

Suspending limitations on conference committee jurisdiction,
S.B. No. 1863 (Ogden/Pitts)

By: Ogden

S.R. No. 1084

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 79th Legislature, Regular Session, 2005, 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 1863 (certain fiscal matters affecting governmental entities; providing a penalty) to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add Article 5 to the bill to read as follows:

ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM

STORAGE TANKS

SECTION 5.01. Subsection (f), Section 26.351, Water Code, is amended to read as follows:

(f) The person performing corrective action under this section, if the release was reported to the commission on or before December 22, 1998, shall meet the following deadlines:

(1) a complete site assessment and risk assessment (including, but not limited to, risk-based criteria for establishing target concentrations), as determined by the executive director, must be received by the agency no later than September 1, 2002;

(2) a complete corrective action plan, as

determined by the executive director and including, but not limited to, completion of pilot studies and recommendation of a cost-effective and technically appropriate remediation methodology, must be received by the agency no later than September 1, 2003. The person may, in lieu of this requirement, submit by this same deadline a demonstration that a corrective action plan is not required for the site in question under commission rules. Such demonstration must be to the executive director's satisfaction;

(3) for those sites found under Subdivision (2) to require a corrective action plan, that plan must be initiated and proceeding according to the requirements and deadlines in the approved plan no later than March 1, 2004;

(4) for sites which require either a corrective action plan or groundwater monitoring, a comprehensive and accurate annual status report concerning those activities must be submitted to the agency;

(5) for sites which require either a corrective action plan or groundwater monitoring, all deadlines set by the executive director concerning the corrective action plan or approved groundwater monitoring plan shall be met; and

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to
~~[requests for all sites where]~~ the executive director ~~[agreed in~~

~~writing that no corrective action plan was required must be received by the agency~~ no later than September 1, 2007 [~~2005~~]. The request must be complete, as judged by the executive director.

SECTION 5.02. Subsection (b), Section 26.355, Water Code, is amended to read as follows:

(b) An owner or operator of an underground or aboveground storage tank from which a regulated substance is released is liable to the state unless:

(1) the release was caused by:

(A) [~~(1)~~] an act of God;

(B) [~~(2)~~] an act of war;

(C) [~~(3)~~] the negligence of the State of Texas or the United States; or

(D) [~~(4)~~] an act or omission of a third party; or

(2) the site at which the release occurred has been admitted into the petroleum storage tank state-lead program under Section 26.3573(r-1).

SECTION 5.03. Subsection (b), Section 26.35731, Water Code, is amended to read as follows:

(b) The commission has discretion whether to postpone considering, processing, or paying [~~may not consider, process, or pay~~] a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior commission approval after September 1, 1993, and filed with the commission prior to January 1, 2005 [~~without prior commission~~

~~approval until all claims for reimbursement for corrective action work preapproved by the commission have been considered, processed, and paid].~~

SECTION 5.04. Section 26.3573, Water Code, is amended by amending Subsections (d), (r), and (s) and adding Subsection (r-1) to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program~~[, not to exceed an amount equal to: 11.8 percent of the gross receipts of that account for FY02/03; 16.40 percent of the gross receipts of that account for FY04/05; and 21.1 percent of the gross receipts of that account for FY06/07];~~

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter; and

(3) subject to the conditions of Subsection (e) ~~[of this section]~~, expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that

facility.

(r) Except as provided by Subsection (r-1), the [The] petroleum storage tank remediation account may not be used to reimburse any person for corrective action performed after September 1, 2005.

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. Not later than July 1, 2007, an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

(s) The petroleum storage tank remediation account may not be used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2008 [~~2006~~].

SECTION 5.05. Subsection (b), Section 26.3574, Water Code, is amended to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) \$12.50 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and \$10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [~~FY 04 and FY 05~~], ~~\$5.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for FY 06, and \$2.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for FY 07~~];

(2) \$25.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [~~FY 02 and~~

~~FY 03~~]; and \$20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [~~FY 04 and FY 05, \$10.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for FY 06, and \$4.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for FY 07~~];

(3) \$37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and \$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [~~FY 04 and FY 05, \$15.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for FY 06, and \$6.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for FY 07~~];

(4) \$50.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and \$40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003, through

~~the state fiscal year ending August 31, 2007 [FY 04 and FY 05, \$20.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for FY 06, and \$8.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for FY 07]; and~~

(5) a \$25.00 fee for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and \$20.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [FY 04 and FY 05, \$10.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for FY 06, and \$4.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for FY 07].

SECTION 5.06. Section 26.361, Water Code, is amended to read as follows:

Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM. Notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2008 [2006]. On or after September 1, 2008 [2006], the commission may not use money from the petroleum storage tank remediation account to reimburse an eligible owner or operator

for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 5.07. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill that extend a state reimbursement program relating to petroleum storage tanks.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add Article 6 to the bill to read as follows:

ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

SECTION 6.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.080 to read as follows:

Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission and each health and human services agency authorized by the executive commissioner may enter into an agreement with one or more other states for the joint bulk purchasing of prescription drugs and other medications to be used in the Medicaid program, the state child health plan, or another program under the authority of the commission.

(b) An agreement under this section may not be entered into until:

(1) the commission determines that entering into the agreement would be feasible and cost-effective; and

(2) if appropriated money would be spent under the proposed agreement, the governor and the Legislative Budget

Board grant prior approval to expend appropriated money under the proposed agreement.

(c) If an agreement is entered into, the commission shall adopt procedures applicable to an agreement and joint purchase required by this section. The procedures must ensure that this state receives:

(1) all prescription drugs and other medications purchased with money provided by this state; and

(2) an equitable share of any price benefits resulting from the joint bulk purchase.

(d) In determining the feasibility and cost-effectiveness of entering into an agreement under this section, the commission shall identify:

(1) the most cost-effective existing joint bulk purchasing agreement; and

(2) any potential groups of states with which this state could enter into a new cost-effective joint bulk purchasing agreement.

SECTION 6.02. Not later than January 15, 2006, the Health and Human Services Commission shall determine the feasibility and cost-effectiveness of entering into an agreement under Section 531.080, Government Code, as added by this article. If the commission determines that such action is feasible and cost-effective, the commission shall take action to enter into an agreement that takes effect March 1, 2006.

SECTION 6.03. If before implementing any provision of this article 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.

Explanation: This change is necessary to add provisions to the bill relating to drug purchasing for state agencies.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add Article 7 to the bill to read as follows:

ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES

SECTION 7.01. Section 252.209, Health and Safety Code, is repealed.

Explanation: This change is necessary to add provisions to the bill relating to the continuation of certain quality assurance fees.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add Article 8 to the bill to read as follows:

ARTICLE 8. TEXAS MOBILITY FUND

SECTION 8.01. Subchapter M, Chapter 201, Transportation Code, is amended by adding Section 201.9471 to read as follows:

Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, in state fiscal year 2006 the comptroller shall deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(b) Notwithstanding Sections 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, in state fiscal year 2007 the comptroller shall deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(c) This section expires January 1, 2008.

SECTION 8.02. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to the Texas mobility fund.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add Article 9 to the bill to read as follows:

ARTICLE 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 9.01. Section 57.048, Utilities Code, is amended by adding Subsections (f)-(i) to read as follows:

(f) Notwithstanding any other provision of this title, a certificated telecommunications utility may recover from the utility's customers an assessment imposed on the utility under this subchapter after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. A certificated telecommunications utility may recover only the amount of the assessment imposed after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. The utility may recover the assessment through a monthly billing process.

(g) The comptroller shall publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion.

(h) Not later than February 15 of each year, a certificated telecommunications utility that wants to recover the assessment under Subsection (f) shall file with the commission an affidavit or affirmation stating the amount that the utility paid to the comptroller under this section during the previous calendar year and the amount the utility recovered from its customers in cumulative payments during that year.

(i) The commission shall maintain the confidentiality of information the commission receives under this section that is claimed to be confidential for competitive purposes. The confidential information is exempt from disclosure under Chapter 552, Government Code.

SECTION 9.02. Section 57.0485, Utilities Code, is amended to read as follows:

Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS].
[~~(a)~~] The comptroller shall deposit [~~50 percent of~~] the money collected by the comptroller under Section 57.048 to the credit of the general revenue fund [~~public schools account in the fund.~~].
~~The comptroller shall deposit the remainder of the money collected by the comptroller under Section 57.048 to the credit of the qualifying entities account in the fund.~~

[~~(b) Interest earned on money in an account shall be deposited to the credit of that account~~].

SECTION 9.03. Section 57.051, Utilities Code, is amended to read as follows:

Sec. 57.051. SUNSET PROVISION. The Telecommunications Infrastructure Fund [~~Board~~] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, [~~the board is abolished and~~] this subchapter expires September 1, 2011 [~~2005~~].

SECTION 9.04. Section 57.043 and Subsections (c) and (d), Section 57.048, Utilities Code, are repealed.

SECTION 9.05. If, on the day before the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller shall, on the effective date of this article, reset the rate of the assessment to 1.25 percent.

SECTION 9.06. This article takes effect July 1, 2005, 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 effect on that date, this article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to the Telecommunications Infrastructure Fund.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add Article 10 to the bill to read as follows:

ARTICLE 10. COLLECTION OF CERTAIN COSTS, FEES, AND FINES
IN CRIMINAL CASES

SECTION 10.01. Chapter 103, Code of Criminal Procedure, is amended by adding Article 103.0033 to read as follows:

Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) In this article:

(1) "Office" means the Office of Court Administration of the Texas Judicial System.

(2) "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies only to:

(1) a county with a population of 50,000 or greater;
and

(2) a municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each county and municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(d) The program must consist of:

(1) a component that conforms with a model developed by the office and designed to improve in-house collections through application of best practices; and

(2) a component designed to improve collection of balances more than 60 days past due, which may be implemented by

entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are able to implement a program before April 1 of the following year.

(f) The comptroller, in cooperation with the office, shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The comptroller shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(g) The office shall:

(1) make available on the office's Internet website requirements for a program; and

(2) assist counties and municipalities in implementing a program by providing training and consultation, except that the office may not provide employees for implementation of a program.

(h) The office, in consultation with the comptroller, may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) determine whether it is not cost-effective to

implement a program in a county or municipality and grant a waiver to the county or municipality.

(i) Each county and municipality shall at least annually submit to the office and the comptroller a written report that includes updated information regarding the program, as determined by the office in cooperation with the comptroller. The report must be in a form approved by the office in cooperation with the comptroller.

(j) The comptroller shall periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. The comptroller shall consult with the office in determining how frequently to conduct audits under this section.

SECTION 10.02. Section 133.058, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A municipality or county may not retain a service fee if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county may continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.03. Section 133.103, Local Government Code, is amended by amending Subsections (b) and (c) and adding

Subsection (c-1) to read as follows:

(b) Except as provided by Subsection (c-1), the [The] treasurer shall send 50 percent of the fees collected under this section to the comptroller. The comptroller shall deposit the fees received to the credit of the general revenue fund.

(c) Except as provided by Subsection (c-1), the [The] treasurer shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.

(c-1) The treasurer shall send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.04. (a) Notwithstanding Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this article, not later than September 1, 2005, the Office of Court

Administration of the Texas Judicial System shall identify those counties and municipalities that are able to implement a collection improvement program under Article 103.0033, Code of Criminal Procedure, as added by this article, before April 1, 2006. Beginning June 1, 2006, the Office of Court Administration of the Texas Judicial System shall comply with Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this article.

(b) Not later than September 1, 2005, the Office of Court Administration of the Texas Judicial System shall make available on the office's Internet website requirements for a program under Article 103.0033, Code of Criminal Procedure, as added by this article, in accordance with Subsection (g) of Article 103.0033.

Explanation: This change is necessary to add provisions to the bill relating to the collection of certain costs, fees, and fines in criminal cases.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add Article 11 to the bill to read as follows:

ARTICLE 11. INTEREST ON CERTAIN TAX REFUNDS

SECTION 11.01. Section 111.064, Tax Code, is amended by amending Subsections (a), (c), and (f) and adding Subsection (c-1) to read as follows:

(a) Except as otherwise provided by this section, for a refund under this chapter [~~Subsections (b) and (c), in a comptroller's final decision on a claim for refund or in an audit~~], interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during

December of the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a period:

(1) beginning on the later of 60 days after the date of payment or the due date of the tax report; and

(2) ending on, as determined by the comptroller, either the date of allowance of credit on account of the comptroller's final decision or audit or a date not more than 10 days before the date of the refund warrant.

(c) For a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060 [~~granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060~~].

(c-1) A refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(f) A local revenue fund is not subject to Subsections (a)-(c-1) [~~(a)-(c)~~]. In this subsection, "local revenue fund" includes a court cost, a fee, a fine, or a similar charge collected by a municipality, a county, or a court of this state and remitted to the comptroller.

SECTION 11.02. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to interest on certain tax refunds.

(8) Senate Rule 12.03(4) is suspended to permit the

committee to add Article 12 to the bill to read as follows:

ARTICLE 12. PUBLIC SCHOOL FACILITIES

SECTION 12.01. Section 46.033, Education Code, is amended to read as follows:

Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 12.02. Subsection (c), Section 46.034, Education Code, is amended to read as follows:

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the 2004-2005 [~~2002-2003~~] school year or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

Explanation: This change is necessary to add provisions to the bill relating to public school facilities.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add Article 13 to the bill to read as follows:

ARTICLE 13. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN
TO STATE EMPLOYMENT

SECTION 13.01. Section 659.042, Government Code, is amended to read as follows:

Sec. 659.042. EXCLUSIONS. The following are not entitled to longevity pay under this subchapter:

- (1) a member of the legislature;
- (2) an individual who holds a statewide office that is normally filled by vote of the people;
- (3) an independent contractor or an employee of an independent contractor;
- (4) a temporary employee;
- (5) an officer or employee of a public junior college; ~~or~~
- (6) an academic employee of a state institution of higher education; or
- (7) a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee.

SECTION 13.02. Subsection (a), Section 659.043, Government Code, is amended to read as follows:

(a) A state employee is entitled to longevity pay to be included in the employee's monthly compensation if the employee:

(1) is a full-time state employee on the first workday of the month;

(2) is not on leave without pay on the first workday of the month; and

(3) has accrued at least two [~~three~~] years of lifetime service credit not later than the last day of the preceding month.

SECTION 13.03. Section 659.044, Government Code, as amended by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, and Section 104, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

Sec. 659.044. AMOUNT. (a) Except as provided by Subsections [~~Subsection~~] (e) and (f), the monthly amount of longevity pay is \$20 for every two [~~three~~] years of lifetime service credit.

(b) The amount increases when the 4th, 6th, 8th [~~9th~~], 10th, 12th, 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th [~~27th~~], 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and 42nd years of lifetime service credit are accrued.

(c) An increase is effective beginning with the month following the month in which the 4th, 6th, 8th [~~9th~~], 10th, 12th, 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th [~~27th~~], 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and 42nd years of lifetime service credit are accrued.

(d) An employee may not receive from the state as longevity pay more than the amount determined under Subsection

(a) or (e), as applicable, regardless of the number of positions the employee holds or the number of hours the employee works each week.

(e) This subsection applies only to an employee of the Texas Youth Commission who is receiving less than the maximum amount of hazardous duty pay that the commission may pay to the employee under Section 659.303. The employee's monthly amount of longevity pay is the sum of:

(1) \$4 for each year of lifetime service credit, which may not include any period served in a hazardous duty position; and

(2) the lesser of:

(A) \$4 for each year served in a hazardous duty position; or

(B) the difference between:

(i) \$7 for each year served in a hazardous duty position; and

(ii) the amount paid by the commission for each year served in a hazardous duty position.

(f) A state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. The monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. A state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September

1, 2005, is not entitled to receive longevity pay.

SECTION 13.04. Section 659.126, Government Code, is amended to read as follows:

Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT REPLACEMENT PAY. (a) An eligible state employee who leaves state employment after August 31, 1995, for at least 30 consecutive days [~~12 consecutive months~~], on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay.

(b) An eligible state-paid judge who leaves office after August 31, 1995, for at least 30 consecutive days [~~12 consecutive months~~], on return to state office or on accepting a state employment, is ineligible to receive benefit replacement pay.

(c) For purposes of Subsection (a), a state employee is not considered to have left state employment:

(1) while the state employee is on an unpaid leave of absence as provided by Section 661.909; or

(2) during a period of time the employee is not working for the state because the employee's employment with the state customarily does not include that period of time, such as a teacher whose employment does not invariably include the summer months.

(d) An eligible state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is ineligible to

receive benefit replacement pay.

SECTION 13.05. Section 661.152, Government Code, is amended by adding Subsection (1) to read as follows:

(1) For purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.

SECTION 13.06. Subsections (a), (b), (c), and (g), Section 659.305, Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the amount of a full-time state employee's hazardous duty pay for a particular month is the lesser of:

(1) \$10 [~~\$7~~] for each 12-month period of lifetime service credit accrued by the employee; or

(2) \$300 [~~\$210~~].

(b) This subsection applies only to a state employee whose compensation for services provided to the state during any month before August 1987 included hazardous duty pay that was based on total state service performed before May 29, 1987. The amount of a full-time state employee's hazardous duty pay for a particular month is the sum of:

(1) \$10 [~~\$7~~] for each 12-month period of state service credit the employee finished accruing before May 29,

1987; and

(2) \$10 [~~\$7~~] for each 12-month period of lifetime service credit that the employee accrued after the date, which must be before May 29, 1987, on which the employee finished accruing the last 12-month period of state service credit.

(c) The amount determined under Subsection (b)(2) may not exceed \$300 [~~\$210~~].

(g) A state employee may not receive more than \$10 [~~\$7~~] for each 12-month period of lifetime service credit, regardless of:

- (1) the number of positions the employee holds; or
- (2) the number of hours the employee works each week.

SECTION 13.07. (a) Except as provided by Subsection (b) of this section, the change in law made by this article to Section 659.126, Government Code, applies only to a state employee who leaves state employment on or after the effective date of this article. A state employee who leaves state employment before the effective date of this article is governed by the law as it existed on the date the employee left state employment and the former law is continued in effect for that purpose.

(b) A state employee who leaves state employment before the effective date of this article is ineligible to receive benefit replacement pay unless the employee returns to state employment before September 30, 2005.

SECTION 13.08. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to compensation for certain state employees who return to state employment.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add Article 14 to the bill to read as follows:

ARTICLE 14. SYSTEM BENEFIT FUND

SECTION 14.01. Subsection (h), Section 39.903, Utilities Code, is amended to read as follows:

(h) The commission shall adopt rules for a retail electric provider to determine a reduced rate for eligible customers to be discounted off the standard retail service package as approved by the commission under Section 39.106, or the price to beat established by Section 39.202, whichever is lower. Municipally owned utilities and electric cooperatives shall establish a reduced rate for eligible customers to be discounted off the standard retail service package established under Section 40.053 or 41.053, as appropriate. The reduced rate for a retail electric provider shall result in a total charge that is at least 10 percent and, if sufficient money in the system benefit fund is available, up to 20 percent, lower than the amount the customer would otherwise be charged. To the extent the system benefit fund is insufficient to fund the initial 10 percent rate reduction, the commission may increase the fee to an amount not more than 65 cents per megawatt hour, as provided by Subsection (b). If the fee is set at 65 cents per megawatt hour or if the commission determines that appropriations are insufficient to fund the 10 percent rate reduction, the

commission may reduce the rate reduction to less than 10 percent.

For a municipally owned utility or electric cooperative, the reduced rate shall be equal to an amount that can be fully funded by that portion of the nonbypassable fee proceeds paid by the municipally owned utility or electric cooperative that is allocated to the utility or cooperative by the commission under Subsection (e) for programs for low-income customers of the utility or cooperative. The reduced rate for municipally owned utilities and electric cooperatives under this section is in addition to any rate reduction that may result from local programs for low-income customers of the municipally owned utilities or electric cooperatives.

Explanation: This change is necessary to add provisions to the bill relating to the system benefit fund.

(11) Senate Rule 12.03(4) is suspended to permit the committee to add Article 15 to the bill to read as follows:

ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF
MONEY IN THE FUND

SECTION 15.01. Section 40.152, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a)(9) and the other provisions of this subchapter, the legislature may appropriate to the General Land Office for implementation of the coastal management program under Subchapter F, Chapter 33, and for erosion response projects under Subchapter H, Chapter 33, money from the fund in an amount that exceeds the amount of interest accruing to the fund annually. This subsection expires September

1, 2007.

SECTION 15.02. Subsections (a) through (d), Section 40.155, Natural Resources Code, are amended to read as follows:

(a) Except as otherwise provided in this section, the rate of the fee shall be 1-1/3 cents [~~two cents~~] per barrel of crude oil until the commissioner certifies that the unencumbered balance in the fund has reached \$20 [~~\$25~~] million. The commissioner shall certify to the comptroller the date on which the unencumbered balance in the fund exceeds \$20 [~~\$25~~] million. The fee shall not be collected or required to be paid on or after the first day of the second month following the commissioner's certification to the comptroller that the unencumbered balance in the fund exceeds \$20 [~~\$25~~] million.

(b) If the unencumbered balance in the fund falls below \$10 [~~\$14~~] million, the commissioner shall certify such fact to the comptroller. On receiving the commissioner's certification, the comptroller shall resume collecting the fee until suspended in the manner provided in Subsection (a) of this section.

(c) Notwithstanding the provisions of Subsection (a) or (b) of this section, the fee shall be levied at the rate of four cents per barrel if the commissioner certifies to the comptroller a written finding of the following facts:

(1) the unencumbered balance in the fund is less than \$20 [~~\$25~~] million;

(2) an unauthorized discharge of oil in excess of 100,000 gallons has occurred within the previous 30 days; and

(3) expenditures from the fund for response costs

and damages are expected to deplete the fund substantially.

(d) In the event of a certification to the comptroller under Subsection (c) of this section, the comptroller shall collect the fee at the rate of four cents per barrel until the unencumbered balance in the fund reaches \$20 [~~\$25~~] million or any lesser amount that the commissioner determines is necessary to pay response costs and damages without substantially depleting the fund. The commissioner shall certify to the comptroller the date on which the unencumbered balance in the fund exceeds \$20 [~~\$25~~] million or such other lesser amount. The fee shall not be collected or required to be paid on or after the first day of the second month following the commissioner's certification to the comptroller.

Explanation: This change is necessary to add provisions to the bill relating to the funding of the coastal protection fund and the use of money in the fund.

(12) Senate Rule 12.03(4) is suspended to permit the committee to add Article 16 to the bill to read as follows:

ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR
UNFAIRLY DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

SECTION 16.01. Article 5.144, Insurance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) Except as provided by Subsection (d) of this article, if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as

described by Article 5.13-2 [~~or 5.101~~] of this code, the commissioner may order the insurer to:

(1) issue a refund of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount, directly to each affected policyholder if the amount of that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) if the amount of that portion of the premium is less than 7.5 percent:

(A) provide each affected policyholder who renews the policy a future premium discount in the amount of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and

(B) provide each affected policyholder who does not renew or whose coverage is otherwise terminated a refund in the amount described by Subdivision (1) of this subsection.

(b-1) The rate for interest assessed under Subsection (b) of this article is the prime rate for the calendar year in which the order is issued plus six percent. For purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday. The interest accrues beginning on the date on which the department first provides the insurer with formal written notice that the insurer's filed rate is excessive or unfairly discriminatory, as determined by the commissioner, and continues to accrue until the refund is paid. An insurer may not be required to pay any interest penalty or

refund if the insurer prevails in a final appeal of the commissioner's order under Subchapter D, Chapter 36, of this code.

(b-2) An insurer may not claim a premium tax credit to which the insurer is otherwise entitled unless the insurer has complied with this article.

Explanation: This change is necessary to add provisions to the bill relating to reimbursement of excessive or unfairly discriminatory rates charged by insurers.

(13) Senate Rule 12.03(4) is suspended to permit the committee to add Article 17 to the bill to read as follows:

ARTICLE 17. CERTAIN PROVISIONS RELATING TO RETIREMENT SYSTEM
CONTRIBUTIONS AND BENEFITS FOR RETIRED SCHOOL EMPLOYEES

SECTION 17.01. Subsection (a), Section 825.404, Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 ~~eight~~ percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

SECTION 17.02. Subsection (a), Section 1575.203, Insurance Code, is amended to read as follows:

(a) Each state fiscal year, each active employee shall, as a condition of employment, contribute to the fund an amount equal to 0.65 ~~0.5~~ percent of the employee's salary.

SECTION 17.03. The change in law made by this article to Section 1575.203, Insurance Code, takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to certain benefits for retired school employees.

(14) Senate Rule 12.03(4) is suspended to permit the committee to add Article 18 to the bill to read as follows:

ARTICLE 18. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL
EMPLOYEES

SECTION 18.01. Subsections (a), (b), (c), (i), and (j), Section 22.004, Education Code, are amended to read as follows:

(a) A district shall participate in the uniform group coverage program established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, as provided by Subchapter D [~~Section 5~~] of that chapter [~~article~~].

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or under a policy of insurance or group contract issued by an insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization under Chapter 843, Insurance Code. The coverage must meet the substantive coverage requirements of Chapter 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366 [~~Article 3.51-6~~], Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. In this subsection, "major medical treatment" means a medical,

surgical, or diagnostic procedure for illness or injury. The coverage may include managed care or preventive care and must be comparable to the basic health coverage provided under Chapter 1551, Insurance Code. The board of trustees of the Teacher Retirement System of Texas shall adopt rules to determine whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. The rules must provide for consideration of the following factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection:

(1) the deductible amount for service provided inside and outside of the network;

(2) the coinsurance percentages for service provided inside and outside of the network;

(3) the maximum amount of coinsurance payments a covered person is required to pay;

(4) the amount of the copayment for an office visit;

(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

(c) The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579 [~~Section 9, Article 3.50-7~~], Insurance Code, or Subchapter D [~~by Article 3.50-8, Insurance Code~~].

(i) Notwithstanding any other provision of this section, a district participating in the uniform group coverage program established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, may not make group health coverage available to its employees under this section after the date on which the program of coverages provided under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, is implemented.

(j) This section does not preclude a district that is participating in the uniform group coverage program established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, from entering into contracts to provide optional insurance coverages for the employees of the district.

SECTION 18.02. Chapter 22, Education Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. In this subchapter:

(1) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986.

(2) "Employee" means an active, contributing member of the Teacher Retirement System of Texas who:

(A) is employed by a district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center;

(B) is not a retiree eligible for coverage under the program established under Chapter 1575, Insurance Code;

(C) is not eligible for coverage by a group insurance program under Chapter 1551 or 1601, Insurance Code; and

(D) is not an individual performing personal services for a district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, or regional education service center as an independent contractor.

(3) "Participating charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, that participates in the program established under Chapter 1579, Insurance Code.

(4) "Regional education service center" means a regional education service center established under Chapter 8.

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

(a) The agency may adopt rules to implement this subchapter.

(b) The agency may enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

Sec. 22.103. ELIGIBILITY; WAITING PERIOD. A person is not eligible for a monthly distribution under this subchapter before the 91st day after the first day the person becomes an employee.

Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the availability of funds, each month the agency shall deliver to each district, including a district that is ineligible for state aid under Chapter 42, each other educational district that is a member of the Teacher Retirement System of Texas, each participating charter school, and each regional education service center state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for purposes of this subchapter and divided by 12. The agency shall distribute funding to only one entity for employees who are employed by more than one entity listed in this section.

Sec. 22.105. FUNDS HELD IN TRUST. All funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

Sec. 22.106. RECOVERY OF DISTRIBUTIONS. The agency is entitled to recover from a district, other educational district, participating charter school, or regional education service center any amount distributed under this subchapter to which the

district, school, or service center was not entitled.

Sec. 22.107. DETERMINATION BY AGENCY FINAL. A determination by the agency under this subchapter is final and may not be appealed.

Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, and regional education service center must distribute to its eligible employees the funding received under this subchapter. To receive the monthly distribution, an individual must meet the definition of an employee under Section 22.101 for that month.

Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. An employee may use a monthly distribution received under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the amount of the distribution for health care premiums through a premium conversion plan. The employee may take the amount of the distribution as supplemental compensation.

Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount distributed to an employee under this subchapter must be in addition to the rate of compensation that:

(1) the district, other educational district, participating charter school, or regional education service center paid the employee in the preceding school year; or

(2) the district, school, or service center would

have paid the employee in the preceding school year if the employee had been employed by the district, school, or service center in the same capacity in the preceding school year.

SECTION 18.03. Subsection (c), Section 822.201, Government Code, is amended to read as follows:

(c) Excluded from salary and wages are:

- (1) expense payments;
- (2) allowances;
- (3) payments for unused vacation or sick leave;
- (4) maintenance or other nonmonetary compensation;
- (5) fringe benefits;
- (6) deferred compensation other than as provided by Subsection (b)(3);
- (7) compensation that is not made pursuant to a valid employment agreement;
- (8) payments received by an employee in a school year that exceed \$5,000 for teaching a driver education and traffic safety course that is conducted outside regular classroom hours;
- (9) the benefit replacement pay a person earns as a result of a payment made under Subchapter B or C, Chapter 661;
- (10) any amount [~~contributions to a health reimbursement arrangement account~~] received by an employee under Subchapter D, Chapter 22, Education Code, former Article 3.50-8, Insurance Code, former Chapter 1580, Insurance Code, or Rider 9, page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act); and

(11) any compensation not described by Subsection (b).

SECTION 18.04. Subsection (b), Section 1579.253, Insurance Code, is amended to read as follows:

(b) The employee may pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code [~~1580~~].

SECTION 18.05. Section 1581.702, Insurance Code, is amended to read as follows:

Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide additional support for a school district to which this section applies in an amount computed by multiplying the total amount of supplemental compensation received by district employees under Subchapter D, Chapter 22, Education Code, [~~1580~~] by 0.062.

SECTION 18.06. The following laws are repealed:

- (1) Chapter 1580, Insurance Code;
- (2) Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;
- (3) Chapter 313, Acts of the 78th Legislature, Regular Session, 2003; and
- (4) Section 1.01, Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 18.07. The functions and duties of the Teacher Retirement System of Texas with respect to the compensation supplementation program established under Chapter 1580, Insurance Code, and other applicable law, and any appropriation

relating to that program are transferred to the Texas Education Agency. A reference in law to the Teacher Retirement System of Texas with respect to the compensation supplementation program means the Texas Education Agency.

SECTION 18.08. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to compensation supplementation for certain school employees.

(15) Senate Rule 12.03(4) is suspended to permit the committee to add Article 19 to the bill to read as follows:

ARTICLE 19. RETIREMENT SYSTEM CONTRIBUTIONS FOR CERTAIN MEMBERS
OF THE TEACHER RETIREMENT SYSTEM OF TEXAS

SECTION 19.01. Subchapter E, Chapter 825, Government Code, is amended by adding Section 825.4041 to read as follows:

Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) During each fiscal year, an employer shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) On a monthly basis an employer shall:

(1) report to the retirement system, in a form prescribed by the system, a certification of the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments due under this section for the payroll periods; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

(d) A person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. For the purpose of this section, the member shall be treated as a new member for the remainder of the waiting period.

(e) The employer must remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. In computing the amount required to be remitted, the employer shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) At the end of each school year, the retirement system shall certify to the commissioner of education and to the state auditor:

(1) the name of each employer that has failed to remit, within the period required by Section 825.408, all

payments required under this section for the school year; and

(2) the amounts of the unpaid required payments.

(g) If the commissioner of education or the state auditor receives a certification under Subsection (f), the commissioner or the state auditor shall direct the comptroller to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(h) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

SECTION 19.02. This article takes effect September 1, 2005.

Explanation: This change is necessary to add provisions to the bill relating to retirement system contributions for certain members of the Teacher Retirement System of Texas.

(16) Senate Rule 12.03(2) is suspended to permit the committee to omit the following provisions from the bill that are not in disagreement:

ARTICLE __. COLLECTION OF MOTOR FUELS TAXES

SECTION __.01. Subdivisions (20) and (43), Section 162.001, Tax Code, are amended to read as follows:

(20) "Distributor" means a person who acquires motor fuel from a licensed supplier, permissive supplier, or another licensed distributor and who makes sales at wholesale and

whose activities may also include sales at retail. The term includes a person engaged in the tax-free sale of dyed diesel fuel to marine vessels.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, or gasoline blended fuel for hire outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel.

SECTION __.02. Subsection (b), Section 162.004, Tax Code, is amended to read as follows:

(b) The shipping document issued by the terminal operator or operator of a bulk plant shall contain the following information and any other information required by the comptroller:

(1) the terminal control number of the terminal or physical address of the bulk plant from which the motor fuel was received;

(2) the name [~~and license number~~] of the purchaser;

(3) the date the motor fuel was loaded;

(4) the net gallons loaded, or the gross gallons loaded if the fuel was purchased from a bulk plant;

(5) the destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent; and

(6) a description of the product being transported.

SECTION __.03. Subsection (a), Section 162.016, Tax Code, is amended to read as follows:

(a) A person may not import motor fuel to a destination in

this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel created by the terminal or bulk plant at which the fuel was received. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name [~~and federal employer identification number, or the social security number if the employer identification number is not available,~~] of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination of the motor fuel as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name [~~, federal employer identification number, license number, and physical address~~] of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the licensed supplier or

distributor; and

(9) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

SECTION __.04. Subsection (d), Section 162.113, Tax Code, is amended to read as follows:

(d) The supplier or permissive supplier shall [~~has the right~~], after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, [~~to~~] terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax. The supplier or permissive supplier shall reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of gasoline tax after the comptroller provides to the supplier or permissive supplier notice that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of the gasoline tax imposed under this subchapter.

SECTION __.05. Section 162.115, Tax Code, is amended by adding Subsection (m-1) to read as follows:

(m-1) In addition to the records specifically required by this section, a license holder shall keep any other record required by the comptroller.

SECTION __.06. Subsections (a) and (d), Section 162.116, Tax Code, are amended to read as follows:

(a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by

the return:

(1) ~~[the number of net gallons of gasoline received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;~~

~~[(2)]~~ the number of net gallons of gasoline removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(2) ~~[(3)]~~ the number of net gallons of gasoline removed during the month for export, sorted by product code, person receiving the gasoline, terminal code, destination state, and carrier;

(3) ~~[(4)]~~ the number of net gallons of gasoline removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(4) ~~[(5)]~~ the number of net gallons of gasoline the supplier or permissive supplier sold during the month in transactions exempt under Section 162.104, sorted by ~~[product code, carrier,]~~ purchaser~~[, and terminal code,~~

~~[(6) the number of net gallons of gasoline sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license]; and~~

(5) ~~[(7)]~~ any other information required by the comptroller.

(d) For purposes of Subsection (c), all payments or credits in reduction of a customer's account must be applied ratably between motor fuels and other goods sold to the customer, and the credit allowed will be the tax on the number of gallons represented by the motor fuel portion of the credit. The comptroller may not require a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION __.07. Section 162.118, Tax Code, is amended to read as follows:

Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN. The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the distributor during the month, sorted by product code and~~[7] seller~~~~[, point of origin, destination state, carrier, and receipt date]~~;

(2) the number of net gallons of gasoline removed at a terminal rack by the distributor during the month, sorted by product code, seller, and terminal code~~[, and carrier]~~;

(3) the number of net gallons of gasoline removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of gasoline removed by the distributor during the month from a terminal located in

another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of gasoline the distributor sold during the month in transactions exempt under Section 162.104, sorted by product code and purchaser; and

(6) any other information required by the comptroller.

SECTION __.08. Section 162.123, Tax Code, is amended to read as follows:

Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

~~(1) [the number of net gallons of gasoline received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date,~~

~~(2)]~~ the number of net gallons of product blended with gasoline during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

~~(3) the number of net gallons of blended gasoline sold during the month and the license number or name and address of the entity receiving the blended gasoline,~~] and

(2) ~~(4)]~~ any other information required by the comptroller.

SECTION __.09. Section 162.127, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The comptroller shall issue a refund warrant to a

distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. If the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION __.10. Section 162.206, Tax Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (h-1) to read as follows:

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement[+]

~~[(1) for the purchase or the sale of more than 7,400 gallons of dyed diesel fuel in a single delivery; or~~

~~[(2)]~~ in a calendar month in which the person has previously purchased from all sources or in which the licensed supplier has previously sold to that purchaser more than:

(1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;

(2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the supplier with a letter of exception issued by the comptroller; or

(3) ~~[(C)]~~ 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel

will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(h-1) For purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information.

SECTION __.11. Subsection (d), Section 162.214, Tax Code, is amended to read as follows:

(d) The supplier or permissive supplier shall [~~has the right~~], after notifying the comptroller of the licensed distributor's or licensed importer's failure to remit taxes under this section, [~~to~~] terminate the ability of the licensed distributor or licensed importer to defer the payment of diesel fuel tax. The supplier or permissive supplier shall reinstate without delay the right of the licensed distributor or licensed importer to defer the payment of diesel fuel tax after the comptroller provides to the supplier or permissive supplier notice that the licensed distributor or licensed importer is in good standing with the comptroller for the purposes of diesel fuel tax imposed under this subchapter.

SECTION __.12. Section 162.216, Tax Code, is amended by adding Subsection (m-1) to read as follows:

(m-1) In addition to the records specifically required by this section, a license holder shall keep any other record required by the comptroller.

SECTION __.13. Subsections (a) and (d), Section 162.217, Tax Code, are amended to read as follows:

(a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

~~(1) [the number of net gallons of diesel fuel received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date,~~

~~[(2)]~~ the number of net gallons of diesel fuel removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(2) ~~[(3)]~~ the number of net gallons of diesel fuel removed during the month for export, sorted by product code, person receiving the diesel fuel, terminal code, destination state, and carrier;

(3) ~~[(4)]~~ the number of net gallons of diesel fuel removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(4) [~~(5)~~] the number of net gallons of diesel fuel the supplier or permissive supplier sold during the month in transactions exempt under Section 162.204, sorted by [~~product code, carrier,~~] purchaser[~~, and terminal code,~~

~~[(6) the number of net gallons of diesel fuel sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license]; and~~

(5) [~~(7)~~] any other information required by the comptroller.

(d) For the purpose of Subsection (c), all payments or credits in reduction of a customer's account must be applied ratably between motor fuels and other goods sold to the customer, and the credit allowed will be the tax on the number of gallons represented by the motor fuel portion of the credit. The comptroller may not require a supplier or permissive supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION __.14. Section 162.219, Tax Code, is amended to read as follows:

Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN. The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the distributor during the month, sorted by product code and[~~7~~] seller[~~, point of origin, destination state, carrier, and receipt date~~];

(2) the number of net gallons of diesel fuel removed at a terminal rack by the distributor during the month, sorted by product code, seller, and terminal code [~~7~~ ~~and carrier~~];

(3) the number of net gallons of diesel fuel removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of diesel fuel the distributor sold during the month in transactions exempt under Section 162.204, sorted by product code and by the entity receiving the diesel fuel;

(6) the number of net gallons of [~~7~~] dyed diesel fuel sold to a purchaser under a signed statement [~~7~~] or dyed diesel fuel sold to a dyed diesel fuel bonded user, sorted by product code and by the entity receiving the diesel fuel; and

(7) [~~(6)~~] any other information required by the comptroller.

SECTION __.15. Section 162.224, Tax Code, is amended to read as follows:

Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

(1) [~~the number of net gallons of diesel fuel received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date,~~

~~(2)] the number of net gallons of product blended with diesel fuel during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;~~

~~(3) the number of net gallons of blended diesel fuel sold during the month and the license number or name and address of the entity receiving the blended diesel fuel;~~] and

(2) ~~(4)]~~ any other information required by the comptroller.

SECTION __.16. Section 162.227, Tax Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state:

(1) as a feedstock or other component in the further manufacturing of tangible personal property for resale not as a motor fuel; or

(2) in the original production of oil or gas or to increase the production of oil or gas.

SECTION __.17. Section 162.229, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The comptroller shall issue a refund warrant to a distributor not later than the 60th day after the date the

comptroller receives a valid refund claim from the distributor. If the comptroller does not issue the refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION __.18. Subsection (d), Section 162.230, Tax Code, is amended to read as follows:

(d) A supplier, ~~[or]~~ permissive supplier, or distributor that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION __.19. Subsections (c) and (d), Section 162.404, Tax Code, are amended to read as follows:

(c) The prohibition under Section 162.403(32) does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(a)(1) [~~162.204(1)~~], (2), or (3).

(d) The prohibition under Section 162.403(33) does not apply to the tax-free sale or distribution of gasoline under Section 162.104(a)(1) [~~162.104(1)~~], (2), or (3).

SECTION __.20. Subsection (h), Section 162.016, Tax Code, is repealed.

SECTION __.21. This article applies only to taxes imposed on or after the effective date of this article. Taxes

imposed before the effective date of this article are governed by the law in effect on the date the taxes were imposed, and that law is continued in effect for that purpose.

SECTION __.22. This article takes effect September 1, 2005.

Explanation: This change is necessary to remove provisions from the bill relating to the collection of motor fuel taxes.

(17) Senate Rule 12.03(2) is suspended to permit the committee to omit the following provisions from the bill that are not in disagreement:

ARTICLE __. FEES FOR CERTAIN INSPECTIONS CONDUCTED
BY THE COMMISSION ON JAIL STANDARDS

SECTION __.01. Section 511.0091, Government Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) In addition to the other fees authorized by this section, the commission may set and collect a reasonable fee to cover the cost of performing any reinspection of a municipal or county jail that is conducted by the commission:

(1) following a determination by the commission that the jail is not in compliance with minimum standards;

(2) in response to a request by the operator of the jail; and

(3) before the operator of the jail has taken actions as necessary to ensure that the jail is in compliance with minimum standards.

(d) All money paid to the commission under this chapter is subject to Subchapter F, Chapter 404. Fees collected under Subsection (c-1) shall be deposited to the credit of a special account in the general revenue fund to be appropriated only to pay costs incurred by the commission in performing services under this section.

SECTION __.02. This article takes effect September 1, 2005.

Explanation: This change is necessary to remove provisions from the bill relating to fees for certain inspections conducted by the Commission on Jail Standards.

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 29, 2005, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate