION 7.01. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 7.02. As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall apply for and actively seek a waiver or authorization from the appropriate federal agency to waive, with respect to a person who is dually eligible for Medicare and Medicaid, the requirement under 42 C.F.R. Section 409.30 that the person be hospitalized for at least three consecutive calendar days before Medicare covers posthospital skilled nursing facility care for the person.

SECTION 7.03. If the Health and Human Services Commission determines that it is cost-effective, the commission shall apply for and actively seek a waiver or authorization from the appropriate federal agency to allow the state to provide medical assistance under the waiver or authorization to medically fragile individuals:

- (1) who are at least 21 years of age; and
- (2) whose costs to receive care exceed cost limits under existing Medicaid waiver programs.

SECTION 7.04. The Health and Human Services Commission may use any available revenue, including legislative appropriations and available federal funds, for purposes of implementing any provision of this Act.

SECTION 7.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Section 533.0354, Health and Safety Code, as amended by this Act, takes effect January 1, 2014.

The Conference Committee Report on **SB 7** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 912**

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 912** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES

GOODEN

WEST

BURNAM

ELLIS

JOHNSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 912** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 12**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 12** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI

FLYNN

ELTIFE

ALVARADO

GARCIA  
SCHWERTNER  
SELIGER  
On the part of the Senate

LARSON  
MARTINEZ FISCHER  
PERRY  
On the part of the House

The Conference Committee Report on **HB 12** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 680

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 680** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
CAMPBELL  
HINOJOSA  
PAXTON  
TAYLOR  
On the part of the Senate

BURKETT  
CORTEZ  
FARIAS  
FLETCHER  
SHEETS  
On the part of the House

The Conference Committee Report on **HB 680** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 489

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 489** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
 NELSON  
 DAVIS  
 CAMPBELL  
 VAN DE PUTTE  
 On the part of the Senate

MENÉNDEZ  
 DALE  
 COLLIER  
 MILLER, RICK  
 MOODY  
 On the part of the House

The Conference Committee Report on **HB 489** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 29**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
 May 25, 2013

Honorable David Dewhurst  
 President of the Senate

Honorable Joe Straus  
 Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 29** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER  
 WEST  
 WATSON  
 DUNCAN  
 On the part of the Senate

BRANCH  
 BUTTON  
 BURKETT  
 ALVARADO  
 On the part of the House

The Conference Committee Report on **HB 29** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 1025**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas  
 May 25, 2013

Honorable David Dewhurst  
 President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1025** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS

DUNCAN

HINOJOSA

NELSON

WHITMIRE

On the part of the Senate

PITTS

DARBY

MARTINEZ FISCHER

OLIVEIRA

OTTO

On the part of the House

The Conference Committee Report on **HB 1025** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2741

Senator Nichols submitted the following Conference Committee Report:

Austin, Texas

May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2741** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

NICHOLS

WILLIAMS

HEGAR

URESTI

CAMPBELL

On the part of the Senate

PHILLIPS

MARTINEZ, "MANDO"

HARPER-BROWN

FLETCHER

PICKETT

On the part of the House

The Conference Committee Report on **HB 2741** was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3793

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas

May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 3793** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA

NELSON

TAYLOR

GARCIA

SCHWERTNER

On the part of the Senate

COLEMAN

DAVIS, JOHN

FARIAS

ZERWAS

On the part of the House

The Conference Committee Report on **HB 3793** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 500**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas

May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 500** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR

LUCIO

NELSON

DUNCAN

WILLIAMS

On the part of the Senate

HILDERBRAN

BOHAC

BUTTON

GONZALEZ, NAOMI

KING, TRACY O.

On the part of the House

The Conference Committee Report on **HB 500** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1747**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1747** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

URESTI  
HEGAR  
WILLIAMS  
ZAFFIRINI

KEFFER  
KING, PHIL  
GUILLEN  
DARBY  
PHILLIPS

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to funding and donations for transportation projects, including projects of county energy transportation reinvestment zones.

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

SECTION 1. Chapter 256, Transportation Code, is amended by adding Subchapter C to read as follows:

**SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND**

**Sec. 256.101. DEFINITIONS.** In this subchapter:

(1) "Fund" means the transportation infrastructure fund established under this subchapter.

(2) "Transportation infrastructure project" means the planning for, construction of, reconstruction of, or maintenance of transportation infrastructure, including roads, bridges, and culverts, intended to alleviate degradation caused by the exploration, development, or production of oil or gas. The term includes the lease or rental of equipment used for road maintenance.

(3) "Weight tolerance permit" means a permit issued under Chapter 623 authorizing a vehicle to exceed maximum legal weight limitations.

(4) "Well completion" means the completion, reentry, or recompletion of an oil or gas well.

**Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND.** (a) The transportation infrastructure fund is a dedicated fund in the state treasury outside the general revenue fund. The fund consists of:

(1) any federal funds received by the state deposited to the credit of the fund;

(2) matching state funds in an amount required by federal law;

(3) funds appropriated by the legislature to the credit of the fund;

(4) a gift or grant;

(5) any fees paid into the fund; and

(6) investment earnings on the money on deposit in the fund.

(b) Money in the fund may be appropriated only to the department for the purposes of this subchapter.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the fund.

Sec. 256.103. GRANT PROGRAM. (a) The department shall develop policies and procedures to administer a grant program under this subchapter to make grants to counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production. The department may adopt rules to implement this subchapter.

(b) Grants distributed during a fiscal year must be allocated among counties as follows:

(1) 20 percent according to weight tolerance permits, determined by the ratio of weight tolerance permits issued in the preceding fiscal year for the county that designated a county energy transportation reinvestment zone to the total number of weight tolerance permits issued in the state in that fiscal year, as determined by the Texas Department of Motor Vehicles;

(2) 20 percent according to oil and gas production taxes, determined by the ratio of oil and gas production taxes collected by the comptroller in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total amount of oil and gas production taxes collected in the state in that fiscal year, as determined by the comptroller;

(3) 50 percent according to well completions, determined by the ratio of well completions in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total number of well completions in the state in that fiscal year, as determined by the Railroad Commission of Texas; and

(4) 10 percent according to the volume of oil and gas waste injected, determined by the ratio of the volume of oil and gas waste injected in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total volume of oil and gas waste injected in the state in that fiscal year, as determined by the Railroad Commission of Texas.

Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying for a grant under this subchapter, the county shall:

(1) provide the road condition report described by Section 251.018 made by the county for the previous year; and

(2) submit to the department:

(A) a copy of the order or resolution establishing a county energy transportation reinvestment zone in the county, except that the department may waive the submission until the time the grant is awarded; and

(B) a plan that:



(i) provides a list of transportation infrastructure projects to be funded by the grant;

(ii) describes the scope of the transportation infrastructure project or projects to be funded by the grant using best practices for prioritizing the projects;

(iii) provides for matching funds as required by Section 256.105;  
and

(iv) meets any other requirements imposed by the department.

(b) In reviewing grant applications under this subchapter, the department shall:

(1) seek other potential sources of funding to maximize resources available for the transportation infrastructure projects to be funded by grants under this subchapter; and

(2) consult related transportation planning documents to improve project efficiency and work effectively in partnership with counties.

(c) Except as otherwise provided by this subsection, the department shall review a grant application before the 31st day after the date the department receives the application. The department may act on an application not later than the 60th day after the date the department receives the application if the department provides notice of the extension to the county that submitted the application.

Sec. 256.105. MATCHING FUNDS. (a) Except as provided by Subsection (b), to be eligible to receive a grant under the program, matching funds must be provided, from any source, in an amount equal to at least 20 percent of the amount of the grant.

(b) A county that the department determines to be economically disadvantaged must provide matching funds in an amount equal to at least 10 percent of the amount of the grant.

Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that makes a second or subsequent application for a grant from the department under this subchapter must:

(1) provide the department with a copy of a report filed under Section 251.018;

(2) certify that all previous grants are being spent in accordance with the plan submitted under Section 256.104; and

(3) provide an accounting of how previous grants were spent, including any amounts spent on administrative costs.

(b) The department may use one-half of one percent of the amount deposited into the fund in the preceding fiscal year, not to exceed \$500,000 in a state fiscal biennium, to administer this subchapter.

SECTION 2. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.1071 and 222.1072 to read as follows:

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES. (a) A county shall determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment as provided in Section 222.107(a) for a county transportation reinvestment zone.

(b) A county, after determining that an area is affected because of oil and gas exploration and production activities and would benefit from funding under Chapter 256, by order or resolution of the commissioners court:

(1) may designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more transportation infrastructure projects, as that term is defined by Section 256.101, located in the zone; and

(2) may jointly administer a county energy transportation reinvestment zone with a contiguous county energy transportation reinvestment zone formed by another county.

(c) A commissioners court must:

(1) dedicate or pledge all of the captured appraised value of real property located in the county energy transportation reinvestment zone to transportation infrastructure projects; and

(2) comply with all applicable laws in the application of this chapter.

(d) Not later than the 30th day before the date a commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, the joint administration of a zone in another county, or the use of tax increment paid into the tax increment account.

(e) Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a county energy transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution designating an area and that the base year shall be the year of passage of the order or resolution designating an area or some year in the future;

(3) establish an ad valorem tax increment account for the zone or provide for the establishment of a joint ad valorem tax increment account, if applicable; and

(4) if two or more counties are designating a zone for the same transportation infrastructure project or projects, include a finding that:

(A) the project or projects will benefit the property and residents located in the zone;

(B) the creation of the zone will serve a public purpose of the county;  
and

(C) details the transportation infrastructure projects for which each county is responsible.

(g) Compliance with the requirements of this section constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

(h) The county may, from taxes collected on property in a zone, pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code.

(i) The county may:

(1) use money in the tax increment account to provide:

(A) matching funds under Section 256.105; and

(B) funding for one or more transportation infrastructure projects

located in the zone;

(2) apply for grants under Subchapter C, Chapter 256, subject to Section 222.1072;

(3) use five percent of any grant distributed to the county under Subchapter C, Chapter 256, for the administration of a county energy transportation reinvestment zone, not to exceed \$250,000;

(4) enter into an agreement to provide for the joint administration of county energy transportation reinvestment zones if the commissioners court of the county has designated a county energy transportation reinvestment zone under this section for the same transportation infrastructure project or projects as another county commissioners court; and

(5) pledge money in the tax increment account to a road utility district formed as provided by Subsection (n).

(j) Tax increment paid into a tax increment account may not be pledged as security for bonded indebtedness.

(k) A county energy transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated unless extended by an act of the county commissioners court that designated the zone. The extension may not exceed five years. On termination of the zone, any money remaining in the tax increment account must be transferred to the road and bridge fund described by Chapter 256 for the county that deposited the money into the tax increment account.

(l) The captured appraised value of real property located in a county energy transportation reinvestment zone shall be treated as provided by Section 26.03, Tax Code.

(m) The commissioners court of a county may enter into an agreement with the department to designate a county energy transportation reinvestment zone under this section for a specified transportation infrastructure project involving a state highway located in the proposed zone.

(n) In the alternative, to assist the county in developing a transportation infrastructure project, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a county energy transportation reinvestment zone created under this section. The road utility district may issue bonds to pay all or part of the cost of a transportation infrastructure project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds if the county:

(1) collects a tax increment; and

(2) pledges all or a specified amount of the tax increment to the road utility district.

(o) A road utility district formed as provided by Subsection (n) may enter into an agreement to fund development of a transportation infrastructure project or to repay funds owed to the department. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONE. (a) A county is eligible to apply for a grant under Subchapter C, Chapter 256, if the county creates an advisory board to advise the county on the establishment, administration, and expenditures of a county energy transportation reinvestment zone. The county commissioners court shall determine the terms and duties of the advisory board members.

(b) Except as provided by Subsection (c), the advisory board of a county energy transportation reinvestment zone consists of the following members appointed by the county judge and approved by the county commissioners court:

(1) up to three oil and gas company representatives who perform company activities in the county and are local taxpayers; and

(2) two public members.

(c) County energy transportation reinvestment zones that are jointly administered are advised by a single joint advisory board for the zones. A joint advisory board under this subsection consists of members appointed under Subsection (b) for each zone to be jointly administered.

(d) An advisory board member may not receive compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

SECTION 3. Section 222.110, Transportation Code, is amended by amending Subsections (a) and (h) and adding Subsection (i) to read as follows:

(a) In this section:

(1) "Sales~~[-,"sales]~~ tax base" for a transportation reinvestment zone means the amount of sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax Code, as applicable, attributable to the zone for the year in which the zone was designated under this chapter.

(2) "Transportation reinvestment zone" includes a county energy transportation reinvestment zone.

(h) The hearing required under Subsection (g) may be held in conjunction with a hearing held under Section 222.106(e), ~~[or]~~ 222.107(e), or 222.1071(d) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106, ~~[or]~~ 222.107, or 222.1071 also designates a sales tax increment under Subsection (b).

(i) Notwithstanding Subsection (e), the sales and use taxes to be deposited into the tax increment account established by a county energy transportation reinvestment zone or zones under this section may be disbursed from the account only to provide:

(1) matching funds under Section 256.105; and

(2) funding for one or more transportation infrastructure projects located in a zone.

SECTION 4. Subchapter A, Chapter 251, Transportation Code, is amended by adding Sections 251.018 and 251.019 to read as follows:

Sec. 251.018. ROAD REPORTS. A road condition report made by a county that is operating under a system of administering county roads under Chapter 252 or a special law, including a report made under Section 251.005, must include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained.

Sec. 251.019. DONATIONS. (a) A commissioners court may accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county.

(b) A county operating under the county road department system on September 1, 2013, may use the authority granted under this section without holding a new election under Section 252.301.

(c) A county that accepts donations under this section must execute a release of liability in favor of the entity donating the labor, money, or other property.

SECTION 5. Subsection (a), Section 256.009, Transportation Code, is amended to read as follows:

(a) Not later than January 30 of each year, the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor shall file a report with the comptroller that includes:

(1) an account of how:

(A) the money allocated to a county under Section 256.002 during the preceding year was spent; and

(B) if the county designated a county energy transportation reinvestment zone, money paid into a tax increment account for the zone or from an award under Subchapter C was spent;

(2) a description, including location, of any new roads constructed in whole or in part with the money:

(A) allocated to a county under Section 256.002 during the preceding year; and

(B) paid into a tax increment account for the zone or from an award under Subchapter C if the county designated a county energy transportation reinvestment zone;

(3) any other information related to the administration of Sections 256.002 and 256.003 that the comptroller requires; and

(4) the total amount of expenditures for county road and bridge construction, maintenance, rehabilitation, right-of-way acquisition, and utility construction and other appropriate road expenditures of county funds in the preceding county fiscal year that are required by the constitution or other law to be spent on public roads or highways.

SECTION 6. The Texas Department of Transportation shall adopt rules implementing Subchapter C, Chapter 256, Transportation Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. The amendment adding Sections 222.1071 and 222.1072 to Subchapter E, Chapter 222, Transportation Code, made by this Act prevails over the amendment adding those sections to Subchapter E, Chapter 222, Transportation Code,

made by Section 1, House Bill No. 2300, 83rd Legislature, Regular Session, 2013, and the amendment made by Section 1, House Bill No. 2300, 83rd Legislature, Regular Session, 2013, has no effect.

SECTION 8. This Act takes effect September 1, 2013.

The Conference Committee Report on **SB 1747** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1158**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1158** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

VAN DE PUTTE  
DUNCAN  
RODRÍGUEZ  
SELIGER

On the part of the Senate

MENÉNDEZ  
DARBY  
OTTO  
PICKETT

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to higher education for veterans and their families.

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

SECTION 1. Section 54.341, Education Code, is amended by amending Subsections (a-2), (b), (d), (h), (i), (k), (k-1), (l), (m), and (n) and adding Subsections (a-4) and (o) to read as follows:

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

- (A) who was killed in action;
- (B) who died while in service;
- (C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meets the eligibility requirements for individual unemployability [for purposes of employability] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally and permanently disabled or meets the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(a-4) A person who before the 2014-2015 academic year received an exemption under this section continues to be eligible for the exemption provided by this section as this section existed on January 1, 2013.

(b) The exemptions provided for in Subsection (a) also apply to:

(1) the children of members of the armed forces of the United States:

(A) who are or were killed in action;

(B) who die or died while in service;

(C) who are missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; and

(2) the children of members of the Texas National Guard and the Texas Air National Guard who:

(A) were killed since January 1, 1946, while on active duty either in the service of their state or the United States; or

(B) are totally and permanently disabled or meet the eligibility requirements for individual unemployability [~~for purposes of employability~~] according to the disability ratings of the Department of Veterans Affairs, regardless of whether the members are eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(d) The governing board of each institution of higher education granting an exemption under this section shall require each applicant claiming the exemption to submit to the institution, in the form and manner prescribed by the Texas Veterans Commission for purposes of this section under Section 434.0079(b), Government Code, an application for the exemption and necessary [~~satisfactory~~] evidence that the applicant qualifies for the exemption not later than the last class date of the semester or term to which the exemption applies, except that the governing board may encourage the submission of an application and evidence by the official day of record for the semester or term to which the exemption applies on which the institution must determine the enrollment that is reported to the Texas Higher Education Coordinating Board [~~one year after the earlier of the date the institution:~~

~~[(1) provides written notice to the applicant of the applicant's eligibility for the exemption; or~~

~~[(2) receives a written acknowledgement from the applicant evidencing the applicant's awareness of the applicant's eligibility for the exemption].~~

(h) The governing board of each institution of higher education shall electronically report to the Texas Veterans Commission [~~Higher Education Coordinating Board~~] the information required by Section 434.00791, Government Code, [61.0516] relating to each individual receiving an exemption from fees and charges under Subsection (a), (a-2), ~~or~~ (b), or (k). The institution shall report the information not later than January 31 [December 31] of each year for the fall semester, June 30 [May 31] of each year for the spring semester, and September 30 of each year for the summer session.

(i) The Texas Veterans Commission [~~Texas Higher Education Coordinating Board~~] may adopt rules to provide for the efficient and uniform application of this section. In developing rules under this subsection, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

(k) The Texas Veterans Commission [~~Higher Education Coordinating Board~~] by rule shall prescribe procedures to allow:

(1) a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the ~~[maximum]~~ number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person; and

(2) following the death of a person who becomes eligible for an exemption provided by Subsection (a), the assignment of the exemption for the unused portion of the credit hours to a child of the person, to be made by the person's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child does not otherwise qualify for an exemption under Subsection (b).

(k-1) The procedures under Subsection (k) must provide:

(1) the manner in which a person may waive the exemption;

(2) the manner in which a child may be designated to receive the exemption;

(3) a procedure permitting the designation of a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; ~~and~~

(4) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption; and

(5) a procedure permitting a person who waived the exemption and designated a child to receive the exemption to revoke that designation as to any unused portion of the assigned credit hours.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education; ~~and~~



(2) as a graduate or undergraduate student, maintain a grade point average that satisfies the grade point average requirement for making [make] satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the institution's policy regarding eligibility for [of the institution's] financial aid; and

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed [department, except that the institution may not require the child to enroll in a minimum course load].

(m) For purposes of this section, a person is the child of another person if [the person is 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed and]:

(1) the person is the stepchild or the biological or adopted child of the other person; or

(2) the other person claimed the person as a dependent on a federal income tax return filed for the preceding year or will claim the person as a dependent on a federal income tax return for the current year.

(n) The Texas Veterans Commission [~~Higher Education Coordinating Board~~] by rule shall prescribe procedures by which a child assigned an exemption under Subsection (k) who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching the age described by Subsection (l)(3) [~~(m)~~] may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

(o) The Texas Higher Education Coordinating Board and the Texas Veterans Commission shall coordinate to provide each respective agency with any information required to ensure the proper administration of this section and the proper execution of each agency's statutory responsibilities concerning this section.

SECTION 2. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.3411 to read as follows:

Sec. 54.3411. PERMANENT FUND SUPPORTING MILITARY AND VETERANS EXEMPTIONS. (a) In this section, "trust company" means the Texas Treasury Safekeeping Trust Company.

(b) The permanent fund supporting military and veterans exemptions is a special fund in the treasury outside the general revenue fund. The fund is composed of:

(1) money transferred or appropriated to the fund by the legislature;

(2) gifts and grants contributed to the fund; and

(3) the returns received from investment of money in the fund.

(c) The trust company shall administer the fund. The trust company shall determine the amount available for distribution from the fund, determined in accordance with a distribution policy that is adopted by the comptroller and designed to preserve the purchasing power of the fund's assets and to provide a stable and predictable stream of annual distributions. Expenses of managing the fund's assets shall be paid from the fund. Except as provided by this section, money in the fund may not be used for any purpose. Sections 403.095 and 404.071, Government Code, do not apply to the fund.

(d) In managing the assets of the fund, through procedures and subject to restrictions the trust company considers appropriate, the trust company may acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(e) The amount available for distribution from the fund may be appropriated only to offset the cost to institutions of higher education of the exemptions required by Section 54.341(k). The amount appropriated shall be distributed to eligible institutions in proportion to each institution's respective share of the aggregate cost to all institutions of the exemptions required by Section 54.341(k), as determined by the Legislative Budget Board. The amount appropriated shall be distributed annually to each eligible institution of higher education.

(f) The governing board of an institution of higher education entitled to receive money under this section may solicit and accept gifts and grants to the fund. A gift or grant to the fund must be distributed and appropriated for the purposes of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

SECTION 3. Subchapter A, Chapter 434, Government Code, is amended by adding Section 434.0079 to read as follows:

Sec. 434.0079. DUTIES REGARDING CERTAIN TUITION AND FEE EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS. (a) The commission, through its veteran education program, shall assist veterans and their family members in claiming and qualifying for exemptions from the payment of tuition and fees at institutions of higher education under Section 54.341, Education Code.

(b) The commission shall establish the application and necessary evidence requirements for a person to claim an exemption under Section 54.341, Education Code, at an institution of higher education.

(c) The commission shall adopt rules governing the coordination of federal and state benefits of a person eligible to receive an exemption under Section 54.341(k), Education Code, including rules governing:

(1) the total number of credit hours assigned under that section that a person may apply to an individual degree or certificate program, consistent with the standards of the appropriate recognized regional accrediting agency; and

(2) the application of the assigned exemption to credit hours for which the institution of higher education does not receive state funding.

SECTION 4. Section 61.0516, Education Code, is transferred to Subchapter A, Chapter 434, Government Code, redesignated as Section 434.00791, Government Code, and amended to read as follows:

Sec. 434.00791 [61.0516]. ELECTRONIC SYSTEM TO MONITOR TUITION EXEMPTIONS FOR VETERANS AND FAMILY MEMBERS [DEPENDENTS]. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) The commission [board] shall ensure [develop] a system to electronically monitor the use of tuition and fee exemptions at institutions of higher education under Section 54.341, Education Code, is developed. The system must allow the commission [board] to electronically receive, for each semester, the following information from institutions of higher education:

- (1) the name of the institution;
- (2) the name, identification number, and date of birth of each individual attending the institution and receiving benefits for the semester under Section 54.341, Education Code;
- (3) for each individual receiving benefits, the number of credit hours for which the individual received an exemption for the semester;
- (4) for each individual receiving benefits at the institution during the semester, the total cumulative number of credit hours for which the individual has received an exemption at the institution; and
- (5) any other information required by the commission [board].

(c) Not later than January 1, 2014, the Texas Higher Education Coordinating Board, under an agreement with the commission, shall provide access to the system developed by the coordinating board that meets the requirements of this section. This subsection expires September 1, 2015.

SECTION 5. Chapter 434, Government Code, is amended by adding Subchapters F and G to read as follows:

SUBCHAPTER F. VETERAN EDUCATION EXCELLENCE RECOGNITION  
AWARD NETWORK

Sec. 434.251. DEFINITIONS. In this subchapter:

- (1) "Commission" means the Texas Veterans Commission.
- (2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Sec. 434.252. VETERAN EDUCATION EXCELLENCE RECOGNITION AWARD NETWORK. (a) The commission by rule shall establish an award program under which institutions of higher education may receive recognition from the commission for excellence in providing education and related services to veterans.

(b) For purposes of receiving an award under Subsection (a), the commission shall evaluate an institution of higher education regarding, as applicable, the existence and quality at the institution of:

- (1) a centralized place for students who are veterans to meet or find assistance and information;
- (2) an institution employee who serves as a central point of contact for students who are veterans;
- (3) a United States Department of Veterans Affairs work-study program;
- (4) admissions and enrollment policies for veterans;
- (5) new student orientation and courses for veterans;
- (6) a student organization for veterans;
- (7) academic support services for students who are veterans;
- (8) mental health and disability services;
- (9) a housing policy that applies to veterans;
- (10) faculty and staff training on issues affecting students who are veterans;

(11) career services for students who are veterans; and  
(12) any other criteria considered necessary or appropriate by the commission.

Sec. 434.253. RULEMAKING AUTHORITY. The commission may adopt rules as necessary to administer this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

SUBCHAPTER G. VETERANS EDUCATION COUNSELORS PROGRAM

Sec. 434.301. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Veterans Commission.  
(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Sec. 434.302. VETERANS EDUCATION COUNSELORS. The commission shall employ veterans education counselors. The veterans education counselors shall:

(1) work with institutions of higher education and any existing veterans programs at those institutions to:

(A) create a hospitable and supportive environment for veterans;  
(B) enhance awareness of and encourage participation in veterans educational programs and commission programs providing other services to veterans, including employment and claims assistance services;

(C) develop programs providing ancillary assistance to veterans based on the unique needs of veterans and their family members;

(D) ensure that veterans successfully complete their education; and  
(E) promote the establishment of a student veterans group on each campus of those institutions;

(2) work with local, state, and national veterans groups, including the Veterans of Foreign Wars and the American Legion, to promote educational opportunities and benefits to the veteran population;

(3) work with local workforce development boards to:  
(A) ensure that the veterans education counselors are aware of available nontraditional educational opportunities, including on-the-job training programs and apprenticeships; and

(B) advise employers of potential opportunities to create on-the-job training programs for veterans;

(4) work with education services officers at military installations to encourage active duty members of the armed forces of the United States and veterans to use federal and state educational benefits;

(5) create and manage publicity campaigns in concert with the commission and institutions of higher education to promote the use of education benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008 (38 U.S.C. Section 3301 et seq.), the tuition exemption program for veterans and their family members under Section 54.341, Education Code, and any other education benefit for veterans or their family members under federal or state law;

(6) support programs to assist students who are combat veterans in readjusting and reintegrating into a noncombat environment;

(7) maintain statistical information regarding demographics of veterans assisted, application success, program completion rates, dropout rates, and reasons for success or failure, as appropriate; and

(8) perform other activities, as assigned by the commission, to enhance the educational opportunities of veterans and their family members.

Sec. 434.303. SUPPORT FROM INSTITUTIONS OF HIGHER EDUCATION. Each institution of higher education shall cooperate with the commission to provide information, as permitted by law, related to student veterans at the institution, provide access to veteran resource centers or other student meeting areas, and otherwise support the work of veterans education counselors.

Sec. 434.304. RULEMAKING AUTHORITY. The commission may adopt rules to implement this subchapter. In developing rules under this section, the commission shall consult with the Texas Higher Education Coordinating Board and institutions of higher education.

SECTION 6. Subdivision (4), Subsection (b), Section 9.01, Chapter 1049 (Senate Bill No. 5), Acts of the 82nd Legislature, Regular Session, 2011, which would repeal Subsection (h), Section 54.203, Education Code, effective September 1, 2013, is repealed and does not take effect, and Subsection (h), Section 54.341, Education Code, which was redesignated from Subsection (h), Section 54.203, Education Code, by Chapter 359 (Senate Bill No. 32), Acts of the 82nd Legislature, Regular Session, 2011, remains in effect as amended by this Act.

SECTION 7. The changes in law made by this Act by amending Subsections (d), (h), (i), (k), and (n), Section 54.341, Education Code, apply beginning with tuition and fees for the 2014 fall semester. Tuition and fees for a term or semester before the 2014 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.

SECTION 8. In adopting rules under this Act, including rules implementing authority transferred by this Act from the Texas Higher Education Coordinating Board, the Texas Veterans Commission shall engage institutions of higher education in a negotiated rulemaking process as described by Chapter 2008, Government Code.

SECTION 9. As soon as practicable after the effective date of this Act, the Texas Veterans Commission shall employ the veterans education counselors as required by Subchapter G, Chapter 434, Government Code, as added by this Act.

SECTION 10. (a) Except as provided by Subsection (b) of this section:

(1) 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; and

(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

(b) Subchapter F, Chapter 434, Government Code, as added by Section 5 of this Act, takes effect September 1, 2014.

The Conference Committee Report on **SB 1158** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 6**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 6** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS  
HINOJOSA  
DUNCAN  
NELSON

OTTO  
BONNEN, DENNIS  
GEREN  
DARBY  
PITTS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 6** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2836**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2836** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
DUNCAN  
SELIGER

RATLIFF  
KUEMPEL  
HUBERTY  
FARNEY  
TURNER, SYLVESTER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2836** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 211**

Senator Nichols submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 211** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NICHOLS

DUNCAN

WATSON

WHITMIRE

On the part of the Senate

DUTTON

BONNEN, DENNIS

COOK

PRICE

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the Texas Facilities Commission and to property development plans in connection with governmental entities; authorizing fees.

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

SECTION 1. Section 30.022, Education Code, is amended by amending Subsection (h) and adding Subsection (h-1) to read as follows:

(h) Except as provided by Subsection (h-1), the [The] board has [exclusive] jurisdiction over the physical assets of the school and shall administer and spend appropriations made for the benefit of the school.

(h-1) The Texas Facilities Commission shall provide facilities maintenance services for the physical facilities of the school, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the board and the Texas Facilities Commission.

SECTION 2. Section 30.052, Education Code, is amended by amending Subsection (h) and adding Subsection (h-1) to read as follows:

(h) Except as provided by Subsection (h-1), the [The] board has [exclusive] jurisdiction over the physical assets of the school and shall administer and spend appropriations to carry out the purposes of the school as provided by Section 30.051.

(h-1) The Texas Facilities Commission shall provide facilities maintenance services for the physical facilities of the school, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the board and the Texas Facilities Commission.

SECTION 3. Section 443.007, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the board updates or modifies its long-range master plan for the preservation, maintenance, restoration, and modification of the Capitol and the Capitol grounds, the board must conform its plan to the Capitol Complex master plan prepared by the Texas Facilities Commission under Section 2166.105.

SECTION 4. Section 552.153, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:

(1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267 for which:

(A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and

(B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity; or

(2) the records are provided by a proposer [~~contracting person~~] to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the proposer [~~contracting person~~];

(B) financial records of the proposer [~~contracting person~~], including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) work product related to a competitive bid or proposal [~~other information~~] submitted by the proposer [~~contracting person~~] that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer [~~person~~].

(d) In this section, "proposer" has the meaning assigned by Section 2267.001.

SECTION 5. Section 2152.002, Government Code, is amended to read as follows:

Sec. 2152.002. SUNSET PROVISION. The Texas Facilities [~~Building and Procurement~~] Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this subtitle, except for Chapter 2170 and Section 2157.121, expires September 1, 2021 [~~2013~~].



SECTION 6. Subchapter B, Chapter 2152, Government Code, is amended by adding Section 2152.066 to read as follows:

Sec. 2152.066. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SECTION 7. Section 2152.104, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall provide professional service staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), to support the Partnership Advisory Commission in its review and evaluation of qualifying project proposals.

SECTION 8. Subsection (b), Section 2165.007, Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the commission shall provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. The commission's duty does not apply to:

(1) a facility owned or operated by an institution of higher education;

(2) military facilities;

(3) facilities owned or operated by the Texas Department of Criminal Justice;

(4) facilities owned or operated by the Texas Juvenile Justice Department [~~Youth Commission~~];

(5) facilities owned or operated by the Texas Department of Transportation;

(6) the Capitol, including the Capitol Extension, the General Land Office building, the Bob Bullock Texas State History Museum, any museum located on the Capitol grounds, the Governor's Mansion, and any property maintained by the Texas Historical Commission under Sections 442.0072 and 442.0073;

(7) a facility determined by the commission to be completely residential;

(8) a regional or field office of a state agency;

(9) a facility located within or on state park property;

(10) the property known as the Finance Commission Building described by deed recorded in Volume 5080, Page 1099, of the Deed Records of Travis County, Texas; ~~or~~

(11) the property known as the Credit Union Department Building described by deed recorded in Volume 6126, Page 27, of the Deed Records of Travis County, Texas;

(12) facilities owned or operated by the Texas School for the Blind and Visually Impaired; or

(13) facilities owned or operated by the Texas School for the Deaf.

SECTION 9. Section 2165.055, Government Code, is amended to read as follows:

Sec. 2165.055. REPORT ABOUT IMPROVEMENTS AND REPAIRS. The commission ~~biennially~~ on July 1 of each even-numbered year ~~[December 1st]~~ shall electronically submit a report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board on:

(1) all improvements and repairs that have been made, with an itemized account of receipts and expenditures; and

(2) the condition of all property under its control, with an estimate of needed improvements and repairs.

SECTION 10. Section 2165.2035, Government Code, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) From the money received under Subsection (d), an amount equal to the costs associated with the lease of state parking lots and garages, including costs of trash collection and disposal, grounds and other property maintenance, and the remedying of any damage to state property, may be appropriated only to the commission to pay those costs.

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

SECTION 11. Section 2165.2046, Government Code, is amended to read as follows:

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before December ~~October~~ 1 of each even-numbered year, the commission shall electronically submit a report to the legislature and Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

- (1) the yearly revenue generated by the programs;
- (2) the yearly administrative and enforcement costs of each program;
- (3) yearly usage statistics for each program; and
- (4) initiatives and suggestions by the commission to:
  - (A) modify administration of the programs; and
  - (B) increase revenue generated by the programs.

SECTION 12. Subchapter F, Chapter 2165, Government Code, is amended by adding Section 2165.259 to read as follows:

Sec. 2165.259. CAPITOL COMPLEX. (a) In this section, "Capitol Complex" has the meaning assigned by Section 443.0071.

(b) Notwithstanding Subchapter D and subject to Subsection (d), the commission may not lease, sell, or otherwise dispose of real property or an interest in real property located in the Capitol Complex.

(c) This section does not affect the commission's authority under Subchapter E to lease space in state office buildings and parking garages.

(d) The commission may develop or operate a qualifying project, as that term is defined by Section 2267.001, in the Capitol Complex if:

(1) the legislature by general law specifically authorizes the project; and

(2) before the commission enters into a comprehensive agreement for the project, the legislature individually approves the project under Section 2268.058.

SECTION 13. Chapter 2165, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. PUBLIC AND PRIVATE FACILITIES AND  
INFRASTRUCTURE: QUALIFYING PROJECTS

Sec. 2165.351. DEFINITIONS. In this subchapter:

(1) "Partnership Advisory Commission" means the Partnership Advisory Commission created by Chapter 2268.

(2) "Qualifying project" has the meaning assigned by Section 2267.001, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011.

Sec. 2165.352. COMMISSION REVIEW GUIDELINES AND POLICIES.

(a) In adopting the qualifying project review guidelines required by Section 2267.052, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, the commission must include review criteria and documentation to guide the initial review of each substantially complete qualifying project proposal received by the commission.

(b) The review criteria required under Subsection (a) at a minimum must include:

(1) the extent to which the qualifying project meets a public need;

(2) the extent to which the project meets the objectives and priorities of the commission and aligns with any applicable commission plans and design guidelines or zoning requirements, including the Capitol Complex master plan developed under Section 2166.105;

(3) the technical and legal feasibility of the project;

(4) the adequacy of the qualifications, experience, and financial capacity of a private entity or other person submitting the proposal;

(5) any potentially unacceptable risks to this state; and

(6) whether an alternative delivery method is feasible and more effectively meets this state's goals.

(c) The commission's qualifying project review guidelines must:

(1) specify the types of professional expertise, including financial, real estate, design, legal, and other related expertise, needed to effectively protect this state's interest when considering and implementing a qualifying project;

(2) specify the range of professional expertise needed at each stage of the project, including proposal evaluation, financial analysis, risk allocation analysis, design review, contract negotiation, and contract and performance monitoring, to evaluate the qualifying project proposal; and

(3) require the oversight committee established by the commission for each qualifying project to report to the commission the results of the committee's evaluation of the project, including the schedules, procedures, proposal evaluation criteria, and documentation required in the guidelines for the evaluation.

(d) On completion of the negotiation phase for the development of a comprehensive agreement and before a comprehensive agreement is entered into, the commission shall:

(1) for each qualifying project proposal, post on the commission's Internet website the oversight committee's review report and other evaluation documents; and

(2) before posting the report and documents required under Subdivision (1), redact all information included in the report and documents that is considered confidential under Section 2267.066(c).

(e) The expertise described by Subsection (c) may be provided by commission staff or outside experts.

Sec. 2165.353. QUALIFYING PROJECT FEES. (a) The commission may charge a reasonable fee to cover the costs of reviewing a qualifying project. The commission shall develop and adopt a qualifying project proposal fee schedule sufficient to cover its costs, including at a minimum the costs of processing, reviewing, and evaluating the proposals.

(b) The commission shall use the professional expertise information required under Section 2165.352(c) to determine the amount of the fee charged by the commission to review a qualifying project proposal. The amount must be reasonable in comparison to the level of professional expertise required for the project and may include the cost of staff time required to process the proposal and other direct costs.

(c) The commission may use the money from the fees collected under this section to hire or contract with persons who have the professional expertise necessary to effectively evaluate a qualifying project proposal.

Sec. 2165.354. INITIAL REVIEW OF QUALIFYING PROJECT PROPOSAL. (a) The commission staff shall conduct an initial review of each qualifying project proposal submitted to the commission and provide to commission members a summary of the review, including an analysis and recommendations.

(b) Subject to Subsection (c), the commission shall use a value for money analysis in evaluating each qualifying project proposal to:

(1) conduct a thorough risk analysis of the proposal that identifies specific risks shared between this state and the private partner and subjects the risks to negotiation in the contract;

(2) determine if the proposal is in the best long-term financial interest of this state; and

(3) determine if the project will provide a tangible public benefit to this state.

(c) If commission staff determine that a value for money analysis is not appropriate for evaluating a specific qualifying project proposal, the staff shall submit to the commission a written report stating the reasons for using an alternative analysis methodology.

(d) The commission shall coordinate with the commission's office of internal audit for review and receipt of comments on the reasonableness of the assumptions used in the value for money analysis or alternative analysis methodology used to evaluate a qualifying project proposal under this section.

Sec. 2165.355. INITIAL PUBLIC HEARING ON QUALIFYING PROJECT PROPOSAL. (a) Before submitting a detailed qualifying project proposal to the Partnership Advisory Commission as required under Section 2268.058, the commission must hold an initial public hearing on the proposal.

(b) The commission must post a copy of the detailed qualifying project proposal on the commission's Internet website before the required public hearing and, before posting the proposal, redact all information included in the proposal that is considered confidential under Section 2267.066(c).

(c) After the hearing, the commission shall:

(1) modify the proposal as the commission determines appropriate based on the public comments; and

(2) include the public comments in the documents submitted to the Partnership Advisory Commission and provide any additional information necessary for the evaluation required under Chapter 2268.

Sec. 2165.356. SUBMISSION OF QUALIFYING PROJECT CONTRACT TO CONTRACT ADVISORY TEAM. (a) Not later than the 60th day before the date the commission is scheduled to vote on approval of a qualifying project contract, the commission must submit to the Contract Advisory Team established under Subchapter C, Chapter 2262, documentation of the modifications to a proposed qualifying project made during the commission's evaluation and negotiation process for the project, including a copy of:

(1) the final draft of the contract;

(2) the detailed qualifying project proposal; and

(3) any executed interim or other agreement.

(b) The Contract Advisory Team shall review the documentation submitted under Subsection (a) and provide written comments and recommendations to the commission. The review must focus on, but not be limited to, best practices for contract management and administration.

(c) Commission staff shall provide to the commission members:

(1) a copy of the Contract Advisory Team's written comments and recommendations; and

(2) the staff's response to the comments and recommendations.

Sec. 2165.3561. MUNICIPAL PROJECT. Not later than the 30th day before the date the commission is scheduled to meet and vote on a project to develop or improve state property in a municipality, the commission staff must:

(1) place the project on the commission's meeting agenda to provide the public with notice of the meeting and an opportunity to comment; and

(2) present sufficient information to commission members to enable the members to adequately prepare for the meeting and to address the members' questions and concerns.

Sec. 2165.357. PROHIBITED EMPLOYMENT OF COMMISSION EMPLOYEE. (a) A commission employee may not be employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) The commission shall obtain from each commission employee sufficient information for the commission to determine whether:

(1) the employee is employed by another person; and

(2) a potential conflict of interest exists between the employee's commission duties and the employee's duties with the other employer.

(c) Each commission employee whose commission duties relate to a qualifying project, including long-range planning, real estate management, space management, and leasing services, shall attest that the employee is aware of and agrees to the commission's ethics and conflict-of-interest policies.

(d) To the extent the employment is authorized by commission policy, this section does not prohibit additional employment for a commission employee whose commission duties are not related to a qualifying project.

SECTION 14. The heading to Chapter 2166, Government Code, is amended to read as follows:

CHAPTER 2166. BUILDING CONSTRUCTION AND ACQUISITION AND DISPOSITION OF REAL PROPERTY

SECTION 15. Section 2166.001, Government Code, is amended by amending Subdivisions (1) and (1-a) and adding Subdivision (1-b) to read as follows:

(1) "Capitol Complex" has the meaning prescribed by Section 411.061(a)(1).

(1-a) "Commission" means the Texas Facilities Commission.

(1-b) [~~(1-a)~~] "Construction" includes acquisition and reconstruction.

SECTION 16. Section 2166.002, Government Code, is amended to read as follows:

Sec. 2166.002. APPLICABILITY OF CHAPTER. This chapter applies only to a building construction project of the state, the acquisition of real property for state purposes, and the disposition of real property owned by the state.

SECTION 17. Subsection (d), Section 2166.101, Government Code, is amended to read as follows:

(d) The commission shall summarize its findings on the status of state-owned buildings and current information on construction costs in an electronically submitted [a] report [~~it shall make available~~] to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board not later than July 1 of each even-numbered year [~~the legislature, and the state's budget offices~~].

SECTION 18. Subsection (b), Section 2166.102, Government Code, is amended to read as follows:

(b) The commission shall maintain a six-year capital planning cycle and shall electronically submit ~~file~~ a master facilities plan with the governor, lieutenant governor, speaker of the house of representatives, ~~Governor's Office of Budget and Planning, the~~ Legislative Budget Board, and ~~the~~ comptroller before July 1 of each even-numbered year.

SECTION 19. Subsection (b), Section 2166.103, Government Code, is amended to read as follows:

(b) Not later than July 1 of each even-numbered year ~~Before each legislative session~~, the commission shall electronically submit ~~send~~ to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the Legislative Budget Board a report identifying counties in which more than 50,000 square feet of usable office space is needed and the commission's recommendations for meeting that need. The commission may recommend leasing or purchasing and renovating one or more existing buildings or constructing one or more buildings.

SECTION 20. Subchapter C, Chapter 2166, Government Code, is amended by adding Sections 2166.105, 2166.106, 2166.1065, 2166.107, and 2166.108 to read as follows:

Sec. 2166.105. CAPITOL COMPLEX MASTER PLAN. (a) The commission shall prepare a Capitol Complex master plan that at a minimum includes:

(1) an overview and summary of the previous plans for the Capitol Complex;

(2) a stated strategic vision and long-term goals for the Capitol Complex;

(3) an analysis of state property, including buildings, in the Capitol Complex and of the extent to which this state satisfies its space needs through use of the property;

(4) detailed, site-specific proposals for state property in the Capitol Complex, including proposals on the use of property and space for public sector purposes;

(5) an analysis of and recommendations for building design guidelines to ensure appropriate quality in new or remodeled buildings in the Capitol Complex;

(6) an analysis of and recommendations for Capitol Complex infrastructure needs, including transportation, utilities, and parking;

(7) for projects identified in the plan, an analysis of and recommendations for financing options;

(8) time frames for implementing the plan components and any projects identified in the plan;

(9) consideration of alternative options for meeting state space needs outside the Capitol Complex; and

(10) other information relevant to the Capitol Complex as the commission determines appropriate.

(b) The commission shall ensure that the General Land Office, the State Preservation Board, the Texas Historical Commission, and other relevant interested parties are included in each stage of the development of the Capitol Complex master plan.

(c) The commission shall submit to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board:

(1) not later than April 1, 2016, the initial Capitol Complex master plan; and  
(2) not later than July 1 of each even-numbered year thereafter, updates to the plan.

(d) The commission shall ensure that the Capitol Complex master plan and the master facilities plan developed under Section 2166.102 do not conflict and together comprehensively address the space needs of state agencies.

Sec. 2166.106. REVIEW OF PROPOSED CAPITOL COMPLEX MASTER PLAN BY PARTNERSHIP ADVISORY COMMISSION. (a) Before a proposed Capitol Complex master plan or proposed update to the plan is submitted and considered approved under Section 2166.1065 and before the commission adopts the plan or update, the commission must submit the plan or update to the Partnership Advisory Commission established under Chapter 2268 for review and comment.

(b) Not later than the 60th day after the date the Partnership Advisory Commission receives the plan or update, the advisory commission shall in a public hearing by majority vote of the members present:

(1) vote to approve the plan or update; or  
(2) submit to the commission written comments and recommended modifications to the plan or update.

Sec. 2166.1065. REVIEW OF CAPITOL COMPLEX MASTER PLAN BY STATE PRESERVATION BOARD AND GENERAL LAND OFFICE. (a) Not later than the 90th day before the date the commission holds a public meeting to discuss a proposed Capitol Complex master plan, the commission must submit the proposed plan to the State Preservation Board for review and comment. Not later than the 60th day before the date the commission holds a public meeting to discuss a proposed Capitol Complex master plan, the commission must submit the proposed plan to the General Land Office for review and comment.

(b) Not later than the 60th day before the date the commission holds a public meeting to discuss a proposed update to the Capitol Complex master plan, the commission must submit the proposed update to the State Preservation Board and the General Land Office for review and comment.

(c) Not later than the 90th day after the date the State Preservation Board receives from the commission a proposed Capitol Complex master plan and not later than the 60th day after the date the board receives from the commission a proposed update to the plan, the board may:

(1) by a public vote disapprove the plan or update if the board determines that the goals or recommendations in the plan or update are not in the best interest of the state or of the Capitol Complex; and

(2) submit to the commission written comments and recommended modifications to the plan or update.

(d) The proposed Capitol Complex master plan or the proposed update to the plan is considered to be approved by the State Preservation Board if the board does not hold the public vote authorized by Subsection (c) on or before the date required under that subsection.

(e) The review of the Capitol Complex master plan under this section is in addition to the review required for a proposed project under Section 443.0071.



Sec. 2166.107. COMPREHENSIVE PLANNING AND DEVELOPMENT PROCESS. (a) The commission by rule shall adopt a comprehensive process for planning and developing state property in the commission's inventory and for assisting state agencies in space development planning for state property under Sections 2165.105 and 2165.1061.

(b) The process under this section at a minimum must include:

(1) a clear approach and specific time frames for obtaining input throughout the planning and development process from the public, interested parties, and state agencies, including the General Land Office;

(2) specific schedules for providing to the commission regular updates on planning and development efforts;

(3) a public involvement policy to ensure that before the commission makes a decision on the use or development of state property the public and interested parties have the opportunity to review and comment on the commission's plans; and

(4) confidentiality policies consistent with Chapter 552.

Sec. 2166.108. COMPREHENSIVE CAPITAL IMPROVEMENT AND DEFERRED MAINTENANCE PLAN. (a) The commission shall develop a comprehensive capital improvement and deferred maintenance plan that clearly defines the capital improvement needs and critical and noncritical maintenance needs of state buildings.

(b) The comprehensive capital improvement and deferred maintenance plan must:

(1) with respect to deferred maintenance projects:

(A) list, with regular updates, deferred maintenance projects that contain critical high-priority projects and lower-priority, non-health and safety projects;

(B) state the commission's plan for addressing the projects;

(C) account for the completion of high-priority projects;

(D) estimate when the lower-priority projects may become higher-priority projects; and

(E) be modified as necessary to include additional maintenance projects;

(2) contain a list of all predictable capital improvement projects, including a time frame and a cost estimate for each project; and

(3) contain a plan, updated biennially, for responding to emergency repairs and replacements that, in consultation with the Legislative Budget Board, identifies potential sources of funds, which may include bonds and bond interest, that may be used to pay the costs of emergency repair and replacement projects.

(c) The comprehensive capital improvement and deferred maintenance plan must include for each segment of the plan described by Subsection (b) a prioritized list by state agency facility of each project that includes an estimate of the project's cost and the aggregate costs for all facility projects.

(d) The commission shall include the comprehensive capital improvement and deferred maintenance plan and regular updates to the plan in its long-range plan under Section 2166.102. The information included in the long-range plan must include the aggregate project costs for each state agency but may exclude the cost of each specific facility project.

SECTION 21. Section 2175.184, Government Code, is amended to read as follows:

Sec. 2175.184. DIRECT TRANSFER. (a) During the 10 business days after the date the property is posted on the comptroller's website, a state agency, political subdivision, or assistance organization shall coordinate with the commission for a transfer of the property at a price established by the commission. A transfer to a state agency has priority over any other transfer during this period.

(b) A political subdivision or assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of property acquired under this section or acquired from a state agency under Section 2175.241 before the second anniversary of the date the property was acquired. A political subdivision or an assistance organization that violates this subsection shall remit to the commission the amount the political subdivision or assistance organization received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the action taken by the political subdivision or assistance organization with respect to the property.

SECTION 22. Section 2175.905, Government Code, is amended by adding Subsection (d) to read as follows:

(d) An assistance organization may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of data processing equipment acquired under this section. The assistance organization may dispose of the equipment only by transferring the equipment to the school district that specified the assistance organization for transfer under this section.

SECTION 23. Section 2267.001, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by adding Subdivisions (1-a), (5-a), (9-a), (9-b), (9-c), (10-a), and (14-a) and amending Subdivisions (10) and (12) to read as follows:

(1-a) "Commission" means the Partnership Advisory Commission established under Chapter 2268.

(5-a) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land;  
(B) the installation of water, sewer, or drainage lines on, above, or under land;

(C) the paving of undeveloped land; and

(D) specialized software that in any manner is related to the control, management, maintenance, or operation of an improvement.

(9-a) "Private entity" means any individual person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

(9-b) "Property" means any matter or thing capable of public or private ownership.

(9-c) "Proposer" means a private entity that submits a proposal to a responsible governmental entity or affected jurisdiction.

(10) "Qualifying project" means:

(A) any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or

(B) any improvements necessary or desirable to [~~unimproved~~] real property [~~estate~~] owned by a governmental entity.

(10-a) "Real property" means:

(A) improved or unimproved land;

(B) an improvement;

(C) a mine or quarry;

(D) a mineral in place;

(E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property described by Paragraphs (A) through (E).

(12) "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that arise out of or in connection with [~~support~~] the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or instrumentality of the federal government or governmental entity in aid of the project.

(14-a) "State entity" means a governmental entity described by Subdivision (5)(A).

SECTION 24. Section 2267.003, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

Sec. 2267.003. APPLICABILITY. This chapter does not apply to:

(1) the financing, design, construction, maintenance, or operation of a highway in the state highway system;

(2) a transportation authority created under Chapter 451, 452, 453, or 460, Transportation Code; [~~or~~]

(3) any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project; or

(4) except as provided by Section 2165.259, a qualifying project located in the Capitol Complex, as defined by Section 443.0071.

SECTION 25. Subchapter A, Chapter 2267, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by adding Sections 2267.005, 2267.0051, 2267.0052, 2267.006, 2267.0061, 2267.0062, 2267.0063, 2267.0064, 2267.0065, 2267.0066, and 2267.0067 to read as follows:

Sec. 2267.005. CONFLICT OF INTEREST. An employee of a responsible governmental entity or a person related to the employee within the second degree by consanguinity or affinity, as determined under Chapter 573, may not accept money, a financial benefit, or other consideration from a contracting person that has entered into a comprehensive agreement with the responsible governmental entity.

Sec. 2267.0051. PROHIBITED EMPLOYMENT WITH FORMER OR RETIRED GOVERNMENTAL ENTITY EMPLOYEES. (a) A contracting person may not employ or enter into a professional services contract or a consulting services contract under Chapter 2254 with a former or retired employee of the responsible governmental entity with which the person has entered into a comprehensive agreement before the first anniversary of the date on which the former or retired employee terminates employment with the entity.

(b) This section does not prohibit the contracting person from entering into a professional services contract with a corporation, firm, or other business organization that employs a former or retired employee of the responsible governmental entity before the first anniversary of the date the former or retired employee terminates employment with the entity if the former or retired employee does not perform services for the corporation, firm, or other business organization under the comprehensive agreement with the responsible governmental entity that the former or retired employee worked on before terminating employment with the entity.

Sec. 2267.0052. PROHIBITED EMPLOYMENT OF RESPONSIBLE GOVERNMENTAL ENTITY EMPLOYEES. (a) An employee of a responsible governmental entity may not be employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) The responsible governmental entity shall obtain from each employee sufficient information to determine whether:

- (1) the employee is employed by another person; and
- (2) a potential conflict of interest exists between the employee's duties for the entity and the employee's duties with the other employer.

(c) Each employee of a responsible governmental entity whose duties relate to a qualifying project shall attest that the employee is aware of and agrees to the responsible governmental entity's ethics and conflict-of-interest policies.

(d) To the extent the other employment is authorized by the responsible governmental entity's policy, this section does not prohibit additional employment for an employee of a responsible governmental entity whose duties are not related to a qualifying project.

Sec. 2267.006. DEVELOPMENT PLAN. (a) If the state intends to develop or operate a qualifying project under this chapter, the state entity proposing to develop or operate the project may adopt a development plan on the real property associated with the project.

(b) The purpose of a development plan is to conserve and enhance the value of real property belonging to the state, taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated.

(c) The plan must address local land use planning ordinances, which may include the following:

(1) allocation and location of specific uses of the real property, including residential, commercial, industrial, recreational, or other appropriate uses;

(2) densities and intensities of designated land uses;

(3) the timing and rate of development;

(4) timely delivery of adequate facilities and services, including water, wastewater collection and treatment systems, parks and public recreational facilities, drainage facilities, school sites, and roads and transportation facilities; or

(5) needed zoning and other land use regulations.

(d) The plan must comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations, orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review.

Sec. 2267.0061. PUBLIC HEARING BEFORE PREPARATION OF DEVELOPMENT PLAN. (a) If the state entity is requested to prepare a development plan under Section 2267.006, the state entity shall notify the local government to which the plan will be submitted under Section 2267.0062 of the state entity's intent to prepare a development plan. The state entity shall provide the local government with information relating to:

(1) the location of the real property to be offered for sale or lease;

(2) the highest and best use of the real property; and

(3) the process for preparing the development plan under Section 2267.006 and the process provided under Sections 2267.0065 and 2267.0066 for the special board of review.

(b) Not later than the 30th day after the date the local government receives the notice provided under Subsection (a), the local government may request the state entity to hold a public hearing to solicit public comment. If requested by the local government, the state entity shall hold a public hearing. The local government shall provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government's jurisdiction. The state entity shall set the agenda for the hearing, which must be completed not later than the 120th day after the date notice is provided under Subsection (a).

(c) If the local government does not request a public hearing under Subsection (b), the state entity may hold a hearing to solicit public comment. The state entity shall provide notice of the hearing in the same manner that a local government is required

to provide notice under Subsection (b). The state entity shall set the agenda for the hearing and must complete the hearing not later than the 120th day after the date the notice is provided under Subsection (a).

(d) A public hearing under this section may include:

(1) a presentation by the state entity relating to the state entity's classification of the real property as unused or substantially underused and the state entity's recommendation of the highest and best use to which the real property may legally be placed;

(2) a presentation by the local government relating to relevant local plans, development principles, and ordinances that may affect the development of the real property; and

(3) oral comments and presentations of information by and written comments received from other persons relating to the development of the real property.

(e) The state entity shall prepare a summary of the information and testimony presented at a hearing conducted under this section and may develop recommendations based on the information and testimony. The state entity shall prepare a report summarizing the information and testimony presented at the hearing and the views presented by the state, the affected local governments, and other persons who participated in the hearing process. The governing body of the state entity shall review the state entity's report and may instruct the state entity to incorporate information based on the report in preparing the development plan under Section 2267.006.

(f) The state entity may adopt rules to implement this section. The state entity shall administer the process provided by this section.

Sec. 2267.0062. SUBMISSION OF PLAN TO AFFECTED LOCAL GOVERNMENT. (a) The development plan adopted under Section 2267.006 shall be submitted to any local government having jurisdiction over the real property in question for consideration.

(b) The local government shall evaluate the plan and either accept or reject the plan not later than the 120th day after the date the state entity submits the plan.

(c) The plan may be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances.

(d) If the plan is rejected, the local government shall specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance.

(e) If the plan is rejected by the affected local government, the state entity may modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval, or the state entity may apply for necessary rezoning or variances from the local ordinances.

(f) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an acceptance by the local government of the plan.

Sec. 2267.0063. REZONING. (a) If the plan would require zoning inconsistent with any existing zoning or other land use regulation, the state entity or its designated representative may at any time submit a request for rezoning to the local government with jurisdiction over the real property in question.

(b) The rezoning or variance request shall be submitted in the same manner as any such request is submitted to the affected local government provided the local government takes final action on the request not later than the 120th day after the date the request for rezoning or variance is submitted.

(c) Failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an approval of the rezoning request by the local government.

Sec. 2267.0064. FEES AND ASSESSMENTS. (a) The local government may not impose application, filing, or other fees or assessments on the state for consideration of the plan or the application for rezoning or variance submitted by the state.

(b) The local government may not require the submission of architectural, engineering, or impact studies to be completed at state expense before considering the plan or application for rezoning or variance.

Sec. 2267.0065. SPECIAL BOARD OF REVIEW. (a) If the local government denies the rezoning request submitted under this chapter, the matter may be appealed to a special board of review consisting of the following members:

(1) the land commissioner;

(2) the mayor of the municipality within whose corporate boundaries or extraterritorial jurisdiction the real property is located;

(3) the county judge of the county in which the qualifying project is located;

(4) the executive director of the state entity that proposes to develop or operate the qualifying project; and

(5) a member appointed by the governor.

(b) The land commissioner shall serve as the presiding officer of the special board of review.

Sec. 2267.0066. HEARING. (a) The special board of review shall conduct one or more public hearings to consider the proposed development plan.

(b) Hearings shall be conducted in accordance with rules adopted by the General Land Office for conducting a special review.

(c) If real property is located in more than one municipality, the hearings on any single tract of real property may be combined.

(d) Any political subdivision in which the tract in question is located and the appropriate central appraisal district shall receive written notice of board hearings at least 14 days before the date of the hearing.

(e) At least one hearing shall be conducted in the county where the real property is located.

(f) If after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state, the board shall issue an order establishing a development plan to govern the use of the real property as provided in this section.

(g) Development of the real property shall be in accordance with the plan and must comply with all local rules, regulations, orders, or ordinances except as specifically identified in an order of the special board of review issued pursuant to Subsection (f). In the event that substantial progress is not made toward development of the tract within five years of the date of adoption by the special board of review, local development policies and procedures shall become applicable to development of the tract, unless the special board of review promulgates a new plan.

(h) The hearing may not be considered a contested case proceeding under Chapter 2001 and is not subject to appeal under that chapter.

Sec. 2267.0067. BINDING EFFECT OF DEVELOPMENT PLAN. (a) Except as provided by this subsection, a development plan promulgated by the special board of review under this chapter and any plan accepted by a local government shall be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review. If the state entity does not receive a bid or auction solicitation for the real property subject to the development plan, the state entity, at the direction of the executive director of the entity, may revise the development plan to conserve and enhance the value and marketability of the real property.

(b) A local government, political subdivision, owner, builder, developer, or any other person may not modify the development plan without specific approval by the special board of review.

(c) The special board of review must file a copy of the development plan in the deed records of the county in which the real property is located. Revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was adopted by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

SECTION 26. (a) Section 2267.051, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, 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 may not develop or operate a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. The person may initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a), or the responsible governmental entity may request proposals or invite bids under Section 2267.053(b).

(a-1) A person may not develop or operate a qualifying project on property located within the Capitol Complex, as defined by Section 411.061(a)(1), unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. The person may not initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a). The responsible governmental entity may request proposals or invite bids under Section 2267.053(b).

(b) If S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex is enacted and becomes law, this section has no effect.



SECTION 27. Section 2267.052, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by amending Subsections (b) and (c) and adding Subsections (c-1) and (d) to read as follows:

(b) The guidelines for a responsible governmental entity described by Section 2267.001(5)(A) must:

(1) require the responsible governmental entity to:

(A) make a representative of the entity available to meet with persons who are considering submitting a proposal; and

(B) provide notice of the representative's availability;

(2) provide reasonable criteria for choosing among competing proposals;

(3) contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

(4) allow the responsible governmental entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project considered a priority by the entity;

(5) include financial review and analysis procedures that at a minimum consist of:

(A) a cost-benefit analysis;

(B) an assessment of opportunity cost;

(C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and

(D) consideration of the results of all studies and analyses related to the proposed qualifying project;

(6) allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;

(7) ensure that the governmental entity, for a proposed project to improve real property, evaluates design quality, life-cycle costs, and the proposed project's relationship to any relevant comprehensive planning or zoning requirements;

(8) include criteria for:

(A) the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities;

(B) the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity, that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement; and

(C) compliance with the requirements of Chapter 2268;

(9) ~~(8)~~ require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to Section 2267.053(g);

(10) ~~(9)~~ establish criteria, key decision points, and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and

(11) [(40)] require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including:

(A) specific information and documentation regarding the nature, timing, and scope of the qualifying project, as required under Section 2267.053(a);

(B) a reasonable period, as determined by the responsible governmental entity, of not less than 45 days or more than 180 days, or a longer period specified by the governing body of the responsible governmental entity to accommodate a large-scale project, ~~[as determined by the responsible governmental entity,]~~ to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project; and

(C) a requirement for advertising the notice on the governmental entity's Internet website and on TexasOnline or the state's official Internet website.

(c) The guidelines of a responsible governmental entity described by Section 2267.001(5)(B) must include:

(1) ~~[may include]~~ the provisions required under Subsection (b); and

(2) ~~[must include]~~ a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or certified public accountant, not otherwise employed by the governmental entity, to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of any proposal requesting approval of a qualifying project unless the governing body of the governmental entity determines that the analysis of the proposal is to be performed by similarly qualified employees of the governmental entity.

(c-1) For a proposal with an estimated cost of \$5 million or more for the construction or renovation of a structure or project, the analysis conducted under Subsection (c)(2) must include review of the proposal by an architect, a professional engineer, and a certified public accountant not otherwise employed by the governmental entity.

(d) A responsible governmental entity described by Section 2267.001(5)(A) shall submit a copy of the guidelines adopted by the entity under this section to the commission for approval by the commission consistent with the requirements of Subsection (b). The commission shall prescribe the procedure for submitting the guidelines for review under this section. The commission must complete its review of the guidelines not later than the 60th day after the date the commission receives the guidelines and provide written comments and recommendations to the governmental entity to ensure timely compliance with Subsection (b). The governmental entity may not request or consider a proposal for a qualifying project until the guidelines are approved by the commission.

SECTION 28. Section 2267.053, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by amending Subsections (a), (b), (g), and (h) and adding Subsections (a-1), (b-1), and (b-2) to read as follows:

(a) A private entity or other person may submit a proposal requesting approval of a qualifying project by the responsible governmental entity. The proposal must be accompanied by the following, unless waived by the responsible governmental entity:

(1) a topographic map, with a 1:2,000 or other appropriate scale, indicating the location of the qualifying project;

(2) a description of the qualifying project, including:

(A) the conceptual design of any facility or a conceptual plan for the provision of services or technology infrastructure; and

(B) a schedule for the initiation of and completion of the qualifying project that includes the proposed major responsibilities and timeline for activities to be performed by the governmental entity and the person;

(3) a statement of the method the person proposes for securing necessary property interests required for the qualifying project;

(4) information relating to any current plans for the development of facilities or technology infrastructure to be used by a governmental entity that are similar to the qualifying project being proposed by the person for each affected jurisdiction;

(5) a list of all permits and approvals required for the development and completion of the qualifying project from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals;

(6) a list of any facilities that will be affected by the qualifying project and a statement of the person's plans to accommodate the affected facilities;

(7) a statement on the person's general plans for financing the qualifying project, including the sources of the person's funds and identification of any dedicated revenue source or proposed debt or equity investment for the person;

(8) the name and address of each individual who may be contacted for further information concerning the request;

(9) user fees, lease payments, and other service payments over the term of any applicable interim or comprehensive agreement and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time;

(10) a statement of the specific public purpose served by the qualifying project;

(11) a statement describing the qualifying project's compliance with the responsible governmental entity's best value determination under Subsection (b-1);  
and

(12) ~~(40)~~ any additional material and information the responsible governmental entity reasonably requests.

(a-1) A responsible governmental entity that accepts an unsolicited proposal for a qualifying project under Subsection (a), in accordance with the requirements of Section 2267.052(b)(11)(B), shall select the contracting person for the project by soliciting additional proposals through a request for qualifications, request for proposals, or invitation to bid.

(b) A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project.

(b-1) A responsible governmental entity shall make a best value determination in evaluating the proposals received and consider the total project cost as one factor in evaluating the proposals. The responsible governmental entity ~~received, but~~ is not required to select the proposal that offers the lowest total project cost ~~and~~ ~~the responsible governmental entity~~ may consider the following factors:

- (1) the proposed cost of the qualifying project;
- (2) the general reputation, industry experience, and financial capacity of the person submitting a proposal;
- (3) the proposed design and overall quality of the qualifying project;
- (4) the eligibility of the project for accelerated selection, review, and documentation timelines under the responsible governmental entity's guidelines;
- (5) comments from local citizens and affected jurisdictions;
- (6) benefits to the public;
- (7) the person's good faith effort to comply with the goals of a historically underutilized business plan;
- (8) the person's plans to employ local contractors and residents;
- (9) for a qualifying project that involves a continuing role beyond design and construction, the person's proposed rate of return and opportunities for revenue sharing;
- (10) the relationship and conformity of the qualifying project to a state or local community plan impacted by the qualifying project or to the uses of property surrounding the qualifying project;
- (11) the historic significance of the property on which the qualifying project is proposed to be located;
- (12) the environmental impact of the qualifying project; and
- (13) ~~(14)~~ other criteria that the responsible governmental entity considers appropriate.

(b-2) A responsible governmental entity may approve a qualifying project that the governmental entity determines serves a public purpose. The responsible governmental entity must include in the comprehensive agreement for the qualifying project a written declaration of the specific public purpose served by the project.

(g) The responsible governmental entity shall take action appropriate under Section 552.153 to protect confidential and proprietary information provided by a private entity submitting the proposal and by the contracting person under an agreement.

(h) Before completing the negotiation and entering into [the negotiation of] an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals, including drafts of any interim agreement and the comprehensive agreement, to the Partnership Advisory Commission in accordance with Chapter 2268.

SECTION 29. Subsection (a), Section 2267.055, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

(a) A private entity whose proposal, other than a proposal for a service contract, is accepted for conceptual stage evaluation [A person submitting a proposal to a responsible governmental entity] under Section 2267.053 shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

SECTION 30. Section 2267.058, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:

(1) delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;

(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity indicating that [x] the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person may not be required to provide final design documents for [complete the design of] a qualifying project before the execution of a comprehensive agreement;

(3) inspection of the qualifying project by the responsible governmental entity to ensure that the contracting person's activities are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;

(4) maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued operation of the qualifying project;

(5) monitoring of the practices of the contracting person by the responsible governmental entity to ensure that the qualifying project is properly maintained;

(6) reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;

(7) filing of appropriate financial statements on a periodic basis; and

(8) policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting person if the comprehensive agreement is terminated or there is a material default by the contracting person, including conditions governing:

(A) assumption of the duties and responsibilities of the contracting person by the responsible governmental entity; and

(B) the transfer or purchase of property or other interests of the contracting person to the responsible governmental entity.

(g) The comprehensive agreement must provide that a security document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge, or security interest on or against the contracting party's interest may not extend to or affect the fee simple interest of the state in the qualifying project or the state's rights or interests under the comprehensive agreement. Any holder of debt shall acknowledge that the mortgage, pledge, or encumbrance or a lien, charge, or security interest on or against the contracting party's interest is subordinate to the fee simple interest of the state in the qualifying project and the state's rights or interests under the comprehensive agreement.

SECTION 31. The heading to Section 2267.066, Government Code, is amended to read as follows:

Sec. 2267.066. POSTING OF PROPOSALS; PUBLIC COMMENT; PUBLIC ACCESS TO PROCUREMENT RECORDS; FINAL VOTE.

SECTION 32. Section 2267.066, Government Code, is amended by amending Subsections (c) and (d) and adding Subsection (e-1) to read as follows:

(c) Trade secrets, proprietary information, financial records, and work product [or other records] of a proposer are [the contracting person] excluded from disclosure under Section 552.101 and may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the proposer [contracting person]. After submission by a responsible governmental entity of a detailed qualifying project proposal to the commission, the trade secrets, proprietary information, financial records, and work product of the proposer are not protected from disclosure unless expressly excepted from the requirements of Chapter 552 or considered confidential under other law.

(d) The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement. The public hearing shall be held in the area in which the proposed qualifying project is to be performed.

(e-1) After making the proposed comprehensive agreement available as required by Subsection (e), the responsible governmental entity shall hold a public hearing on the final version of the proposed comprehensive agreement and vote on the proposed comprehensive agreement after the hearing. The hearing must be held not later than the 10th day before the date the entity enters into a comprehensive agreement with a contracting person.

SECTION 33. (a) Subchapter B, Chapter 2267, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by adding Section 2267.067 to read as follows:

Sec. 2267.067. QUALIFYING PROJECT IN CAPITOL COMPLEX. (a) A qualifying project for property located in the Capitol Complex, as defined by Section 411.061(a)(1), must be consistent with Capitol Complex design guidelines or standards adopted as part of the Capitol Complex master plan developed under Section 2166.105.

(b) A responsible governmental entity shall include design guidelines and standards defined in Subsection (a) in the request for proposals or invitation for bids for the development or operation of a qualifying project and inform the persons who submit proposals of the requirement to comply with the design guidelines and standards. The final proposal or invitation must be submitted to the State Preservation Board for verification that the proposal complies with the design guidelines and standards.

(c) A responsible governmental entity shall submit a final qualifying project proposal for property in the area described by Subsection (a) to the State Preservation Board. The board by majority vote may disapprove the proposal not later than the 60th day after the date the proposal is received by the board.

(d) A responsible governmental entity may not approve a qualifying project proposal for property in the area described by Subsection (a) before September 1, 2015. This subsection expires September 1, 2015.

(b) If S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex is enacted and becomes law, this section has no effect.

SECTION 34. Section 2268.055, Government Code, is amended to read as follows:

Sec. 2268.055. MEETINGS. (a) The commission shall hold meetings quarterly or on the call of the presiding officer.

(b) Commission meetings are subject to Chapter 551.

SECTION 35. Subsection (d), Section 2268.056, Government Code, is amended to read as follows:

(d) The Texas Facilities Commission, using the qualifying project fees authorized under Section 2165.353, ~~[comptroller or a state agency]~~ shall provide, on a cost recovery basis, professional services of its architectural, engineering, and real estate staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), as necessary to support the Partnership Advisory Commission in its review and evaluation of proposals, including financial and risk allocation analysis and ongoing contract performance monitoring of qualifying projects. The Texas Facilities Commission shall assign staff and contracted advisors and consultants necessary to perform the duties required by this subsection ~~[additional assistance as needed]~~.

SECTION 36. Subsections (e), (g), and (i), Section 2268.058, Government Code, are amended to read as follows:

(e) The ~~[If the]~~ commission in a public hearing by majority vote of the members present shall approve or disapprove each detailed ~~[accepts a]~~ proposal submitted to the commission for review and may~~], the commission shall~~ provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the commission receives complete copies of the detailed proposal. If the commission does not provide its findings or recommendations to the responsible governmental entity by that date, the commission is considered to ~~[have declined review of the proposal and to]~~ not have made any findings or recommendations on the proposal.

(g) The commission shall include in any ~~[review accepted detailed proposals and provide]~~ findings and recommendations provided to the responsible governmental entity ~~[that include]~~:

(1) a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the specific findings of the comptroller with respect to the recommendation;

(2) an analysis of the potential financial impact of the qualifying project;

(3) a review of the policy aspects of the detailed proposal and the qualifying project; and

(4) proposed general business terms.

(i) The ~~[Except as provided by Subsection (e), the]~~ responsible governmental entity may not negotiate ~~[begin negotiation of]~~ an interim or comprehensive agreement for a detailed proposal that has been disapproved by ~~[until]~~ the commission ~~[has submitted its recommendations or declined to accept the detailed proposals for review]~~.

SECTION 37. Subsection (d), Section 31.155, Natural Resources Code, is amended to read as follows:

(d) The duty under this subchapter of the division to review and verify real property records and to make recommendations regarding real property and of the commissioner to prepare a report involving real property does not apply to:

(1) the real property of an institution of higher education;

(2) the real property that is part of a fund created or specifically authorized by the constitution of this state and that is administered by or with the assistance of the land office;

(3) the real property of the Employees Retirement System of Texas; ~~and~~

(4) the real property of the Teacher Retirement System of Texas; and

(5) the real property included in the Capitol Complex as defined by Section 411.061(a)(1), Government Code.

SECTION 38. Subsection (d), Section 2268.058, Government Code, is repealed.

SECTION 39. (a) Not later than January 1, 2014, the following are transferred from the Texas School for the Blind and Visually Impaired to the Texas Facilities Commission:

(1) the powers, duties, functions, programs, and activities of the Texas School for the Blind and Visually Impaired relating to the maintenance of the school's physical facilities;

(2) any obligations and contracts of the Texas School for the Blind and Visually Impaired that are directly related to implementing a power, duty, function, program, or activity transferred under this subsection; and

(3) all property and records in the custody of the Texas School for the Blind and Visually Impaired that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) The Texas Facilities Commission and the Texas School for the Blind and Visually Impaired shall enter into a memorandum of understanding as provided by Subsection (h-1), Section 30.022, Education Code, as added by this Act, that:

(1) identifies in detail the applicable powers and duties that are transferred between the two agencies by this Act; and

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of the Texas School for the Blind and Visually Impaired that are used for purposes of the commission's powers and duties directly related to the maintenance of the school's physical facilities under Section 30.022, Education Code.

SECTION 40. (a) Not later than January 1, 2014, the following are transferred from the Texas School for the Deaf to the Texas Facilities Commission:

(1) the powers, duties, functions, programs, and activities of the Texas School for the Deaf relating to the maintenance of the school's physical facilities;



(2) any obligations and contracts of the Texas School for the Deaf that are directly related to implementing a power, duty, function, program, or activity transferred under this subsection; and

(3) all property and records in the custody of the Texas School for the Deaf that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) The Texas Facilities Commission and the Texas School for the Deaf shall enter into a memorandum of understanding as provided by Subsection (h-1), Section 30.052, Education Code, as added by this Act, that:

(1) identifies in detail the applicable powers and duties that are transferred between the two agencies by this Act; and

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of the Texas School for the Deaf that are used for purposes of the commission's powers and duties directly related to the maintenance of the school's physical facilities under Section 30.052, Education Code.

SECTION 41. The Texas Facilities Commission shall:

(1) not later than January 1, 2014:

(A) develop the qualifying project review guidelines required by Section 2165.352, Government Code, as added by this Act;

(B) develop the qualifying project proposal fee schedule required by Section 2165.353, Government Code, as added by this Act; and

(C) adopt the comprehensive planning and development process required by Section 2166.107, Government Code, as added by this Act;

(2) not later than July 1, 2014, prepare the comprehensive capital improvement and deferred maintenance plan required by Section 2166.108, Government Code, as added by this Act; and

(3) not later than April 1, 2016, prepare the Capitol Complex master plan required by Section 2166.105, Government Code, as added by this Act, and submit the plan as required by that section.

SECTION 42. Not later than December 1, 2016, the Partnership Advisory Commission established under Chapter 2268, Government Code, shall submit to the lieutenant governor, the speaker of the house of representatives, and the appropriate legislative standing committees recommendations on proposed amendments to Chapters 2267 and 2268, Government Code.

SECTION 43. 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, 2013.

The Conference Committee Report on **SB 211** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1675**

Senator Nichols submitted the following Conference Committee Report:

Austin, Texas  
May 25, 2013

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1675** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

NICHOLS  
BIRDWELL  
HUFFMAN  
PATRICK  
WHITMIRE

On the part of the Senate

BONNEN, DENNIS  
ANCHIA  
COOK  
DUTTON  
PRICE

On the part of the House

The Conference Committee Report on **HB 1675** was filed with the Secretary of the Senate.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolution**

**SR 1071** by Lucio, In memory of departed classmates of the Brownsville High School Class of 1963.

**Congratulatory Resolutions**

**SR 1064** by Carona, Recognizing Katrina Pierson for founding the Garland Tea Party.

**SR 1065** by Carona, Recognizing Beth Biesel for her advocacy efforts.

**SR 1069** by Lucio, Recognizing Dollie and Jesus Lucio for their success with English Motors, Incorporated.

**SR 1070** by Lucio, Recognizing Blaine Smith for his contributions to people with hearing impairments.

**SR 1072** by Lucio, Recognizing the 1963 Class of Brownsville High School on the occasion of its 50th class reunion.

**ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 5:24 p.m. adjourned, in memory of Victor Apodaca, Jr., until 1:30 p.m. tomorrow.

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**APPENDIX**

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**BILLS AND RESOLUTIONS ENROLLED**May 24, 2013

SB 39, SB 67, SB 124, SB 168, SB 221, SB 251, SB 306, SB 316, SB 393, SB 404, SB 443, SB 453, SB 475, SB 482, SB 490, SB 497, SB 498, SB 512, SB 519, SB 555, SB 585, SB 597, SB 615, SB 624, SB 637, SB 659, SB 662, SB 680, SB 722, SB 724, SB 725, SB 751, SB 752, SB 757, SB 778, SB 809, SB 831, SB 832, SB 837, SB 854, SB 906, SB 1009, SB 1029, SB 1040, SB 1080, SB 1083, SB 1086, SB 1098, SB 1100, SB 1145, SB 1175, SB 1195, SB 1256, SB 1266, SB 1268, SB 1297, SB 1313, SB 1322, SB 1376, SB 1393, SB 1394, SB 1400, SB 1404, SB 1413, SB 1457, SB 1508, SB 1533, SB 1553, SB 1557, SB 1585, SB 1590, SB 1597, SB 1604, SB 1609, SB 1635, SB 1658, SB 1806, SB 1810, SB 1827, SB 1833, SB 1842, SB 1863, SB 1867, SB 1873, SB 1879, SB 1891, SB 1899, SB 1913, SB 1917, SCR 27, SR 989, SR 1009, SR 1010, SR 1011, SR 1037, SR 1049, SR 1057, SR 1058, SR 1062

**SENT TO GOVERNOR**May 25, 2013

SB 31, SB 34, SB 45, SB 49, SB 62, SB 112, SB 119, SB 122, SB 127, SB 138, SB 147, SB 171, SB 198, SB 232, SB 242, SB 273, SB 279, SB 284, SB 355, SB 381, SB 389, SB 391, SB 427, SB 462, SB 464, SB 474, SB 504, SB 515, SB 516, SB 517, SB 518, SB 533, SB 540, SB 542, SB 545, SB 551, SB 564, SB 583, SB 608, SB 609, SB 623, SB 631, SB 632, SB 639, SB 658, SB 660, SB 673, SB 677, SB 679, SB 691, SB 699, SB 702, SB 734, SB 742, SB 746, SB 747, SB 758, SB 804, SB 816, SB 817, SB 818, SB 833, SB 836, SB 856, SB 863, SB 875, SB 877, SB 895, SB 904, SB 978, SB 981, SB 1033, SB 1057, SB 1061, SB 1064, SB 1065, SB 1067, SB 1068, SB 1069, SB 1095, SB 1114, SB 1151, SB 1185, SB 1189, SB 1235, SB 1238, SB 1241, SB 1251, SB 1282, SB 1299, SB 1364, SB 1372, SB 1401, SB 1422, SB 1425, SB 1432, SB 1461, SB 1473, SB 1474, SB 1479, SB 1480, SB 1510, SB 1531, SB 1548, SB 1584, SB 1708, SB 1756, SB 1757, SB 1820, SB 1823, SB 1828, SB 1831, SB 1836, SB 1845, SB 1847, SB 1852, SB 1854, SB 1855, SB 1869, SB 1870, SB 1872, SB 1878, SB 1884, SB 1893, SB 1900, SB 1901, SB 1902, SCR 10, SCR 13

**SIGNED BY GOVERNOR**May 25, 2013

SB 33, SB 61, SB 92, SB 94, SB 160, SB 169, SB 229, SB 352, SB 353, SB 425, SB 560, SB 642, SB 764, SB 822, SB 1225, SB 1332, SB 1811, SB 1825, SB 1896, SCR 28

**FILED WITHOUT SIGNATURE OF GOVERNOR**

May 25, 2013

**SB 567**

**VETOED BY GOVERNOR**

May 25, 2013

**SB 346**

**In Memory**  
**of**  
**Victor Apodaca, Jr.**  
**Senate Resolution 1060**

WHEREAS, The Senate of the State of Texas joins the citizens of El Paso in mourning the loss of Victor Apodaca, Jr., who died April 28, 2013, at the age of 73; and

WHEREAS, Victor Apodaca, Jr., was born January 25, 1940, and lived most of his life in El Paso; a well-known businessman and a quiet philanthropist, he made a real difference in the lives of countless people through his generous support and his heartfelt advocacy for those less fortunate; and

WHEREAS, He began working in his father's bail bond business at the age of 14, and he attended Texas Western College until deciding to make his career in the business he had learned from his father; he was well known for his management of Apodaca's Bail Bonds, and he also cofounded several other businesses, including Viva Motors and Cielo Vista Bank; and

WHEREAS, He founded and served as the first president of the Professional Bondsmen of Texas, and he worked to further the organization's legislative agenda in Austin; his business leadership was acknowledged when his company was listed in *Hispanic Business* magazine; and

WHEREAS, Mr. Apodaca was noted for his strong work ethic and his high standards; a colorful, flamboyant figure who was proud of his Hispanic heritage, he strove to make sure others had the kinds of opportunities they needed to succeed, and he unfailingly helped out family members, friends, and strangers in need; and

WHEREAS, An exemplary gentleman, Vic Apodaca was a generous, kindhearted person who was respected in the community for his accomplishments; and

WHEREAS, A man of integrity and strength, he gave unselfishly to others, and his wisdom, warmth, and valued counsel will not be forgotten; and

WHEREAS, Vic Apodaca was beloved by many, and he leaves behind memories that will be treasured forever by all who were privileged to share in his life; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 83rd Legislature, hereby extend sincere condolences to the bereaved family of Victor Apodaca, Jr.; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Victor Apodaca, Jr.

RODRÍGUEZ





