

1
00:00:00,149 --> 00:00:03,959
and declaring an emergency referred to

2
00:00:02,100 --> 00:00:07,799
the Committee on health and welfare

3
00:00:03,959 --> 00:00:09,960
House bill 2082 by law ha to provide

4
00:00:07,799 --> 00:00:11,550
energy budgets for state facilities and

5
00:00:09,960 --> 00:00:14,280
declaring an emergency referred to the

6
00:00:11,550 --> 00:00:17,130
Committee on Energy Resources Council

7
00:00:14,280 --> 00:00:19,439
bill 2083 by bundling relating to

8
00:00:17,130 --> 00:00:21,689
compensation of members and the Board of

9
00:00:19,439 --> 00:00:23,220
Public Welfare in declaring an emergency

10
00:00:21,689 --> 00:00:26,970
refer to the Committee on health and

11
00:00:23,220 --> 00:00:28,890
welfare House bill 2080 for by Wyatt

12
00:00:26,970 --> 00:00:30,990
related to the establishment of the

13
00:00:28,890 --> 00:00:32,219
University of Houston at Victoria and

14

00:00:30,990 --> 00:00:33,630
declaring an emergency

15
00:00:32,219 --> 00:00:40,350
referred to the Committee on higher

16
00:00:33,630 --> 00:00:42,180
education council 2085 by Wyatt Bach and

17
00:00:40,350 --> 00:00:43,950
Vaughn Dolan and Wilson relating to

18
00:00:42,180 --> 00:00:45,989
extending the authority with certain

19
00:00:43,950 --> 00:00:47,789
limitations of the guadalupe Blanco

20
00:00:45,989 --> 00:00:49,320
River authority and declaring an

21
00:00:47,789 --> 00:00:54,390
emergency refer to the Committee on

22
00:00:49,320 --> 00:00:57,360
Natural Resources Council bill 2086 by

23
00:00:54,390 --> 00:00:59,940
McDonald of Adele go tourists and Chavez

24
00:00:57,360 --> 00:01:01,559
and a Garcia related to making Penn

25
00:00:59,940 --> 00:01:03,930
American University a component of the

26
00:01:01,559 --> 00:01:05,519
University of Texas System and declaring

27
00:01:03,930 --> 00:01:06,659
an emergency refer to the Committee on

28
00:01:05,519 --> 00:01:10,830
Higher Education

29
00:01:06,659 --> 00:01:12,090
House bill 20 87 by Ragsdale relating to

30
00:01:10,830 --> 00:01:14,040
the prohibition of certain presumptions

31
00:01:12,090 --> 00:01:14,610
in state courts and declaring an

32
00:01:14,040 --> 00:01:16,229
emergency

33
00:01:14,610 --> 00:01:19,799
referred to the Committee on criminal

34
00:01:16,229 --> 00:01:21,720
jurisprudence House bill 2088 by

35
00:01:19,799 --> 00:01:24,060
Ragsdale promoting and protecting the

36
00:01:21,720 --> 00:01:25,560
welfare of the people of Texas by

37
00:01:24,060 --> 00:01:27,720
prevention and elimination of certain

38
00:01:25,560 --> 00:01:29,549
unreasonable practices and policies and

39
00:01:27,720 --> 00:01:32,189
declaring an emergency refer to the

40
00:01:29,549 --> 00:01:35,100
Committee on state affairs council bill

41

00:01:32,189 --> 00:01:36,990
2089 by Ragsdale regulating licensing

42
00:01:35,100 --> 00:01:37,680
and registering handguns and declaring

43
00:01:36,990 --> 00:01:38,970
an emergency

44
00:01:37,680 --> 00:01:42,840
referred to the Committee on

45
00:01:38,970 --> 00:01:44,579
Transportation House Bill 2090 by

46
00:01:42,840 --> 00:01:46,920
Ragsdale relating to the establishment

47
00:01:44,579 --> 00:01:49,200
of a policy of full employment in Texas

48
00:01:46,920 --> 00:01:51,200
and declaring an emergency referred to

49
00:01:49,200 --> 00:01:54,720
the Committee on state affairs

50
00:01:51,200 --> 00:01:56,219
House bill 20 91 by Hartung relating to

51
00:01:54,720 --> 00:01:58,079
the penalty for violating certain

52
00:01:56,219 --> 00:02:00,600
provisions of the Texas election code

53
00:01:58,079 --> 00:02:01,850
and declaring an emergency refer to the

54
00:02:00,600 --> 00:02:05,280
Committee on Elections

55
00:02:01,850 --> 00:02:07,049
House bill 20 92 by Hartung relating to

56
00:02:05,280 --> 00:02:09,539
appointment of Watchers at elections on

57
00:02:07,049 --> 00:02:11,160
questions or propositions and declaring

58
00:02:09,539 --> 00:02:11,430
an emergency refer to the Committee on

59
00:02:11,160 --> 00:02:14,790
the

60
00:02:11,430 --> 00:02:16,950
actions House bill 2093 by Leland

61
00:02:14,790 --> 00:02:18,480
related to the DEXA designation and

62
00:02:16,950 --> 00:02:19,680
operation of the State Health Planning

63
00:02:18,480 --> 00:02:21,840
and Development Agency

64
00:02:19,680 --> 00:02:23,840
and declaring an emergency referred to

65
00:02:21,840 --> 00:02:29,250
the Committee on health and welfare

66
00:02:23,840 --> 00:02:30,750
House bill 20 94 by a slay relating to

67
00:02:29,250 --> 00:02:32,269
the Texas Commission on the arts and

68

00:02:30,750 --> 00:02:34,200
humanities and declaring an emergency

69
00:02:32,269 --> 00:02:38,280
referred to the Committee on state

70
00:02:34,200 --> 00:02:40,409
affairs Council bill 20 95 by slave

71
00:02:38,280 --> 00:02:43,099
powers and Adams relate to the eastern

72
00:02:40,409 --> 00:02:45,150
boundary of the port of Port Arthur

73
00:02:43,099 --> 00:02:45,750
navigation district and declaring an

74
00:02:45,150 --> 00:02:47,189
emergency

75
00:02:45,750 --> 00:02:50,669
refer to the Committee on Natural

76
00:02:47,189 --> 00:02:53,519
Resources Council bill 20 96 by slave

77
00:02:50,669 --> 00:02:55,260
powers and Adams relating to the eastern

78
00:02:53,519 --> 00:02:57,180
boundary of Jefferson County and

79
00:02:55,260 --> 00:02:58,439
declaring an emergency referred to the

80
00:02:57,180 --> 00:03:01,709
Committee on Energy Auvergne mental

81
00:02:58,439 --> 00:03:05,069
affairs council bill 2099 by opinion

82
00:03:01,709 --> 00:03:06,540
Halliwell relating to your alternative

83
00:03:05,069 --> 00:03:07,169
rates of interest and declaring an

84
00:03:06,540 --> 00:03:08,909
emergency

85
00:03:07,169 --> 00:03:12,750
refer to the Committee on financial

86
00:03:08,909 --> 00:03:16,109
institutions House bill 2100 by Finney

87
00:03:12,750 --> 00:03:18,060
Coleman and Garcia Beier relating to the

88
00:03:16,109 --> 00:03:19,859
designation of the governor to represent

89
00:03:18,060 --> 00:03:22,440
the state and negotiating a compact

90
00:03:19,859 --> 00:03:24,720
among the states ordering the Republic

91
00:03:22,440 --> 00:03:26,930
of Mexico and declaring an emergency

92
00:03:24,720 --> 00:03:30,659
refer to the Committee on state affairs

93
00:03:26,930 --> 00:03:33,269
House bill 2101 by finning relating to

94
00:03:30,659 --> 00:03:35,489
the issuance refunding an authorization

95

00:03:33,269 --> 00:03:37,109
procedure for bonds of any City Hospital

96
00:03:35,489 --> 00:03:38,159
District and hospital authority and

97
00:03:37,109 --> 00:03:39,389
declaring an emergency

98
00:03:38,159 --> 00:03:42,150
refer to the Committee on

99
00:03:39,389 --> 00:03:44,970
intergovernmental affairs House bill

100
00:03:42,150 --> 00:03:46,739
2102 by finning relating to the funding

101
00:03:44,970 --> 00:03:48,479
and staffing of the Texas Commission on

102
00:03:46,739 --> 00:03:50,519
services to children and youth and

103
00:03:48,479 --> 00:03:52,549
declaring an emergency refer to the

104
00:03:50,519 --> 00:03:55,709
Committee on health and welfare

105
00:03:52,549 --> 00:03:57,180
House bill 2103 by Finney relating to

106
00:03:55,709 --> 00:03:59,669
the organization of cooperative

107
00:03:57,180 --> 00:04:01,109
nonprofit corporations and declaring an

108
00:03:59,669 --> 00:04:04,889
emergency referred to the Committee on

109
00:04:01,109 --> 00:04:07,590
Energy Resources Council bill 2104 by

110
00:04:04,889 --> 00:04:09,209
pfennig related to an amendment of the

111
00:04:07,590 --> 00:04:11,099
Insurance Code to provide for the

112
00:04:09,209 --> 00:04:12,479
licensing of certain corporations for

113
00:04:11,099 --> 00:04:14,009
the for the limited purpose of

114
00:04:12,479 --> 00:04:16,470
collecting and transmitting insurance

115
00:04:14,009 --> 00:04:18,799
premiums and providing an emergency

116
00:04:16,470 --> 00:04:22,139
refer to the Committee on Insurance

117
00:04:18,799 --> 00:04:24,520
Hospital 2105 by many relating to the

118
00:04:22,139 --> 00:04:26,410
chartering organization procedure powers

119
00:04:24,520 --> 00:04:28,750
elation and supervision of credit unions

120
00:04:26,410 --> 00:04:30,360
and occurring an emergency refer to the

121
00:04:28,750 --> 00:04:34,120
Committee on financial institutions

122

00:04:30,360 --> 00:04:35,830
House bill 2106 by Earle relating to

123
00:04:34,120 --> 00:04:37,750
hours of sale and consumption of

124
00:04:35,830 --> 00:04:39,759
alcoholic beverages in certain counties

125
00:04:37,750 --> 00:04:41,400
and declaring an emergency referred to

126
00:04:39,759 --> 00:04:44,919
the Committee on liquor regulation

127
00:04:41,400 --> 00:04:46,389
Council bill 2108 by Earl authorizing

128
00:04:44,919 --> 00:04:48,129
the State Board of Control to provide

129
00:04:46,389 --> 00:04:50,259
services of typewriter and business

130
00:04:48,129 --> 00:04:51,610
machine repair and declaring an

131
00:04:50,259 --> 00:04:54,150
emergency referred to the Committee on

132
00:04:51,610 --> 00:04:54,150
state affairs

133
00:04:55,199 --> 00:05:00,909
House bill 21:09 by Earl amending the

134
00:04:58,840 --> 00:05:02,080
Texas mobile homes Standards Act and

135
00:05:00,909 --> 00:05:03,539
declaring an emergency

136
00:05:02,080 --> 00:05:08,979
were part of the Committee on labor

137
00:05:03,539 --> 00:05:10,930
House bill 21 10 by Earl relating to the

138
00:05:08,979 --> 00:05:12,430
district attorney of the 53rd Judicial

139
00:05:10,930 --> 00:05:14,199
District and declaring an emergency

140
00:05:12,430 --> 00:05:17,169
refer to the Committee on Judicial

141
00:05:14,199 --> 00:05:19,120
Affairs Council bill 2111 by Vaughn

142
00:05:17,169 --> 00:05:20,620
Dolan relating to political activity of

143
00:05:19,120 --> 00:05:22,150
officers and employees of the state

144
00:05:20,620 --> 00:05:23,169
Department of Public Welfare in

145
00:05:22,150 --> 00:05:25,409
declaring an emergency

146
00:05:23,169 --> 00:05:28,449
referred to the Committee on Elections

147
00:05:25,409 --> 00:05:30,370
Council bill 2112 by Washington relating

148
00:05:28,449 --> 00:05:32,169
to the interception and use of wire or

149

00:05:30,370 --> 00:05:32,770
oral communications and declaring an

150
00:05:32,169 --> 00:05:34,389
emergency

151
00:05:32,770 --> 00:05:37,690
refer to the Committee on criminal

152
00:05:34,389 --> 00:05:39,370
jurisprudence council bill 2113 by

153
00:05:37,690 --> 00:05:41,319
Washington relating to subpoenas and

154
00:05:39,370 --> 00:05:42,849
criminal cases and appearing an

155
00:05:41,319 --> 00:05:46,330
emergency referred the committee on

156
00:05:42,849 --> 00:05:49,060
criminal jurisprudence council bill 2114

157
00:05:46,330 --> 00:05:51,039
by Washington relating to joinder of

158
00:05:49,060 --> 00:05:51,669
certain offenses and declaring an

159
00:05:51,039 --> 00:05:53,169
emergency

160
00:05:51,669 --> 00:05:56,440
refer to the Committee on criminal

161
00:05:53,169 --> 00:05:58,240
jurisprudence council bill 2115 by

162
00:05:56,440 --> 00:05:59,800
Washington relating to the forfeiture of

163
00:05:58,240 --> 00:06:02,110
certain property under the Texas

164
00:05:59,800 --> 00:06:03,520
Controlled Substances Act and declaring

165
00:06:02,110 --> 00:06:07,599
an emergency refer to the Committee on

166
00:06:03,520 --> 00:06:09,430
criminal jurisprudence House bill 21 16

167
00:06:07,599 --> 00:06:11,020
by Washington relating to the creation

168
00:06:09,430 --> 00:06:12,460
nudies and authority of the Commission

169
00:06:11,020 --> 00:06:14,560
on law enforcement and criminal justice

170
00:06:12,460 --> 00:06:16,029
and declaring an emergency

171
00:06:14,560 --> 00:06:19,779
referred to the Committee on state

172
00:06:16,029 --> 00:06:21,550
affairs House bill 21 17 by Washington

173
00:06:19,779 --> 00:06:23,080
relating to the depositories of certain

174
00:06:21,550 --> 00:06:23,680
hospital districts and declaring an

175
00:06:23,080 --> 00:06:24,909
emergency

176

00:06:23,680 --> 00:06:28,509
referred to the Committee on

177
00:06:24,909 --> 00:06:31,270
intergovernmental affairs House bill 21

178
00:06:28,509 --> 00:06:33,039
18 by Washington relating to a study of

179
00:06:31,270 --> 00:06:34,810
the regulation of groundwater withdrawal

180
00:06:33,039 --> 00:06:36,430
by the Gulf Coast waste disposal

181
00:06:34,810 --> 00:06:37,419
authority and declaring an emergency

182
00:06:36,430 --> 00:06:40,810
refer to the Committee on Natural

183
00:06:37,419 --> 00:06:42,339
Resources Council bill 21 19 by

184
00:06:40,810 --> 00:06:44,050
Washington relating to the creation

185
00:06:42,339 --> 00:06:45,399
administration powers and duties of the

186
00:06:44,050 --> 00:06:47,800
board to represent and provide legal

187
00:06:45,399 --> 00:06:49,120
counsel to prison inmates and declaring

188
00:06:47,800 --> 00:06:50,370
an emergency were part of the Committee

189
00:06:49,120 --> 00:06:54,009
on state affairs

190
00:06:50,370 --> 00:06:55,750
House bill 2120 by Carraway related to

191
00:06:54,009 --> 00:06:57,149
the creation powers and duties of the

192
00:06:55,750 --> 00:06:59,830
state center for higher education

193
00:06:57,149 --> 00:07:01,270
budgetary information and declaring an

194
00:06:59,830 --> 00:07:05,380
emergency prefer to the Committee on

195
00:07:01,270 --> 00:07:07,419
revenue and taxation House bill 21 21 by

196
00:07:05,380 --> 00:07:09,550
laning relating to the accessibility of

197
00:07:07,419 --> 00:07:11,349
certain information developed in the

198
00:07:09,550 --> 00:07:12,969
legislative process and declaring an

199
00:07:11,349 --> 00:07:17,409
emergency refer to the Committee on

200
00:07:12,969 --> 00:07:19,779
house administration Council bill 21 22

201
00:07:17,409 --> 00:07:21,849
by Laini relating to the admission into

202
00:07:19,779 --> 00:07:24,159
evidence in courts of this state of

203

00:07:21,849 --> 00:07:25,449
written or electronic records and copies

204
00:07:24,159 --> 00:07:27,490
or duplications have written or

205
00:07:25,449 --> 00:07:28,839
electronic records and occurring an

206
00:07:27,490 --> 00:07:32,800
emergency refer to the Committee on

207
00:07:28,839 --> 00:07:34,839
judiciary House bill 21 23 by madla

208
00:07:32,800 --> 00:07:36,490
relating to the maximum tuition to be

209
00:07:34,839 --> 00:07:38,440
charged a student registering and to

210
00:07:36,490 --> 00:07:40,300
institutions of higher education and

211
00:07:38,440 --> 00:07:43,509
declaring an emergency refer to the

212
00:07:40,300 --> 00:07:46,029
Committee on Higher Education Council

213
00:07:43,509 --> 00:07:48,070
bill 21 24 by law half making

214
00:07:46,029 --> 00:07:49,779
appropriations for and directing payment

215
00:07:48,070 --> 00:07:51,580
of miscellaneous claims and judgments

216
00:07:49,779 --> 00:07:52,599
out of the General Revenue Fund and

217
00:07:51,580 --> 00:07:55,560
declaring an emergency

218
00:07:52,599 --> 00:07:59,710
refer to the Committee on Appropriations

219
00:07:55,560 --> 00:08:01,240
House bill 21 25 by Ragsdale promoting

220
00:07:59,710 --> 00:08:03,219
and protecting the welfare of the people

221
00:08:01,240 --> 00:08:04,990
of Texas by prevention and elimination

222
00:08:03,219 --> 00:08:07,810
of certain unreasonable practices and

223
00:08:04,990 --> 00:08:10,229
policies and declaring an emergency

224
00:08:07,810 --> 00:08:14,050
refer to the Committee on state affairs

225
00:08:10,229 --> 00:08:16,210
House bill 21 26 by Earl relating to

226
00:08:14,050 --> 00:08:18,490
sale and purchase of excess acreage of a

227
00:08:16,210 --> 00:08:20,620
title or patented survey of public land

228
00:08:18,490 --> 00:08:22,110
and declaring an emergency referred to

229
00:08:20,620 --> 00:08:25,569
the Committee on state affairs

230

00:08:22,110 --> 00:08:27,069
House bill 21 27 by Earl relating to the

231
00:08:25,569 --> 00:08:28,899
forfeiture of Rights and payment of

232
00:08:27,069 --> 00:08:31,000
royalties penalties and interest and

233
00:08:28,899 --> 00:08:33,579
declaring an emergency refer to the

234
00:08:31,000 --> 00:08:36,490
Committee on state affairs council hill

235
00:08:33,579 --> 00:08:38,349
21:28 by Earl relating to certain

236
00:08:36,490 --> 00:08:39,669
insurance policies covering the care and

237
00:08:38,349 --> 00:08:42,159
treatment of persons afflicted with

238
00:08:39,669 --> 00:08:43,240
chronic and end-stage kidney disease and

239
00:08:42,159 --> 00:08:45,630
declaring an emergency

240
00:08:43,240 --> 00:08:48,970
refer to the Committee on insurance

241
00:08:45,630 --> 00:08:50,770
House bill 21 29 by Earl relating to

242
00:08:48,970 --> 00:08:52,930
County development standards and the use

243
00:08:50,770 --> 00:08:54,850
of the land in unincorporated areas in

244
00:08:52,930 --> 00:08:56,140
Travis County and declaring an emergency

245
00:08:54,850 --> 00:08:58,200
refer to the Committee on

246
00:08:56,140 --> 00:09:01,420
intergovernmental affairs

247
00:08:58,200 --> 00:09:02,740
House bill 2130 by Earl related to

248
00:09:01,420 --> 00:09:05,339
authorizing the state highway department

249
00:09:02,740 --> 00:09:07,540
to construct and maintain bikeways and

250
00:09:05,339 --> 00:09:09,480
declaring an emergency refer to the

251
00:09:07,540 --> 00:09:12,760
Committee on transportation

252
00:09:09,480 --> 00:09:14,770
House bill 21 31 by Earl relating to

253
00:09:12,760 --> 00:09:16,150
bicycle racing and declaring an

254
00:09:14,770 --> 00:09:19,690
emergency refer to the Committee on

255
00:09:16,150 --> 00:09:21,610
Transportation Council bill 21 32 by

256
00:09:19,690 --> 00:09:23,680
Earl relating to payroll deductions from

257

00:09:21,610 --> 00:09:26,290
wages and salaries of county employees

258
00:09:23,680 --> 00:09:28,300
in counties having 20,000 or more

259
00:09:26,290 --> 00:09:29,589
population and declaring an emergency

260
00:09:28,300 --> 00:09:32,980
referred to the Committee on the

261
00:09:29,589 --> 00:09:35,410
intergovernmental affairs House bill 21

262
00:09:32,980 --> 00:09:37,720
33 by Nicholls relating to denial

263
00:09:35,410 --> 00:09:39,910
revocation or suspension of a license of

264
00:09:37,720 --> 00:09:42,610
a cosmetologist barber or assistant

265
00:09:39,910 --> 00:09:44,160
barber and declaring an emergency refer

266
00:09:42,610 --> 00:09:47,790
to the Committee on state affairs

267
00:09:44,160 --> 00:09:49,660
Council bill 21 34 by Barrientos

268
00:09:47,790 --> 00:09:51,580
relating to the abolition of the

269
00:09:49,660 --> 00:09:53,080
good-neighbor Commission and declaring

270
00:09:51,580 --> 00:09:54,600
an emergency refer to the Committee on

271
00:09:53,080 --> 00:09:57,790
state affairs

272
00:09:54,600 --> 00:10:00,040
House bill 21:35 by Vaughn Dolan

273
00:09:57,790 --> 00:10:01,270
relating to regulation of the planning

274
00:10:00,040 --> 00:10:02,770
development construction and

275
00:10:01,270 --> 00:10:04,600
modification of certain healthcare

276
00:10:02,770 --> 00:10:05,200
facilities and services and declaring an

277
00:10:04,600 --> 00:10:06,970
emergency

278
00:10:05,200 --> 00:10:10,960
referred to the Committee on health and

279
00:10:06,970 --> 00:10:12,490
welfare Council 21 36 by had related to

280
00:10:10,960 --> 00:10:14,260
the admission of students to certain

281
00:10:12,490 --> 00:10:16,150
state supported medical schools and

282
00:10:14,260 --> 00:10:17,610
occurring an emergency refer to the

283
00:10:16,150 --> 00:10:21,250
Committee on Health and Welfare

284

00:10:17,610 --> 00:10:22,780
House bill 21 37 by head relating to the

285
00:10:21,250 --> 00:10:25,180
authority of the Texas State Board of

286
00:10:22,780 --> 00:10:26,589
Medical Examiner's and declaring an

287
00:10:25,180 --> 00:10:30,250
emergency refer to the Committee on

288
00:10:26,589 --> 00:10:32,290
health and welfare Council bill 21 38 by

289
00:10:30,250 --> 00:10:34,180
head relating to the cancellation of

290
00:10:32,290 --> 00:10:37,120
loans from the Texas Opportunity plan

291
00:10:34,180 --> 00:10:38,530
fund and declaring an emergency

292
00:10:37,120 --> 00:10:42,370
referred to the Committee on Higher

293
00:10:38,530 --> 00:10:44,380
Education Council pill 21 39 by head

294
00:10:42,370 --> 00:10:46,120
relating to certain supplemental

295
00:10:44,380 --> 00:10:48,279
contingency appropriations to the

296
00:10:46,120 --> 00:10:50,950
Central Education Agency and the

297
00:10:48,279 --> 00:10:52,450
Coordinating Board Texas college and

298
00:10:50,950 --> 00:10:53,080
university system and declaring an

299
00:10:52,450 --> 00:10:54,310
emergency

300
00:10:53,080 --> 00:10:57,640
referred to the Committee on

301
00:10:54,310 --> 00:10:58,089
Appropriations Council of 21:40 by head

302
00:10:57,640 --> 00:10:59,529
relate

303
00:10:58,089 --> 00:11:01,749
the planning and coordination of

304
00:10:59,529 --> 00:11:03,790
post-secondary education in Texas and

305
00:11:01,749 --> 00:11:05,430
declaring an emergency refer to the

306
00:11:03,790 --> 00:11:12,129
Committee on Higher Education

307
00:11:05,430 --> 00:11:13,839
House bill 21 41 by Shabbos the leg to

308
00:11:12,129 --> 00:11:15,490
the abolition of the office of County

309
00:11:13,839 --> 00:11:17,470
school superintendent and the Board of

310
00:11:15,490 --> 00:11:18,910
County school trustees in Cameron County

311

00:11:17,470 --> 00:11:19,990
and declaring an emergency

312
00:11:18,910 --> 00:11:22,629
refer to the Committee on

313
00:11:19,990 --> 00:11:26,079
intergovernmental affairs council bill

314
00:11:22,629 --> 00:11:30,309
21 42 by head amending article 20 point

315
00:11:26,079 --> 00:11:32,249
O 2 1 and declaring an emergency refer

316
00:11:30,309 --> 00:11:35,319
to the Committee on revenue and Taxation

317
00:11:32,249 --> 00:11:36,879
Council of 21:43 by head relating to

318
00:11:35,319 --> 00:11:37,930
county regulation of parking and

319
00:11:36,879 --> 00:11:39,009
declaring an emergency

320
00:11:37,930 --> 00:11:42,699
referred to the Committee on

321
00:11:39,009 --> 00:11:44,559
intergovernmental affairs council 21 44

322
00:11:42,699 --> 00:11:47,050
by head relating to the Texas State

323
00:11:44,559 --> 00:11:48,430
Railroad State Park and declaring an

324
00:11:47,050 --> 00:11:49,949
emergency referred to the Committee on

325
00:11:48,430 --> 00:11:53,290
Appropriations

326
00:11:49,949 --> 00:11:55,120
House bill 21 45 by had related to the

327
00:11:53,290 --> 00:11:57,459
juvenile boards and Anderson Henderson

328
00:11:55,120 --> 00:11:58,899
and Houston counties and declaring an

329
00:11:57,459 --> 00:12:02,529
emergency referred to the Committee on

330
00:11:58,899 --> 00:12:04,569
intergovernmental affairs council 21 46

331
00:12:02,529 --> 00:12:06,550
by head relating to the disposition of

332
00:12:04,569 --> 00:12:08,350
proceeds according to the Texas State

333
00:12:06,550 --> 00:12:09,579
Railroad in declaring an emergency

334
00:12:08,350 --> 00:12:13,870
referred to the Committee on

335
00:12:09,579 --> 00:12:15,309
Environmental Affairs Council pill 21 47

336
00:12:13,870 --> 00:12:17,829
by had relating to the offense of

337
00:12:15,309 --> 00:12:19,179
driving while intoxicated and declaring

338

00:12:17,829 --> 00:12:21,939
an emergency referred to the Committee

339
00:12:19,179 --> 00:12:24,759
on criminal jurisprudence Council Hill

340
00:12:21,939 --> 00:12:26,230
21 48 by grant relate the compensation

341
00:12:24,759 --> 00:12:26,860
of Peace Officers and declaring an

342
00:12:26,230 --> 00:12:29,009
emergency

343
00:12:26,860 --> 00:12:31,929
refer to the Committee on state affairs

344
00:12:29,009 --> 00:12:33,309
council bill 21 49 by Thompson and

345
00:12:31,929 --> 00:12:35,290
Sutton related to the election of

346
00:12:33,309 --> 00:12:36,670
members of boards of trustees of certain

347
00:12:35,290 --> 00:12:37,300
school districts in declaring an

348
00:12:36,670 --> 00:12:39,009
emergency

349
00:12:37,300 --> 00:12:42,309
referred to the Committee on public

350
00:12:39,009 --> 00:12:44,620
education council 2150 by cody

351
00:12:42,309 --> 00:12:46,809
relating to compensation of the judge at

352
00:12:44,620 --> 00:12:48,429
the 43rd Judicial District from County

353
00:12:46,809 --> 00:12:49,839
funds and declaring an emergency

354
00:12:48,429 --> 00:12:53,259
refer to the Committee on

355
00:12:49,839 --> 00:12:55,269
intergovernmental affairs council 21:51

356
00:12:53,259 --> 00:12:56,949
by Hale relating to the compensation of

357
00:12:55,269 --> 00:12:58,870
the judges of the county court at law

358
00:12:56,949 --> 00:13:00,249
number 1 and declaring an emergency

359
00:12:58,870 --> 00:13:03,939
referred to the Committee on

360
00:13:00,249 --> 00:13:06,129
intergovernmental affairs council 21:52

361
00:13:03,939 --> 00:13:07,360
by Allred and cartilage authorizing the

362
00:13:06,129 --> 00:13:09,730
Texas Board of mental

363
00:13:07,360 --> 00:13:11,500
and mental retardation to convey a

364
00:13:09,730 --> 00:13:13,329
certain sanitary sewer main and an

365

00:13:11,500 --> 00:13:14,920
easement in Wichita County to the city

366
00:13:13,329 --> 00:13:15,670
of Wichita Falls and declaring an

367
00:13:14,920 --> 00:13:16,959
emergency

368
00:13:15,670 --> 00:13:20,320
referred to the Committee on state

369
00:13:16,959 --> 00:13:21,820
affairs council bill 2153 by Hendrix

370
00:13:20,320 --> 00:13:23,470
relating to the abolition of the common

371
00:13:21,820 --> 00:13:25,420
law rights of action of criminal

372
00:13:23,470 --> 00:13:27,750
conversation and declaring an emergency

373
00:13:25,420 --> 00:13:32,140
referred to the Committee on judiciary

374
00:13:27,750 --> 00:13:33,579
House bill 2154 by Garcia Bayer relating

375
00:13:32,140 --> 00:13:35,560
to the election of the judges in the

376
00:13:33,579 --> 00:13:37,959
county courts at law bayer county by the

377
00:13:35,560 --> 00:13:39,940
voters of electro of an electoral

378
00:13:37,959 --> 00:13:41,920
district within bayer county and

379
00:13:39,940 --> 00:13:44,290
declaring an emergency referred to the

380
00:13:41,920 --> 00:13:46,990
Committee on judicial affairs council

381
00:13:44,290 --> 00:13:48,640
bill 21:55 by carb well making

382
00:13:46,990 --> 00:13:50,680
supplemental appropriations to the

383
00:13:48,640 --> 00:13:51,430
industrial accident board and declaring

384
00:13:50,680 --> 00:13:52,630
an emergency

385
00:13:51,430 --> 00:13:56,050
referred to the Committee on

386
00:13:52,630 --> 00:13:57,910
Appropriations Council of 21:56 by

387
00:13:56,050 --> 00:13:59,560
Donaldson and Edwards authorizing the

388
00:13:57,910 --> 00:14:01,360
Texas Youth Council to convey the

389
00:13:59,560 --> 00:14:02,769
property of the mountain view school for

390
00:14:01,360 --> 00:14:05,440
boys to the Texas Board of Corrections

391
00:14:02,769 --> 00:14:08,940
and declaring an emergency refer to the

392

00:14:05,440 --> 00:14:08,940
Committee on social services

393
00:14:13,490 --> 00:14:20,010
mr. speaker parliamentary inquiry search

394
00:14:17,910 --> 00:14:22,830
informants room would it be against the

395
00:14:20,010 --> 00:14:25,710
rules of the house if we introduced mr.

396
00:14:22,830 --> 00:14:27,570
buff and mr. Renwick and the junior and

397
00:14:25,710 --> 00:14:29,990
senior class from Roosevelt High School

398
00:14:27,570 --> 00:14:32,160
in San Antonio from Rough Rider country

399
00:14:29,990 --> 00:14:36,660
it is but we're pleased to have them

400
00:14:32,160 --> 00:14:38,520
here today mr. Brown excused

401
00:14:36,660 --> 00:14:39,779
representative wedington Kotov important

402
00:14:38,520 --> 00:14:41,550
business on a motion to representative

403
00:14:39,779 --> 00:14:42,779
correio excused representative Houston

404
00:14:41,550 --> 00:14:44,160
back because of the important business

405
00:14:42,779 --> 00:14:46,140
on a motion representative Tanner

406
00:14:44,160 --> 00:14:47,490
excused representative cage because of

407
00:14:46,140 --> 00:14:49,880
important state business on a motion

408
00:14:47,490 --> 00:15:00,000
representative seamos is there objection

409
00:14:49,880 --> 00:15:03,770
chair here is none chair recognizes mr.

410
00:15:00,000 --> 00:15:03,770
Hale more information to introduce bill

411
00:15:03,860 --> 00:15:08,070
mr. speaker members of House I ask

412
00:15:06,450 --> 00:15:11,910
permission of the house to introduce

413
00:15:08,070 --> 00:15:14,339
this bill it proposes to make an

414
00:15:11,910 --> 00:15:16,620
amendment the title 63 of the revised

415
00:15:14,339 --> 00:15:20,850
civil statutes having to do with fire

416
00:15:16,620 --> 00:15:23,750
escapes on buildings in the cities most

417
00:15:20,850 --> 00:15:27,270
of the urban cities have very strong

418
00:15:23,750 --> 00:15:30,030
municipal codes governing fire escapes

419

00:15:27,270 --> 00:15:31,860
on buildings and we have found recently

420
00:15:30,030 --> 00:15:33,720
in the building industry that there are

421
00:15:31,860 --> 00:15:35,790
some conflicts between this statute

422
00:15:33,720 --> 00:15:38,760
which was written many years ago and

423
00:15:35,790 --> 00:15:40,530
these building codes and this bill is

424
00:15:38,760 --> 00:15:42,270
designed to reconcile those differences

425
00:15:40,530 --> 00:15:46,740
in I ask permission to introduce this

426
00:15:42,270 --> 00:15:48,540
bill you've heard mr. Hales request

427
00:15:46,740 --> 00:15:49,250
permission to introduce a bill is there

428
00:15:48,540 --> 00:15:51,720
objection

429
00:15:49,250 --> 00:15:53,960
share heroes and here's nan permission

430
00:15:51,720 --> 00:15:53,960
is granted

431
00:16:22,260 --> 00:16:27,570
members were going on the calendar

432
00:16:24,530 --> 00:16:29,160
Cheerilee is out Senate bill 41 the

433
00:16:27,570 --> 00:16:34,560
clerk Oh on second reading the clerk

434
00:16:29,160 --> 00:16:37,320
will read the bill Senate bill 41 by

435
00:16:34,560 --> 00:16:39,630
Sherman an act providing standards for

436
00:16:37,320 --> 00:16:42,810
state administrative agency practice and

437
00:16:39,630 --> 00:16:45,950
procedures providing for review mr. von

438
00:16:42,810 --> 00:16:45,950
dolan to explain the bill

439
00:16:57,090 --> 00:17:04,089
mr. speaker and fellow members Senate

440
00:17:00,370 --> 00:17:08,020
bill 41 is the Administrative Procedure

441
00:17:04,089 --> 00:17:09,640
and Texas Register Act a bill which I

442
00:17:08,020 --> 00:17:11,020
think is very important for

443
00:17:09,640 --> 00:17:15,070
consideration during this legislative

444
00:17:11,020 --> 00:17:17,079
session we have been very fortunate in

445
00:17:15,070 --> 00:17:19,270
Texas to have the service of some

446

00:17:17,079 --> 00:17:20,920
excellent people in our administrative

447
00:17:19,270 --> 00:17:25,290
agencies and they have done an excellent

448
00:17:20,920 --> 00:17:28,480
job we have seen in recent years however

449
00:17:25,290 --> 00:17:31,360
that we have had an explosion of

450
00:17:28,480 --> 00:17:36,640
governmental entities governmental

451
00:17:31,360 --> 00:17:38,950
agencies within our state we have been

452
00:17:36,640 --> 00:17:41,020
fortunate however to operate our state

453
00:17:38,950 --> 00:17:44,500
agencies at one of the lowest costs per

454
00:17:41,020 --> 00:17:45,970
capita of any state in the Union and I'm

455
00:17:44,500 --> 00:17:47,800
sure that with the assistance of this

456
00:17:45,970 --> 00:17:51,940
legislature we will continue to be able

457
00:17:47,800 --> 00:17:54,670
to do that we also have seen increased

458
00:17:51,940 --> 00:17:59,860
citizen interest in the efforts of our

459
00:17:54,670 --> 00:18:02,170
state government to advise the public so

460
00:17:59,860 --> 00:18:05,470
that the public can know what is going

461
00:18:02,170 --> 00:18:07,290
on within our administrative agencies

462
00:18:05,470 --> 00:18:10,660
and within state government

463
00:18:07,290 --> 00:18:14,940
Senate bill 41 is a bill which has been

464
00:18:10,660 --> 00:18:18,640
worked on by many many persons the

465
00:18:14,940 --> 00:18:20,860
secretary of state provided an excellent

466
00:18:18,640 --> 00:18:23,370
study on the feasibility of the

467
00:18:20,860 --> 00:18:26,170
development of a Texas register system

468
00:18:23,370 --> 00:18:27,790
along with the cooperation of the State

469
00:18:26,170 --> 00:18:29,950
Bar of Texas Administrative Law

470
00:18:27,790 --> 00:18:32,860
Committee which has been working on this

471
00:18:29,950 --> 00:18:35,380
measure for many many years senator

472
00:18:32,860 --> 00:18:37,900
Sherman myself and some 20 other house

473

00:18:35,380 --> 00:18:43,000
sponsors have worked on this bill for

474
00:18:37,900 --> 00:18:46,270
many years and many many hours our

475
00:18:43,000 --> 00:18:48,430
principal problem in Texas is that there

476
00:18:46,270 --> 00:18:51,600
is no single source from which to obtain

477
00:18:48,430 --> 00:18:55,060
pertinent information for citizen input

478
00:18:51,600 --> 00:18:58,830
our system allows for gaps and overlaps

479
00:18:55,060 --> 00:19:00,970
of information from the various agencies

480
00:18:58,830 --> 00:19:04,230
eventually the system makes adjustments

481
00:19:00,970 --> 00:19:07,720
and were able to overcome these problems

482
00:19:04,230 --> 00:19:10,120
but we need to establish a uniform and

483
00:19:07,720 --> 00:19:10,330
consistent means of communication for

484
00:19:10,120 --> 00:19:13,659
the

485
00:19:10,330 --> 00:19:15,760
public the people have a desire and a

486
00:19:13,659 --> 00:19:19,600
right to know what their Texas

487
00:19:15,760 --> 00:19:22,330
government is doing basically the bill

488
00:19:19,600 --> 00:19:24,940
creates a Texas register system and

489
00:19:22,330 --> 00:19:27,159
places the responsibility for the Texas

490
00:19:24,940 --> 00:19:31,450
register under the Secretary of State's

491
00:19:27,159 --> 00:19:34,059
office in addition it provides standard

492
00:19:31,450 --> 00:19:38,769
notice for our eight for the agencies of

493
00:19:34,059 --> 00:19:40,779
our state establishes procedures for the

494
00:19:38,769 --> 00:19:45,610
adoption of rules and the procedures for

495
00:19:40,779 --> 00:19:47,529
contested cases actions of our agencies

496
00:19:45,610 --> 00:19:49,809
probably effect more rights and

497
00:19:47,529 --> 00:19:53,529
properties of individuals than to

498
00:19:49,809 --> 00:19:56,559
actions of all of our courts this act

499
00:19:53,529 --> 00:20:00,010
provides statutory guidelines designed

500

00:19:56,559 --> 00:20:03,090
to obtain efficient administration while

501
00:20:00,010 --> 00:20:08,830
affording optimum protection of personal

502
00:20:03,090 --> 00:20:11,860
and property rights for speaker and

503
00:20:08,830 --> 00:20:13,360
members at the time that the Judicial

504
00:20:11,860 --> 00:20:16,019
Affairs Committee considered this

505
00:20:13,360 --> 00:20:20,080
legislation there were a number of

506
00:20:16,019 --> 00:20:23,230
persons who were speaking about this

507
00:20:20,080 --> 00:20:25,539
bill in relation to problems that might

508
00:20:23,230 --> 00:20:27,789
be created for the various agencies I

509
00:20:25,539 --> 00:20:31,929
told them at the time that this was

510
00:20:27,789 --> 00:20:34,440
considered that we would meet with all

511
00:20:31,929 --> 00:20:37,029
of these people to see if they had

512
00:20:34,440 --> 00:20:40,929
legitimate concerns that should be

513
00:20:37,029 --> 00:20:43,360
considered and included in the bill as a

514
00:20:40,929 --> 00:20:45,820
result of that we did meet with all

515
00:20:43,360 --> 00:20:47,799
these parties involved senator Sherman

516
00:20:45,820 --> 00:20:51,610
and myself representatives of the

517
00:20:47,799 --> 00:20:53,799
Secretary of State's office and we have

518
00:20:51,610 --> 00:20:57,279
included a number of amendments to the

519
00:20:53,799 --> 00:21:00,419
bill as it came out of committee for

520
00:20:57,279 --> 00:21:03,549
that reason we prepared in an order to

521
00:21:00,419 --> 00:21:06,279
not have too extensive debate on the

522
00:21:03,549 --> 00:21:09,940
floor prepared a committee amendment

523
00:21:06,279 --> 00:21:12,730
which I will lay out ask the chair to

524
00:21:09,940 --> 00:21:16,230
lay out here in a moment I have placed

525
00:21:12,730 --> 00:21:18,970
on your desk each of the members desk a

526
00:21:16,230 --> 00:21:21,510
letter which explains what has taken

527

00:21:18,970 --> 00:21:23,750
place since the committee meeting a

528
00:21:21,510 --> 00:21:27,679
synopsis of the bill

529
00:21:23,750 --> 00:21:29,980
a complete list of all changes from the

530
00:21:27,679 --> 00:21:33,230
bill as you have it on second reading

531
00:21:29,980 --> 00:21:34,690
and a copy of the amendment which will

532
00:21:33,230 --> 00:21:38,480
be laid out in a moment

533
00:21:34,690 --> 00:21:40,789
this bill is in excellent form it

534
00:21:38,480 --> 00:21:43,580
provides one of the best means I think

535
00:21:40,789 --> 00:21:45,980
to open up the process of government to

536
00:21:43,580 --> 00:21:51,799
the citizens of this state that we could

537
00:21:45,980 --> 00:21:53,600
ask for I ask your attention and I would

538
00:21:51,799 --> 00:21:56,419
call to your attention that in December

539
00:21:53,600 --> 00:22:00,409
of 1974 the governor of this state

540
00:21:56,419 --> 00:22:03,049
called for the legislature to adopt an

541
00:22:00,409 --> 00:22:05,750
official public document called the

542
00:22:03,049 --> 00:22:08,389
state register which would include and

543
00:22:05,750 --> 00:22:10,370
list all proposed state regulations and

544
00:22:08,389 --> 00:22:14,149
scheduled meetings of every agency board

545
00:22:10,370 --> 00:22:18,919
and Commission of the state of Texas let

546
00:22:14,149 --> 00:22:22,179
me take just one minute to hurriedly go

547
00:22:18,919 --> 00:22:25,340
through the major points in the bill

548
00:22:22,179 --> 00:22:27,320
basically in the purpose clause you find

549
00:22:25,340 --> 00:22:29,059
that the minimum standards it provides

550
00:22:27,320 --> 00:22:30,590
for minimum standards of uniform

551
00:22:29,059 --> 00:22:33,590
practice and procedure for state

552
00:22:30,590 --> 00:22:36,529
agencies for public participation in the

553
00:22:33,590 --> 00:22:38,809
rulemaking process for adequate and

554

00:22:36,529 --> 00:22:40,460
proper public notice of proposed agency

555
00:22:38,809 --> 00:22:43,309
rules and agency actions through

556
00:22:40,460 --> 00:22:45,049
publication of a state register and a

557
00:22:43,309 --> 00:22:47,960
restatement of the law of judicial

558
00:22:45,049 --> 00:22:50,409
review of agency actions some of the

559
00:22:47,960 --> 00:22:54,320
major definitions are that of agency

560
00:22:50,409 --> 00:22:57,500
which X which is limited to agencies of

561
00:22:54,320 --> 00:22:59,120
statewide jurisdiction exclusive of the

562
00:22:57,500 --> 00:23:01,850
industrial accident board and

563
00:22:59,120 --> 00:23:04,159
institutions of higher education these

564
00:23:01,850 --> 00:23:06,769
agencies which make rules are determined

565
00:23:04,159 --> 00:23:09,289
contested cases the definition of

566
00:23:06,769 --> 00:23:12,769
contested case license and rule are

567
00:23:09,289 --> 00:23:16,279
important basically it then sets out

568
00:23:12,769 --> 00:23:18,019
what each agency shall do in adopting

569
00:23:16,279 --> 00:23:21,759
their rules of practice and how the

570
00:23:18,019 --> 00:23:25,909
public can participate in their adoption

571
00:23:21,759 --> 00:23:30,110
in addition it sets out the creation of

572
00:23:25,909 --> 00:23:31,460
a Texas register in that Texas register

573
00:23:30,110 --> 00:23:34,759
there are many important things that

574
00:23:31,460 --> 00:23:36,090
will be published one is notices of

575
00:23:34,759 --> 00:23:39,810
proposed rule

576
00:23:36,090 --> 00:23:42,510
- is the text of rules adopted three

577
00:23:39,810 --> 00:23:45,810
notices of open meetings of the state

578
00:23:42,510 --> 00:23:48,870
agencies that are covered for executive

579
00:23:45,810 --> 00:23:51,630
orders five summaries of requests of

580
00:23:48,870 --> 00:23:54,450
opinions to the Attorney General and six

581

00:23:51,630 --> 00:23:56,460
those summaries of opinions of the

582
00:23:54,450 --> 00:23:58,230
Attorney General and other pertinent

583
00:23:56,460 --> 00:24:02,280
information of general interest to the

584
00:23:58,230 --> 00:24:05,820
public and to this legislature in

585
00:24:02,280 --> 00:24:09,180
addition it establishes how a rule

586
00:24:05,820 --> 00:24:11,400
becomes effective and procedures by

587
00:24:09,180 --> 00:24:14,820
which the public can participate in the

588
00:24:11,400 --> 00:24:17,490
rulemaking process it also sets up

589
00:24:14,820 --> 00:24:21,540
procedures for the handling of contested

590
00:24:17,490 --> 00:24:27,270
cases before an agency for basic rules

591
00:24:21,540 --> 00:24:30,770
of evidence before that agency for

592
00:24:27,270 --> 00:24:30,770
methods of taping taking depositions

593
00:24:32,540 --> 00:24:37,320
examinations of the record and what is

594
00:24:34,620 --> 00:24:39,870
included in that record a thorough

595
00:24:37,320 --> 00:24:44,250
review of decisions and orders and a

596
00:24:39,870 --> 00:24:48,000
procedure for judicial review this is an

597
00:24:44,250 --> 00:24:49,440
overview of what the bill does and I

598
00:24:48,000 --> 00:24:51,300
think that it's one of the major pieces

599
00:24:49,440 --> 00:24:54,030
of legislation that we will consider

600
00:24:51,300 --> 00:24:55,680
during this session I do want to raise

601
00:24:54,030 --> 00:24:59,220
the question of the fiscal implications

602
00:24:55,680 --> 00:25:01,800
of this bill let me say that this bill

603
00:24:59,220 --> 00:25:03,930
will cost the state some money but

604
00:25:01,800 --> 00:25:05,880
whenever you stand in the position of

605
00:25:03,930 --> 00:25:08,370
being able to open the processes of

606
00:25:05,880 --> 00:25:09,870
state government to the people then that

607
00:25:08,370 --> 00:25:13,350
money spent by their elected

608

00:25:09,870 --> 00:25:17,520
representatives is money well spent the

609
00:25:13,350 --> 00:25:20,310
fiscal note which you have attached to

610
00:25:17,520 --> 00:25:24,060
the second training of the bill has been

611
00:25:20,310 --> 00:25:27,960
substantially reduced since the time of

612
00:25:24,060 --> 00:25:30,060
that fiscal note yesterday senator

613
00:25:27,960 --> 00:25:32,220
Sherman secretary white myself had the

614
00:25:30,060 --> 00:25:33,990
opportunity to meet with the industrial

615
00:25:32,220 --> 00:25:36,780
excuse me with the alcoholic beverage

616
00:25:33,990 --> 00:25:38,670
commissioner and their fiscal

617
00:25:36,780 --> 00:25:42,330
implications alone were reduced by a

618
00:25:38,670 --> 00:25:45,240
million dollars a year we also

619
00:25:42,330 --> 00:25:46,840
anticipate further reductions as a

620
00:25:45,240 --> 00:25:48,910
result

621
00:25:46,840 --> 00:25:50,500
of the amendments which we have made in

622
00:25:48,910 --> 00:25:52,720
the Act which were not taken into

623
00:25:50,500 --> 00:25:56,350
contemplation at the time that the

624
00:25:52,720 --> 00:25:58,870
agency submitted their expected fiscal

625
00:25:56,350 --> 00:26:00,730
implications I'll be glad to go into the

626
00:25:58,870 --> 00:26:04,900
fiscal implications of the bill in more

627
00:26:00,730 --> 00:26:06,520
detail at a later point now that you met

628
00:26:04,900 --> 00:26:08,650
speaker will the gentleman yield

629
00:26:06,520 --> 00:26:11,140
yelling yells mr. Willis let's run

630
00:26:08,650 --> 00:26:14,260
darlin I have not had time to read your

631
00:26:11,140 --> 00:26:17,080
bill in detail but I have I have scanned

632
00:26:14,260 --> 00:26:18,760
it and I think you've given a very good

633
00:26:17,080 --> 00:26:20,320
explanation of it and I think it's a

634
00:26:18,760 --> 00:26:22,870
good bill but I'm worried about one

635

00:26:20,320 --> 00:26:25,360
portion of it now as I read the bill

636
00:26:22,870 --> 00:26:27,580
here you are setting forth the

637
00:26:25,360 --> 00:26:29,640
substantial evidence rule that is on an

638
00:26:27,580 --> 00:26:31,960
appeal from the agency you only require

639
00:26:29,640 --> 00:26:34,150
substantial evidence to be transmitted

640
00:26:31,960 --> 00:26:36,610
instead of a trial de novo is there an

641
00:26:34,150 --> 00:26:40,570
amendment pending on with regard to this

642
00:26:36,610 --> 00:26:42,910
matter mr. Willis there will be an

643
00:26:40,570 --> 00:26:46,570
amendment I'm sure that is it is on that

644
00:26:42,910 --> 00:26:48,370
section as you know the question of

645
00:26:46,570 --> 00:26:50,920
substantial evidence versus trial de

646
00:26:48,370 --> 00:26:52,960
novo is a very complicated area and I'd

647
00:26:50,920 --> 00:26:55,150
like to reserve the discussion on that

648
00:26:52,960 --> 00:26:56,860
portion to that area of the bill and the

649
00:26:55,150 --> 00:26:58,510
amendment that will be forthcoming

650
00:26:56,860 --> 00:27:00,550
Garlan will try to go into that in

651
00:26:58,510 --> 00:27:04,720
detail at that time thank you very much

652
00:27:00,550 --> 00:27:05,500
mr. bond or mr. speaker will the

653
00:27:04,720 --> 00:27:08,230
gentleman yield

654
00:27:05,500 --> 00:27:13,060
gentleman yield mr. president mr. bond

655
00:27:08,230 --> 00:27:16,290
Dolan on page 23 of your bill line 24

656
00:27:13,060 --> 00:27:16,290
and 25

657
00:27:22,970 --> 00:27:26,690
give me what you give me the reference

658
00:27:24,660 --> 00:27:32,960
again page 23

659
00:27:26,690 --> 00:27:36,980
alright line 24 and 25 write the review

660
00:27:32,960 --> 00:27:40,290
shall be conducted by Court without jury

661
00:27:36,980 --> 00:27:42,390
without a jury all right mr. Preston if

662

00:27:40,290 --> 00:27:45,480

I might I think you're looking at the

663

00:27:42,390 --> 00:27:48,710

second printing is that correct I don't

664

00:27:45,480 --> 00:27:56,220

think yes I think I am all right

665

00:27:48,710 --> 00:27:59,220

yes all right yes sir you are going to

666

00:27:56,220 --> 00:28:01,410

prohibit a jury trial in all cases no

667

00:27:59,220 --> 00:28:03,900

now you've got to remember mr. Preston

668

00:28:01,410 --> 00:28:06,720

that what we have here is an agency

669

00:28:03,900 --> 00:28:08,760

review I understand yeah this is it this

670

00:28:06,720 --> 00:28:12,780

is your appellate process here this is

671

00:28:08,760 --> 00:28:15,120

the appellate process that exists under

672

00:28:12,780 --> 00:28:16,680

the substantial evidence rule that would

673

00:28:15,120 --> 00:28:19,650

be the general rule in the state of

674

00:28:16,680 --> 00:28:23,340

Texas for a court's review of agency

675

00:28:19,650 --> 00:28:26,370

decisions now this would be exclusive in

676
00:28:23,340 --> 00:28:28,710
the bill of trial de novo situations for

677
00:28:26,370 --> 00:28:32,460
rate cases before the railroad

678
00:28:28,710 --> 00:28:35,280
commission in with the exception of that

679
00:28:32,460 --> 00:28:39,060
instance and in those agencies that this

680
00:28:35,280 --> 00:28:40,680
Act would apply to then substantial

681
00:28:39,060 --> 00:28:43,200
evidence would apply and there would be

682
00:28:40,680 --> 00:28:45,540
no jury trial because it would be on the

683
00:28:43,200 --> 00:28:48,480
record established and letting knew the

684
00:28:45,540 --> 00:28:50,190
evidence was established or printed unto

685
00:28:48,480 --> 00:28:53,070
be it is correct admissible thereafter

686
00:28:50,190 --> 00:28:54,900
that was not admitted at the time that

687
00:28:53,070 --> 00:29:00,000
the agency reviewed the case that is

688
00:28:54,900 --> 00:29:01,800
correct right well how many agencies now

689

00:29:00,000 --> 00:29:03,450
do we have using the substantial

690
00:29:01,800 --> 00:29:06,630
evidence rule and how many do we have

691
00:29:03,450 --> 00:29:09,120
using the trial de novo all right mr.

692
00:29:06,630 --> 00:29:12,150
Preston again at this point if I could

693
00:29:09,120 --> 00:29:14,490
I'd like to save the argument on on that

694
00:29:12,150 --> 00:29:16,800
issue till we get to that point in the

695
00:29:14,490 --> 00:29:18,510
bill and I will be plan to go into that

696
00:29:16,800 --> 00:29:22,530
extensively and I have that information

697
00:29:18,510 --> 00:29:24,600
for you all right Thank You mr. speaker

698
00:29:22,530 --> 00:29:27,570
if I might at this time I'd like to lay

699
00:29:24,600 --> 00:29:29,700
out as an author's perfecting amendment

700
00:29:27,570 --> 00:29:32,430
so that there can be amendments offer to

701
00:29:29,700 --> 00:29:33,480
it the amendment which is on the

702
00:29:32,430 --> 00:29:35,440
speaker's desk

703
00:29:33,480 --> 00:29:40,180
like a mammoth the clerk will read the

704
00:29:35,440 --> 00:29:42,640
amendment amendment by Vaughn Dolan a

705
00:29:40,180 --> 00:29:46,750
men's Senate bill mr. Vaughn Dolan to

706
00:29:42,640 --> 00:29:49,570
explain the amendment mr. Pinker and

707
00:29:46,750 --> 00:29:53,740
fellow members this is the amendment

708
00:29:49,570 --> 00:29:57,790
which is on each of your desk that has

709
00:29:53,740 --> 00:30:01,150
attached to it the various changes that

710
00:29:57,790 --> 00:30:03,850
have come to pass since the bill came

711
00:30:01,150 --> 00:30:07,420
out of committee now I'd like to go

712
00:30:03,850 --> 00:30:09,760
through these and end with you and have

713
00:30:07,420 --> 00:30:13,270
you keep two thoughts in mind while

714
00:30:09,760 --> 00:30:16,360
we're doing this one is that at the

715
00:30:13,270 --> 00:30:19,179
hearing several of the agency said we

716

00:30:16,360 --> 00:30:22,330
have unique problems that need to be

717
00:30:19,179 --> 00:30:25,150
taken into consideration and we told

718
00:30:22,330 --> 00:30:26,920
them yes if you have a unique problem we

719
00:30:25,150 --> 00:30:30,010
will consider it and try to incorporate

720
00:30:26,920 --> 00:30:32,500
it the second thing was that we did this

721
00:30:30,010 --> 00:30:35,500
in an effort to reduce the fiscal

722
00:30:32,500 --> 00:30:38,500
implications of this bill and to improve

723
00:30:35,500 --> 00:30:43,270
the bill I'm going to hit the major

724
00:30:38,500 --> 00:30:46,020
points of change in the bill first of

725
00:30:43,270 --> 00:30:51,460
all we provided for public hearings

726
00:30:46,020 --> 00:30:53,950
where persons petition for same before

727
00:30:51,460 --> 00:30:58,900
an agency when an agency is considering

728
00:30:53,950 --> 00:31:02,470
the adoption of substantive rules next

729
00:30:58,900 --> 00:31:05,230
we make clear that existing rules of the

730
00:31:02,470 --> 00:31:09,570
agencies become effective immediately

731
00:31:05,230 --> 00:31:09,570
upon filing with the Secretary of State

732
00:31:12,659 --> 00:31:22,860
next we eliminated what was the section

733
00:31:19,110 --> 00:31:25,559
on declaratory rulings by agencies

734
00:31:22,860 --> 00:31:28,960
because it was brought to our attention

735
00:31:25,559 --> 00:31:32,019
that this could cause substantial

736
00:31:28,960 --> 00:31:35,440
expense to many of the agencies which

737
00:31:32,019 --> 00:31:38,799
have numerous statutes which must be

738
00:31:35,440 --> 00:31:41,250
interpreted as to their applicability so

739
00:31:38,799 --> 00:31:43,750
to avoid the cost involved here

740
00:31:41,250 --> 00:31:47,289
particularly to the Railroad Commission

741
00:31:43,750 --> 00:31:49,179
and other agencies of this nature we

742
00:31:47,289 --> 00:31:51,639
remove the section on declaratory

743

00:31:49,179 --> 00:31:54,850
rulings as it relates to the

744
00:31:51,639 --> 00:31:56,399
applicability of a statute but retain

745
00:31:54,850 --> 00:31:58,899
the provision for a declaratory

746
00:31:56,399 --> 00:32:02,049
judgement on the validity or

747
00:31:58,899 --> 00:32:04,440
applicability of rules for challenge in

748
00:32:02,049 --> 00:32:07,600
the courts

749
00:32:04,440 --> 00:32:10,960
we also added a provision in that

750
00:32:07,600 --> 00:32:13,690
section on declaratory judgment on the

751
00:32:10,960 --> 00:32:16,029
validity or applicability of rules to

752
00:32:13,690 --> 00:32:19,090
provide that however no such proceeding

753
00:32:16,029 --> 00:32:21,610
under this section may be used to delay

754
00:32:19,090 --> 00:32:23,620
our stay a hearing after notice of

755
00:32:21,610 --> 00:32:25,960
hearing has been given if a suspension

756
00:32:23,620 --> 00:32:27,820
revocation or cancellation of a license

757
00:32:25,960 --> 00:32:30,279
by an agency is at issue before the

758
00:32:27,820 --> 00:32:35,019
agency so that cannot be used as

759
00:32:30,279 --> 00:32:37,389
dilatatory tactics in addition we made

760
00:32:35,019 --> 00:32:39,630
clear what is comprised within the

761
00:32:37,389 --> 00:32:43,120
record that goes to the court for review

762
00:32:39,630 --> 00:32:45,760
that it is not all agency communications

763
00:32:43,120 --> 00:32:48,940
but only those agency communications

764
00:32:45,760 --> 00:32:53,559
that go to an individual involved in

765
00:32:48,940 --> 00:32:55,960
making the decision in the case I think

766
00:32:53,559 --> 00:32:57,639
that there is a very important matter

767
00:32:55,960 --> 00:32:59,500
here that some of the agencies were

768
00:32:57,639 --> 00:33:02,500
concerned about and included this in

769
00:32:59,500 --> 00:33:03,820
their fiscal implications that is that

770

00:33:02,500 --> 00:33:07,000
they said well you're going to require

771
00:33:03,820 --> 00:33:16,809
us to have a hearing officer if you look

772
00:33:07,000 --> 00:33:19,929
at section 13 subsection 7 F 7 you will

773
00:33:16,809 --> 00:33:21,970
notice in there that it states that the

774
00:33:19,929 --> 00:33:25,640
hearing can be before a hearing officer

775
00:33:21,970 --> 00:33:29,730
are members of an agency

776
00:33:25,640 --> 00:33:31,380
in addition mr. Hale mr. grant

777
00:33:29,730 --> 00:33:34,130
and a number of others who have worked

778
00:33:31,380 --> 00:33:36,960
on an Administrative Procedure Act

779
00:33:34,130 --> 00:33:39,830
raised the point are you requiring the

780
00:33:36,960 --> 00:33:42,300
agency's record to be only stenographic

781
00:33:39,830 --> 00:33:44,970
we thought that the bill was clear that

782
00:33:42,300 --> 00:33:47,280
that was not the case however to make it

783
00:33:44,970 --> 00:33:49,770
clearer we added a sentence that said

784
00:33:47,280 --> 00:33:52,260
this Act does not limit an agency to a

785
00:33:49,770 --> 00:33:54,180
stenographic record of proceedings so

786
00:33:52,260 --> 00:33:58,440
that they may do so with tape recordings

787
00:33:54,180 --> 00:34:00,450
etc in addition we added a sentence

788
00:33:58,440 --> 00:34:03,000
which says that the deposition of a

789
00:34:00,450 --> 00:34:04,650
member of an agency board may not be

790
00:34:03,000 --> 00:34:07,320
taken after a date has been set for

791
00:34:04,650 --> 00:34:09,750
hearing certainly an individual involved

792
00:34:07,320 --> 00:34:16,080
in making the decision should not be

793
00:34:09,750 --> 00:34:19,560
deposed in advance of that hearing in

794
00:34:16,080 --> 00:34:21,840
addition to cut down on cost for those

795
00:34:19,560 --> 00:34:25,230
agencies that have hearings before the

796
00:34:21,840 --> 00:34:28,200
entire board we added a provision on the

797

00:34:25,230 --> 00:34:30,750
motions for rehearing that if the agency

798
00:34:28,200 --> 00:34:33,690
includes a board member who receives no

799
00:34:30,750 --> 00:34:37,350
salary and resides outside of Travis

800
00:34:33,690 --> 00:34:39,990
County that the motion for rehearing can

801
00:34:37,350 --> 00:34:42,780
be determined by circulation in the

802
00:34:39,990 --> 00:34:48,480
mails by telephone telegraph or other

803
00:34:42,780 --> 00:34:51,890
suitable means of communication probably

804
00:34:48,480 --> 00:34:56,880
one of the most substantial deletions

805
00:34:51,890 --> 00:35:00,660
was was the provision that in judicial

806
00:34:56,880 --> 00:35:04,040
review of contested cases we eliminated

807
00:35:00,660 --> 00:35:07,290
the necessity for intermediate review of

808
00:35:04,040 --> 00:35:10,170
agency actions again this has a

809
00:35:07,290 --> 00:35:14,400
substantial effect on the fiscal

810
00:35:10,170 --> 00:35:16,350
implications of the bill mr. chairman

811
00:35:14,400 --> 00:35:19,050
and mr. speaker members those are the

812
00:35:16,350 --> 00:35:22,170
major changes and the reasons for those

813
00:35:19,050 --> 00:35:24,030
changes I'd like to state that at the

814
00:35:22,170 --> 00:35:27,800
various tables where you can pick up

815
00:35:24,030 --> 00:35:31,080
amendments there are a number of letters

816
00:35:27,800 --> 00:35:35,010
these letters are from such agencies as

817
00:35:31,080 --> 00:35:37,050
the department of welfare department of

818
00:35:35,010 --> 00:35:38,720
mental health and mental retardation the

819
00:35:37,050 --> 00:35:41,780
alcoholic beverage from

820
00:35:38,720 --> 00:35:45,050
Texas Medical Association and a number

821
00:35:41,780 --> 00:35:48,470
of others who had particular problems

822
00:35:45,050 --> 00:35:52,070
that we were able to work out and have

823
00:35:48,470 --> 00:35:54,710
included without destroying the original

824

00:35:52,070 --> 00:35:57,050
intent of the bill but recognizing their

825
00:35:54,710 --> 00:35:59,720
particular problems and each of these

826
00:35:57,050 --> 00:36:04,040
agencies are have have signed a letter

827
00:35:59,720 --> 00:36:06,500
in support of the bill in addition we

828
00:36:04,040 --> 00:36:07,460
have a letter from the industrial excuse

829
00:36:06,500 --> 00:36:10,580
me from the Alcoholic Beverage

830
00:36:07,460 --> 00:36:12,440
Commission which clearly states that as

831
00:36:10,580 --> 00:36:15,380
a result of recent federal court

832
00:36:12,440 --> 00:36:18,080
decisions that most of the fiscal

833
00:36:15,380 --> 00:36:21,320
implications that they are stating will

834
00:36:18,080 --> 00:36:24,410
come about whether this this statute is

835
00:36:21,320 --> 00:36:27,740
adopted or not the reason being that

836
00:36:24,410 --> 00:36:30,680
that we must provide due process in all

837
00:36:27,740 --> 00:36:32,480
of our agencies and we'll go into that

838
00:36:30,680 --> 00:36:34,820
in more detail in a minute if there are

839
00:36:32,480 --> 00:36:37,120
questions on the fiscal implications of

840
00:36:34,820 --> 00:36:37,120
the bill

841
00:36:41,030 --> 00:36:46,600
nurse dissipated calm miss doorkeeper we

842
00:36:44,360 --> 00:36:51,140
have a message from the Senate

843
00:36:46,600 --> 00:36:52,850
Atlanta passenger mr. dog ever mr.

844
00:36:51,140 --> 00:36:54,470
speaker I'm directed by the Senate to

845
00:36:52,850 --> 00:36:57,680
inform the house that the Senate has

846
00:36:54,470 --> 00:36:59,420
passed the following I'm directed C has

847
00:36:57,680 --> 00:37:01,780
concurred in house amendments to Senate

848
00:36:59,420 --> 00:37:04,220
bill 301 by voice vote

849
00:37:01,780 --> 00:37:05,600
has appointed the following members to

850
00:37:04,220 --> 00:37:09,140
conference committee on Senate bill

851

00:37:05,600 --> 00:37:17,960
number 5/8 senator Gammage Tony Stephen

852
00:37:09,140 --> 00:37:19,160
Farrah B Meyer and Adams following

853
00:37:17,960 --> 00:37:24,530
amendment to the amendment the clerk

854
00:37:19,160 --> 00:37:26,930
will read the amendment amendment by

855
00:37:24,530 --> 00:37:30,920
Hale and Willis a min Vaughn Dolan

856
00:37:26,930 --> 00:37:33,940
amendment chair recognize mr. ail to

857
00:37:30,920 --> 00:37:33,940
explain the amendment

858
00:37:39,580 --> 00:37:46,980
but speaker and members of the house I

859
00:37:43,110 --> 00:37:51,520
hope you'll give me that your attention

860
00:37:46,980 --> 00:37:54,250
on this amendment because I think I can

861
00:37:51,520 --> 00:37:58,420
truthfully tell you as far as the

862
00:37:54,250 --> 00:38:01,570
long-range implications of what this

863
00:37:58,420 --> 00:38:03,490
legislature does the vote you cast on

864
00:38:01,570 --> 00:38:06,520
this amendment will probably be as

865
00:38:03,490 --> 00:38:09,400
significant from the standpoint of

866
00:38:06,520 --> 00:38:11,160
history as any vote you'll cast during

867
00:38:09,400 --> 00:38:15,940
this entire session of the legislature

868
00:38:11,160 --> 00:38:19,150
bar none this amendment which I have

869
00:38:15,940 --> 00:38:23,770
goes to section that team of the van

870
00:38:19,150 --> 00:38:27,340
Dahlen substitute section 19 being the

871
00:38:23,770 --> 00:38:33,790
area dealing with judicial review of

872
00:38:27,340 --> 00:38:36,730
administrative agencies I spoke to you a

873
00:38:33,790 --> 00:38:40,660
day or two ago on another bill and which

874
00:38:36,730 --> 00:38:44,580
I had offered an amendment providing for

875
00:38:40,660 --> 00:38:47,260
trial de novo and the house

876
00:38:44,580 --> 00:38:51,310
overwhelmingly put trial de novo into

877
00:38:47,260 --> 00:38:55,420
that particular bill I think that the

878

00:38:51,310 --> 00:38:58,980
method of judicial review from any order

879
00:38:55,420 --> 00:39:02,650
of an administrative agency should be

880
00:38:58,980 --> 00:39:06,180
decided by this legislature for each

881
00:39:02,650 --> 00:39:08,440
particular agency as we consider the

882
00:39:06,180 --> 00:39:16,450
activities of that agency and the

883
00:39:08,440 --> 00:39:21,160
enabling legislation for that agency mr.

884
00:39:16,450 --> 00:39:24,640
Vaughn Dolan's bill in this regard is

885
00:39:21,160 --> 00:39:27,190
not a procedural matter while this bill

886
00:39:24,640 --> 00:39:31,080
is designated as an Administrative

887
00:39:27,190 --> 00:39:34,450
Procedure Act section 19 of this bill

888
00:39:31,080 --> 00:39:36,700
does not deal with procedure but it

889
00:39:34,450 --> 00:39:39,910
deals with the substantive rights of

890
00:39:36,700 --> 00:39:45,040
every citizen of Texas in that what he

891
00:39:39,910 --> 00:39:47,530
does in Section 19 is reverse a hundred

892
00:39:45,040 --> 00:39:49,830
years of court decisions with respect to

893
00:39:47,530 --> 00:39:52,950
the method of appeal from state aid

894
00:39:49,830 --> 00:39:55,020
and he automatically says that every

895
00:39:52,950 --> 00:39:57,750
appeal from a state agency end of the

896
00:39:55,020 --> 00:39:58,740
courts is going there under substantial

897
00:39:57,750 --> 00:40:01,260
evidence true

898
00:39:58,740 --> 00:40:03,420
now let me explain to you what the

899
00:40:01,260 --> 00:40:05,880
substantial evidence rule is those of

900
00:40:03,420 --> 00:40:07,710
you who are not lawyers and perhaps some

901
00:40:05,880 --> 00:40:09,740
of you even who are lawyers have never

902
00:40:07,710 --> 00:40:12,570
dealt with these administrative agencies

903
00:40:09,740 --> 00:40:14,850
what happens under substantial evidence

904
00:40:12,570 --> 00:40:17,130
rule is this mr. speaker the

905

00:40:14,850 --> 00:40:24,360
administrative agency might we have a

906
00:40:17,130 --> 00:40:25,740
little better order hold on this minute

907
00:40:24,360 --> 00:40:29,130
mr. Dale let's have some order on the

908
00:40:25,740 --> 00:40:39,090
floor members mr. Garcia came here in

909
00:40:29,130 --> 00:40:41,220
the rear go ahead mr. Dale what happens

910
00:40:39,090 --> 00:40:44,490
under substantial evidence type of

911
00:40:41,220 --> 00:40:46,350
Appeal is this you have a hearing of

912
00:40:44,490 --> 00:40:49,890
some time before the administrative

913
00:40:46,350 --> 00:40:52,080
agency some type of record is made of

914
00:40:49,890 --> 00:40:54,930
what is done before the administrative

915
00:40:52,080 --> 00:40:57,900
agency if you are aggrieved then by the

916
00:40:54,930 --> 00:41:00,060
decision of that agency all you can do

917
00:40:57,900 --> 00:41:02,280
under substantial evidence rule appeal

918
00:41:00,060 --> 00:41:05,040
is to have the record that was made

919
00:41:02,280 --> 00:41:07,650
before the agency certified to the

920
00:41:05,040 --> 00:41:10,020
district court all the district court

921
00:41:07,650 --> 00:41:12,900
does under substantial evidence rule is

922
00:41:10,020 --> 00:41:15,000
read that record you do not put on

923
00:41:12,900 --> 00:41:17,730
evidence in the district court you do

924
00:41:15,000 --> 00:41:20,280
not have a jury you do not have a trial

925
00:41:17,730 --> 00:41:21,000
in the sense that most laymen think of a

926
00:41:20,280 --> 00:41:23,340
trial

927
00:41:21,000 --> 00:41:24,870
it doesn't even amount to a hearing in

928
00:41:23,340 --> 00:41:27,930
the district court in most of these

929
00:41:24,870 --> 00:41:30,960
cases all the court does is review the

930
00:41:27,930 --> 00:41:33,210
record and say well we think there was

931
00:41:30,960 --> 00:41:35,460
substantial evidence to support the

932

00:41:33,210 --> 00:41:38,130
finding of the agency or we think there

933
00:41:35,460 --> 00:41:39,990
was not regardless of what the court

934
00:41:38,130 --> 00:41:42,450
might think about the merits of the

935
00:41:39,990 --> 00:41:45,120
controversy the court is powerless to

936
00:41:42,450 --> 00:41:47,460
change the decision of that agency if

937
00:41:45,120 --> 00:41:50,690
there is any substantial evidence in the

938
00:41:47,460 --> 00:41:53,370
record to support what the agency did I

939
00:41:50,690 --> 00:41:55,380
submit the year that an appeal under

940
00:41:53,370 --> 00:41:56,549
substantial evidence rule amounts

941
00:41:55,380 --> 00:41:58,619
nothing more not

942
00:41:56,549 --> 00:42:02,729
thing last two an appeal on matters of

943
00:41:58,619 --> 00:42:06,089
law it amounts to no appeal at all and I

944
00:42:02,729 --> 00:42:08,400
think that a while there are areas of

945
00:42:06,089 --> 00:42:11,009
administrative law or substantial

946
00:42:08,400 --> 00:42:13,170
evidence rule appeal is desirable there

947
00:42:11,009 --> 00:42:16,469
are many other areas of administrative

948
00:42:13,170 --> 00:42:18,179
law or trial de novo is essential if the

949
00:42:16,469 --> 00:42:19,349
rights of the citizens of this state are

950
00:42:18,179 --> 00:42:22,650
to be protected

951
00:42:19,349 --> 00:42:25,199
now what fun mr. Vonn Dolan does both in

952
00:42:22,650 --> 00:42:27,989
his bill and in the substitute which

953
00:42:25,199 --> 00:42:30,089
he's offered up here is to reverse all

954
00:42:27,989 --> 00:42:32,219
of that hundred and some-odd years of

955
00:42:30,089 --> 00:42:35,160
Texas law and say from this point

956
00:42:32,219 --> 00:42:37,319
forward we're not going to have trial de

957
00:42:35,160 --> 00:42:39,359
novo appeals we're going to have all of

958
00:42:37,319 --> 00:42:42,209
these go up under substantial evidence

959

00:42:39,359 --> 00:42:44,339
rule that I submit to you that that's

960
00:42:42,209 --> 00:42:45,630
one of the most far-reaching proposals

961
00:42:44,339 --> 00:42:48,329
that's ever been made in this

962
00:42:45,630 --> 00:42:50,309
legislature insofar as it will touch the

963
00:42:48,329 --> 00:42:51,019
lives of the citizens of Texas in the

964
00:42:50,309 --> 00:42:54,390
future

965
00:42:51,019 --> 00:42:56,939
what my amendment proposes to do is

966
00:42:54,390 --> 00:42:59,759
outline them a report of the House

967
00:42:56,939 --> 00:43:01,739
Judiciary Committee a copy of which was

968
00:42:59,759 --> 00:43:04,259
placed on your desk this morning

969
00:43:01,739 --> 00:43:05,999
it was a little blue back on it it

970
00:43:04,259 --> 00:43:08,279
results from a study which the House

971
00:43:05,999 --> 00:43:10,529
Judiciary Committee made during the past

972
00:43:08,279 --> 00:43:13,410
interim on the area of administrative

973
00:43:10,529 --> 00:43:15,900
law we recommended an Administrative

974
00:43:13,410 --> 00:43:19,079
Procedure Act but we certainly did not

975
00:43:15,900 --> 00:43:21,420
recommend this substantial change in

976
00:43:19,079 --> 00:43:24,150
basic law which is proposed by mr.

977
00:43:21,420 --> 00:43:26,969
Vaughn dollar what my amendment does is

978
00:43:24,150 --> 00:43:30,119
delete section 19 from the Vaughn Dolan

979
00:43:26,969 --> 00:43:34,199
Amendment and substitute for it a new

980
00:43:30,119 --> 00:43:36,749
section 19 which proposes this my

981
00:43:34,199 --> 00:43:39,900
Amendment says that if the appeal from

982
00:43:36,749 --> 00:43:42,599
the agency is today governed by

983
00:43:39,900 --> 00:43:44,939
substantial evidence rule then it will

984
00:43:42,599 --> 00:43:47,309
continue to be governed by substantial

985
00:43:44,939 --> 00:43:50,130
evidence rule unless and until it's

986

00:43:47,309 --> 00:43:53,269
changed by the legislature if the appeal

987
00:43:50,130 --> 00:43:56,039
today from the agencies by trial de novo

988
00:43:53,269 --> 00:43:59,039
then it will continue to be trial de

989
00:43:56,039 --> 00:44:02,069
novo unless and until changed by the

990
00:43:59,039 --> 00:44:06,329
legislature in other words my amendment

991
00:44:02,069 --> 00:44:08,210
avoids the a decision that all agency

992
00:44:06,329 --> 00:44:11,080
appeals should be substantial

993
00:44:08,210 --> 00:44:13,430
that's all should be trial de novo that

994
00:44:11,080 --> 00:44:15,740
decision has no place in an

995
00:44:13,430 --> 00:44:18,560
Administrative Procedure Act that is a

996
00:44:15,740 --> 00:44:20,540
question of substantive law it should be

997
00:44:18,560 --> 00:44:23,330
determined by this house and by the

998
00:44:20,540 --> 00:44:26,330
Senate in debate here on the floor on an

999
00:44:23,330 --> 00:44:28,150
agency by agency basis as we consider

1000
00:44:26,330 --> 00:44:30,619
the functions and duties and

1001
00:44:28,150 --> 00:44:33,890
responsibilities of each agency agency

1002
00:44:30,619 --> 00:44:36,050
it should not be a blanket type of

1003
00:44:33,890 --> 00:44:38,810
requirement as contained in mr. Vaughn

1004
00:44:36,050 --> 00:44:41,750
Dolan's bill so I submit to you that

1005
00:44:38,810 --> 00:44:44,630
this amendment preserves the status quo

1006
00:44:41,750 --> 00:44:47,240
it leaves everything on method of Appeal

1007
00:44:44,630 --> 00:44:49,220
as it is today so that if there's

1008
00:44:47,240 --> 00:44:51,800
substantial evidence rule appeal from an

1009
00:44:49,220 --> 00:44:54,080
agency it continues that way if trial de

1010
00:44:51,800 --> 00:44:56,540
novo it continues that way we do not

1011
00:44:54,080 --> 00:44:58,130
make any change in it then my amendment

1012
00:44:56,540 --> 00:45:00,770
goes further and spells out the

1013

00:44:58,130 --> 00:45:02,630
procedures for each of those appeals if

1014
00:45:00,770 --> 00:45:04,670
it's a substantial evidence rule it

1015
00:45:02,630 --> 00:45:06,710
spells out the procedures whereby you

1016
00:45:04,670 --> 00:45:08,359
get that into the courts if it's

1017
00:45:06,710 --> 00:45:11,300
trialing although it spells out the

1018
00:45:08,359 --> 00:45:13,790
procedures my amendment limits itself

1019
00:45:11,300 --> 00:45:16,790
strictly to procedural aspects

1020
00:45:13,790 --> 00:45:19,099
this is a procedure bill we should not

1021
00:45:16,790 --> 00:45:21,890
be changing substantive law in this bill

1022
00:45:19,099 --> 00:45:23,900
and I plead with you to vote for this

1023
00:45:21,890 --> 00:45:25,760
amendment I think it'll be the most

1024
00:45:23,900 --> 00:45:28,640
significant votes you'll cast this

1025
00:45:25,760 --> 00:45:31,550
entire session as far as its long-range

1026
00:45:28,640 --> 00:45:32,810
effect upon your constituents mr.

1027
00:45:31,550 --> 00:45:35,900
speaker with the gentleman yield

1028
00:45:32,810 --> 00:45:38,240
yo Matteo the gentleman yields mr. gar

1029
00:45:35,900 --> 00:45:41,720
say I yield and Thank You mr. Garcia for

1030
00:45:38,240 --> 00:45:44,869
not interrupting mr. Hale on page 22 of

1031
00:45:41,720 --> 00:45:47,900
the Vaughn Nolan bill the thing that

1032
00:45:44,869 --> 00:45:52,369
concerns me and what your Amendment

1033
00:45:47,900 --> 00:45:54,890
speaks to is subsection F which reads

1034
00:45:52,369 --> 00:45:59,119
that the court may not substitute its

1035
00:45:54,890 --> 00:46:01,130
judgment for that of the agency as to

1036
00:45:59,119 --> 00:46:03,260
the weight of the evidence on questions

1037
00:46:01,130 --> 00:46:06,320
of fact committed to agency discretion

1038
00:46:03,260 --> 00:46:10,460
and as I understand that it means that

1039
00:46:06,320 --> 00:46:12,260
every agency feels that certain matters

1040

00:46:10,460 --> 00:46:14,720
which are testified to before that

1041
00:46:12,260 --> 00:46:17,270
agency are sufficient as a matter of

1042
00:46:14,720 --> 00:46:20,810
fact that the court cannot disturb that

1043
00:46:17,270 --> 00:46:22,040
and the agency in effect is both the

1044
00:46:20,810 --> 00:46:24,620
Trier of the fire

1045
00:46:22,040 --> 00:46:27,410
and the appellate court would you not

1046
00:46:24,620 --> 00:46:28,250
agree I think that's basically true

1047
00:46:27,410 --> 00:46:29,680
yesterday

1048
00:46:28,250 --> 00:46:33,350
all right and your amendment of course

1049
00:46:29,680 --> 00:46:36,650
what it does it maintains a status quo

1050
00:46:33,350 --> 00:46:39,250
with reference to trial de novo provides

1051
00:46:36,650 --> 00:46:42,200
it provides that a district court may

1052
00:46:39,250 --> 00:46:45,710
oversee the decisions of an agency and

1053
00:46:42,200 --> 00:46:48,170
ascertain whether or not the facts

1054
00:46:45,710 --> 00:46:49,970
testified to before that agency or

1055
00:46:48,170 --> 00:46:52,420
sufficient for them to acquainted the

1056
00:46:49,970 --> 00:46:54,920
decision and go one step further to

1057
00:46:52,420 --> 00:46:57,230
determine whether or not certain

1058
00:46:54,920 --> 00:47:00,530
testimony establishes as a matter of

1059
00:46:57,230 --> 00:47:02,600
fact the existence or non-existence of a

1060
00:47:00,530 --> 00:47:04,640
certain thing is that not correct that

1061
00:47:02,600 --> 00:47:06,410
is correct yes sir I think you've got a

1062
00:47:04,640 --> 00:47:09,080
very good amendment and I would urge all

1063
00:47:06,410 --> 00:47:11,480
the members to vote for it there is one

1064
00:47:09,080 --> 00:47:13,910
area that I am concerned with and that

1065
00:47:11,480 --> 00:47:16,850
is providing that all appeals be

1066
00:47:13,910 --> 00:47:18,740
maintained in Travis County would you

1067

00:47:16,850 --> 00:47:21,740
accept an amendment on that mr. Hale

1068
00:47:18,740 --> 00:47:24,140
I have I have no particular quarrel

1069
00:47:21,740 --> 00:47:26,330
about venue Don these matters mr. Garcia

1070
00:47:24,140 --> 00:47:27,620
if the house wants to scatter them out

1071
00:47:26,330 --> 00:47:29,840
that's okay with me

1072
00:47:27,620 --> 00:47:32,330
well the reason the reason I a sad is

1073
00:47:29,840 --> 00:47:33,860
because many times and the federal court

1074
00:47:32,330 --> 00:47:36,350
has addressed itself to this very

1075
00:47:33,860 --> 00:47:38,960
problem under the theory of forms non

1076
00:47:36,350 --> 00:47:41,150
conveniens providing that the forum

1077
00:47:38,960 --> 00:47:43,880
should be made convenient to the

1078
00:47:41,150 --> 00:47:47,000
litigant or the litigants to keep from

1079
00:47:43,880 --> 00:47:49,190
transporting witnesses five or six

1080
00:47:47,000 --> 00:47:52,670
hundred miles to a site where the matter

1081
00:47:49,190 --> 00:47:55,880
is to be heard I understand that there

1082
00:47:52,670 --> 00:47:57,980
is an amendment proposing that that be

1083
00:47:55,880 --> 00:48:00,110
changed to any district court or any

1084
00:47:57,980 --> 00:48:01,790
court have come to jurisdiction I think

1085
00:48:00,110 --> 00:48:02,870
that would be a good amendment and I

1086
00:48:01,790 --> 00:48:04,610
think that that would make your

1087
00:48:02,870 --> 00:48:06,500
Amendment even that much more palatable

1088
00:48:04,610 --> 00:48:08,420
to the membership I would certainly not

1089
00:48:06,500 --> 00:48:10,850
oppose such an amendment mr. Garcia

1090
00:48:08,420 --> 00:48:13,070
Thank You Sherman raises born of orders

1091
00:48:10,850 --> 00:48:17,180
gentleman's time expired corn well taken

1092
00:48:13,070 --> 00:48:19,730
and sustained mr. Vaughn don't speak

1093
00:48:17,180 --> 00:48:22,310
because he required state to inquire mr.

1094

00:48:19,730 --> 00:48:24,530

Kubiak are you advised that the students

1095

00:48:22,310 --> 00:48:26,410

of Tatum high school the government and

1096

00:48:24,530 --> 00:48:29,660

history students are here in the

1097

00:48:26,410 --> 00:48:31,400

galleries today not advised mr. Kubiak

1098

00:48:29,660 --> 00:48:32,390

but we're pleased to have them how much

1099

00:48:31,400 --> 00:48:35,089

bigger

1100

00:48:32,390 --> 00:48:38,390

mr. speaker that's better move to extend

1101

00:48:35,089 --> 00:48:41,240

the gentleman's time mr. Baker has moved

1102

00:48:38,390 --> 00:48:43,869

to extend the gentleman's time all those

1103

00:48:41,240 --> 00:48:49,880

in favor extension the time will say aye

1104

00:48:43,869 --> 00:48:56,619

all those opposed no that's the vote I

1105

00:48:49,880 --> 00:48:56,619

vote no ask pretty close division vote

1106

00:49:05,619 --> 00:49:10,280

strike the board the gentleman's time is

1107

00:49:07,670 --> 00:49:17,300

extended mr. Hale they want to hear some

1108
00:49:10,280 --> 00:49:19,070
more from You mr. speaker I've just

1109
00:49:17,300 --> 00:49:22,760
about made my speech unless there's some

1110
00:49:19,070 --> 00:49:24,020
question are you mr. Baker mr. bigger

1111
00:49:22,760 --> 00:49:26,780
with the gentleman yield for a quit

1112
00:49:24,020 --> 00:49:28,880
you'll miss tail gentleman yields mr.

1113
00:49:26,780 --> 00:49:30,500
Baker but just a minute before he yields

1114
00:49:28,880 --> 00:49:32,599
I'd like to recognize at the back of the

1115
00:49:30,500 --> 00:49:34,160
chamber a distinguished former member of

1116
00:49:32,599 --> 00:49:35,900
this body mr. Henry Sanchez and

1117
00:49:34,160 --> 00:49:40,420
Brownsville Henry good to have you with

1118
00:49:35,900 --> 00:49:44,210
us mr. speaker

1119
00:49:40,420 --> 00:49:51,589
we have a message from the city ready

1120
00:49:44,210 --> 00:49:54,950
for that message mr. speaker remember

1121

00:49:51,589 --> 00:49:57,619
the house considered lombardi know

1122
00:49:54,950 --> 00:50:00,940
senator MacKinnon and the messenger from

1123
00:49:57,619 --> 00:50:04,430
the Senate has an announcement to make

1124
00:50:00,940 --> 00:50:10,339
the Senate in six hours of debate

1125
00:50:04,430 --> 00:50:12,170
yesterday passed out s jr. 11 Mo's new

1126
00:50:10,339 --> 00:50:13,860
constitution for Texas and would like an

1127
00:50:12,170 --> 00:50:17,470
answer from y'all by Friday

1128
00:50:13,860 --> 00:50:20,000
[Laughter]

1129
00:50:17,470 --> 00:50:28,099
mr. worf we're pleased that you could

1130
00:50:20,000 --> 00:50:30,140
carry that message to the house my

1131
00:50:28,099 --> 00:50:32,569
speaker for the new members of the House

1132
00:50:30,140 --> 00:50:34,520
this session you might not have

1133
00:50:32,569 --> 00:50:38,079
recognized who the messenger was it just

1134
00:50:34,520 --> 00:50:42,319
brought that message senator wolf

1135
00:50:38,079 --> 00:50:46,040
ex-senator wolf who served in this body

1136
00:50:42,319 --> 00:50:49,880
during a convention last year was really

1137
00:50:46,040 --> 00:50:52,280
the papa of the convention when he was a

1138
00:50:49,880 --> 00:50:54,589
freshman member here in the house cared

1139
00:50:52,280 --> 00:50:56,390
the resolution that set up the procedure

1140
00:50:54,589 --> 00:50:59,450
under which the convention took place

1141
00:50:56,390 --> 00:51:02,680
last session or last year and Senator

1142
00:50:59,450 --> 00:51:02,680
it's good to have you back with us

1143
00:51:04,250 --> 00:51:13,229
[Applause]

1144
00:51:08,329 --> 00:51:17,009
proceed mr. Baker mr. Hill just to make

1145
00:51:13,229 --> 00:51:21,449
one point clear without your amendment I

1146
00:51:17,009 --> 00:51:23,519
understand that there would absolutely

1147
00:51:21,449 --> 00:51:26,339
be no trial de novo period is that

1148

00:51:23,519 --> 00:51:28,049
correct the only two exceptions that are

1149
00:51:26,339 --> 00:51:30,239
contained in mr. Vaughn Dolan's

1150
00:51:28,049 --> 00:51:32,369
amendment are right cases going up from

1151
00:51:30,239 --> 00:51:34,890
the railroad commission and appeals from

1152
00:51:32,369 --> 00:51:37,169
the industrial accident board he does

1153
00:51:34,890 --> 00:51:39,899
preserve those - other than that he

1154
00:51:37,169 --> 00:51:42,059
outlaws all trial de novo now and in the

1155
00:51:39,899 --> 00:51:44,669
future that means that the legislature

1156
00:51:42,059 --> 00:51:46,079
has absolutely no control at all in the

1157
00:51:44,669 --> 00:51:48,449
future is that correct that would be

1158
00:51:46,079 --> 00:51:49,949
correct and what we're really doing is

1159
00:51:48,449 --> 00:51:51,959
we're link wishing whatever control we

1160
00:51:49,949 --> 00:51:53,699
may have in the future over all of these

1161
00:51:51,959 --> 00:51:55,439
other agencies even the ones that are

1162
00:51:53,699 --> 00:51:57,299
not even now creating those that might

1163
00:51:55,439 --> 00:51:59,789
be creating the future that's true

1164
00:51:57,299 --> 00:52:02,489
unless we change this act later but not

1165
00:51:59,789 --> 00:52:04,649
only that we're automatically changed me

1166
00:52:02,489 --> 00:52:06,959
for all our agencies which are now under

1167
00:52:04,649 --> 00:52:09,569
child a novo and ones just one broad

1168
00:52:06,959 --> 00:52:11,639
sweep of the boom we're changing all of

1169
00:52:09,569 --> 00:52:13,289
these administrative procedures the

1170
00:52:11,639 --> 00:52:15,209
substantive rights of the litigants

1171
00:52:13,289 --> 00:52:15,779
involved thank you mr. Hill I think is a

1172
00:52:15,209 --> 00:52:17,669
good amendment

1173
00:52:15,779 --> 00:52:19,709
and then in connection with Mr Wolf's

1174
00:52:17,669 --> 00:52:21,539
appearance here I might say that this

1175

00:52:19,709 --> 00:52:23,309
same issue was fought out on the floor

1176
00:52:21,539 --> 00:52:26,189
of the Constitutional Convention last

1177
00:52:23,309 --> 00:52:28,829
year and in this new constitution there

1178
00:52:26,189 --> 00:52:31,079
is a provision if it's adopted which

1179
00:52:28,829 --> 00:52:33,149
specifically spells out that the

1180
00:52:31,079 --> 00:52:35,729
legislature shall determine the method

1181
00:52:33,149 --> 00:52:37,380
of appeal on an agency by agency basis

1182
00:52:35,729 --> 00:52:39,419
and it's spelled out in this new

1183
00:52:37,380 --> 00:52:40,109
constitution mr. speaker will the

1184
00:52:39,419 --> 00:52:44,459
gentleman yield

1185
00:52:40,109 --> 00:52:47,309
are you gentleman yields much closed

1186
00:52:44,459 --> 00:52:49,889
Thank You mr. Hale I can't read fast

1187
00:52:47,309 --> 00:52:52,199
enough to determine what happens to new

1188
00:52:49,889 --> 00:52:54,630
agencies created is with the law

1189
00:52:52,199 --> 00:52:56,549
creating any new agencies provide for

1190
00:52:54,630 --> 00:52:58,679
the method of Appeal de novo or

1191
00:52:56,549 --> 00:53:01,679
substantial evidence rule or is that in

1192
00:52:58,679 --> 00:53:03,209
your amendments well it's it's not in my

1193
00:53:01,679 --> 00:53:06,479
amendment but my amendment simply

1194
00:53:03,209 --> 00:53:08,999
preserves the status quo and provides

1195
00:53:06,479 --> 00:53:11,549
that the method of appeal for each

1196
00:53:08,999 --> 00:53:13,940
agency shall be determined by the

1197
00:53:11,549 --> 00:53:18,619
enabling act which creates that

1198
00:53:13,940 --> 00:53:21,410
agency so that as we consider agency XYZ

1199
00:53:18,619 --> 00:53:23,630
we determine the method of appeal here

1200
00:53:21,410 --> 00:53:26,420
in the legislature when we create agency

1201
00:53:23,630 --> 00:53:28,040
Allium in we determine the method of

1202

00:53:26,420 --> 00:53:30,470
appeal here in the legislature and each

1203
00:53:28,040 --> 00:53:33,260
and each new agency created we'd have to

1204
00:53:30,470 --> 00:53:36,319
provide and vote one way the other on it

1205
00:53:33,260 --> 00:53:38,420
if your amendment passes yeah well we

1206
00:53:36,319 --> 00:53:40,700
could do that in any event but of course

1207
00:53:38,420 --> 00:53:43,579
if if the Vaughn Dolan bill goes through

1208
00:53:40,700 --> 00:53:45,770
as it is theoretically each new agency

1209
00:53:43,579 --> 00:53:47,359
would be governed by this act and so it

1210
00:53:45,770 --> 00:53:49,579
would automatically be substantial

1211
00:53:47,359 --> 00:53:52,339
evidence prove what your amendment keep

1212
00:53:49,579 --> 00:53:54,530
those agencies that retain substantial

1213
00:53:52,339 --> 00:53:56,450
evidence rule with it would it provide

1214
00:53:54,530 --> 00:53:58,790
the substantial evidence rule as

1215
00:53:56,450 --> 00:54:00,740
described by mr. van Dolan here and is

1216
00:53:58,790 --> 00:54:05,000
set forth the procedures and so forth or

1217
00:54:00,740 --> 00:54:08,420
would it be as existing law is concerned

1218
00:54:05,000 --> 00:54:10,910
it's my amendment preserves the existing

1219
00:54:08,420 --> 00:54:13,550
law with respect to all appeals from

1220
00:54:10,910 --> 00:54:15,650
administrative agencies if the agency is

1221
00:54:13,550 --> 00:54:17,180
now under substantial evidence it'll

1222
00:54:15,650 --> 00:54:19,280
continue to be under substantial

1223
00:54:17,180 --> 00:54:21,410
evidence under my amendment unless the

1224
00:54:19,280 --> 00:54:23,839
legislature later changes it by some act

1225
00:54:21,410 --> 00:54:27,170
he doesn't put in effect mr. Benton

1226
00:54:23,839 --> 00:54:29,480
Vaughn Dolan's manner of handling

1227
00:54:27,170 --> 00:54:33,349
substantial evidences set out in this

1228
00:54:29,480 --> 00:54:36,170
bill the procedures for processing that

1229

00:54:33,349 --> 00:54:38,900
are roughly the same in my amendment as

1230
00:54:36,170 --> 00:54:42,170
they are and mr. Vaughn Dolan's were the

1231
00:54:38,900 --> 00:54:44,450
big difference is in one big sweep of

1232
00:54:42,170 --> 00:54:46,790
the broom he's automatically saying all

1233
00:54:44,450 --> 00:54:49,940
appeals shall go up this way yeah I

1234
00:54:46,790 --> 00:54:52,310
simply bypassed that issue and say if

1235
00:54:49,940 --> 00:54:54,800
it's a substantial evidence rule this is

1236
00:54:52,310 --> 00:54:57,020
a procedure for it if it's trial de novo

1237
00:54:54,800 --> 00:54:57,560
this will be the procedure all right

1238
00:54:57,020 --> 00:55:00,859
thank you

1239
00:54:57,560 --> 00:55:03,349
Thank You mr. speaker that's caster

1240
00:55:00,859 --> 00:55:06,230
becoming you gentleman yields Makassar

1241
00:55:03,349 --> 00:55:08,240
miss Hale do you know how many agencies

1242
00:55:06,230 --> 00:55:10,819
provide for child and / and how many are

1243
00:55:08,240 --> 00:55:12,560
the substantial evidence oh there there

1244
00:55:10,819 --> 00:55:14,089
are a number of them I don't have a list

1245
00:55:12,560 --> 00:55:16,099
of them they're there they're more

1246
00:55:14,089 --> 00:55:16,790
substantial evidence considerably more

1247
00:55:16,099 --> 00:55:19,340
than there

1248
00:55:16,790 --> 00:55:21,400
trial de novo and one of the reasons for

1249
00:55:19,340 --> 00:55:23,840
that is some of the narrow

1250
00:55:21,400 --> 00:55:26,540
interpretations that the Supreme Court

1251
00:55:23,840 --> 00:55:29,390
of Texas has given on trial de novo and

1252
00:55:26,540 --> 00:55:31,610
in many instances where the legislature

1253
00:55:29,390 --> 00:55:34,190
has provided for trial de novo and an

1254
00:55:31,610 --> 00:55:36,410
agency the Supreme Court has knocked it

1255
00:55:34,190 --> 00:55:38,780
out by saying it was the type of

1256

00:55:36,410 --> 00:55:42,260
litigation that was not susceptible to

1257
00:55:38,780 --> 00:55:45,170
that type of Appeal under the separation

1258
00:55:42,260 --> 00:55:47,930
of powers doctrine now in many other

1259
00:55:45,170 --> 00:55:51,110
areas they have a pal child in overall

1260
00:55:47,930 --> 00:55:53,660
as being a Justitia Balma between

1261
00:55:51,110 --> 00:55:55,850
litigants and says in these areas trial

1262
00:55:53,660 --> 00:55:58,490
de novo is permissible under our present

1263
00:55:55,850 --> 00:56:00,260
Constitution all I'm trying to do by my

1264
00:55:58,490 --> 00:56:02,480
amendment is to preserve that same

1265
00:56:00,260 --> 00:56:04,040
distinction okay because that's the

1266
00:56:02,480 --> 00:56:06,290
problem I have with trial de novo it

1267
00:56:04,040 --> 00:56:08,120
sounds good but then I remember during a

1268
00:56:06,290 --> 00:56:10,400
constitutional convention we got into

1269
00:56:08,120 --> 00:56:12,560
this separation of powers matter and it

1270
00:56:10,400 --> 00:56:15,080
was referred that there had been cases

1271
00:56:12,560 --> 00:56:17,990
that said it was not within the purview

1272
00:56:15,080 --> 00:56:21,200
of the court because of what you just

1273
00:56:17,990 --> 00:56:23,330
said but my interpretation end of your

1274
00:56:21,200 --> 00:56:25,760
Amendment is that in those matters where

1275
00:56:23,330 --> 00:56:27,830
trial de novo has been upheld or still

1276
00:56:25,760 --> 00:56:29,540
authorized without having a case

1277
00:56:27,830 --> 00:56:31,220
knocking it out it would still be

1278
00:56:29,540 --> 00:56:34,780
preserved and those that have

1279
00:56:31,220 --> 00:56:37,250
substantial evidence would still be

1280
00:56:34,780 --> 00:56:40,610
that's true that's exactly what my

1281
00:56:37,250 --> 00:56:42,980
amendment that okay what the court

1282
00:56:40,610 --> 00:56:45,650
really is basically what the court has

1283

00:56:42,980 --> 00:56:47,600
done on child in over always yeah and

1284
00:56:45,650 --> 00:56:49,010
it's hard to generalize and there could

1285
00:56:47,600 --> 00:56:51,830
be exceptions to this but generally

1286
00:56:49,010 --> 00:56:56,390
speaking they say that if the agency

1287
00:56:51,830 --> 00:56:59,540
appeal in bars a policy decision then

1288
00:56:56,390 --> 00:57:02,390
you can't use trial de novo because that

1289
00:56:59,540 --> 00:57:05,300
is not a judicial function if it

1290
00:57:02,390 --> 00:57:07,640
involves a Justitia Balma of the rights

1291
00:57:05,300 --> 00:57:10,190
of litigants then you can help trial de

1292
00:57:07,640 --> 00:57:12,680
novo because that is not a policy matter

1293
00:57:10,190 --> 00:57:14,870
now in broad context that is the

1294
00:57:12,680 --> 00:57:18,820
distinction I'm trying to preserve that

1295
00:57:14,870 --> 00:57:18,820
distinction by my member thank

1296
00:57:19,979 --> 00:57:26,229
mr. speaker would the gentleman yield as

1297
00:57:23,079 --> 00:57:28,509
he'll you you gentleman yield mr. Garcia

1298
00:57:26,229 --> 00:57:30,369
you know mr. Hill the more I read this

1299
00:57:28,509 --> 00:57:32,589
Administrative Procedures Act the more

1300
00:57:30,369 --> 00:57:34,239
concerned I get about him I'm glad to

1301
00:57:32,589 --> 00:57:36,039
hear you say that mr. Garcia I'm

1302
00:57:34,239 --> 00:57:39,339
concerned about other parts of it too

1303
00:57:36,039 --> 00:57:43,229
but this is the main part as I

1304
00:57:39,339 --> 00:57:45,699
understand this particular bill or

1305
00:57:43,229 --> 00:57:47,529
substantially in this form has been

1306
00:57:45,699 --> 00:57:48,339
kicking around these old halls for about

1307
00:57:47,529 --> 00:57:51,910
ten years

1308
00:57:48,339 --> 00:57:53,979
oh it's been kicking around here over 30

1309
00:57:51,910 --> 00:57:55,690
years to my knowledge I think the first

1310

00:57:53,979 --> 00:57:58,449
Administrative Procedure Act was

1311
00:57:55,690 --> 00:58:00,789
introduced here about 1934 I think mr.

1312
00:57:58,449 --> 00:58:03,039
Guffey now have you had a chance to read

1313
00:58:00,789 --> 00:58:05,499
this proposed bill through and its

1314
00:58:03,039 --> 00:58:08,739
entirety and analyze it as you would

1315
00:58:05,499 --> 00:58:11,199
like to i saw mr. von dolan substitute

1316
00:58:08,739 --> 00:58:13,269
for the first time about 11:30 p.m. last

1317
00:58:11,199 --> 00:58:15,039
night after the judiciary committee

1318
00:58:13,269 --> 00:58:16,539
adjourned he was kind enough to leave a

1319
00:58:15,039 --> 00:58:19,749
copy of my office late yesterday

1320
00:58:16,539 --> 00:58:22,660
afternoon well I didn't send it bail 41

1321
00:58:19,749 --> 00:58:24,759
I have read through very thoroughly all

1322
00:58:22,660 --> 00:58:28,479
right let me let me ask this question

1323
00:58:24,759 --> 00:58:31,839
what is meant when the proposal speaks

1324
00:58:28,479 --> 00:58:36,599
of quote a final decision in a contested

1325
00:58:31,839 --> 00:58:39,339
case how do you interpret that phrase

1326
00:58:36,599 --> 00:58:42,150
you are you I'm not sure why you're all

1327
00:58:39,339 --> 00:58:46,029
right I'm reading from section 19

1328
00:58:42,150 --> 00:58:47,680
section 19 on page 21 and I think you

1329
00:58:46,029 --> 00:58:51,369
you track the same wording in your

1330
00:58:47,680 --> 00:58:55,109
amendment and let me pose a as renal

1331
00:58:51,369 --> 00:58:58,299
Russell would say a hypothetical on you

1332
00:58:55,109 --> 00:59:00,579
let's assume that a person is notified

1333
00:58:58,299 --> 00:59:01,599
that certain action is going to be taken

1334
00:59:00,579 --> 00:59:06,160
against him/her

1335
00:59:01,599 --> 00:59:08,289
or a company by a by an agency and let's

1336
00:59:06,160 --> 00:59:11,890
assume that that person for more

1337

00:59:08,289 --> 00:59:15,089
cooperation merely sits back until such

1338
00:59:11,890 --> 00:59:17,650
time as a final decision is rendered

1339
00:59:15,089 --> 00:59:20,529
technically there has been no contest up

1340
00:59:17,650 --> 00:59:23,140
to that point am i interpreting this

1341
00:59:20,529 --> 00:59:25,569
bill correctly as meaning that because

1342
00:59:23,140 --> 00:59:28,719
there has been no contest that person

1343
00:59:25,569 --> 00:59:30,160
does not have the right of appeal well I

1344
00:59:28,719 --> 00:59:32,140
think they would have the right of

1345
00:59:30,160 --> 00:59:34,870
appeal if the final

1346
00:59:32,140 --> 00:59:37,780
decision if they are party to the

1347
00:59:34,870 --> 00:59:39,820
decision of the agency even if they

1348
00:59:37,780 --> 00:59:42,460
didn't offer any evidence but under

1349
00:59:39,820 --> 00:59:44,920
substantial evidence room they would

1350
00:59:42,460 --> 00:59:46,720
have no appeal any fact because there

1351
00:59:44,920 --> 00:59:48,130
was magnet response lawyer the

1352
00:59:46,720 --> 00:59:49,720
gentleman's time expired to point of

1353
00:59:48,130 --> 00:59:53,710
order well take a gentlemen stand be

1354
00:59:49,720 --> 00:59:55,810
extended mr. Garcia removes at the

1355
00:59:53,710 --> 00:59:57,340
gentleman's time be extended members

1356
00:59:55,810 --> 00:59:59,770
this is a second extension it takes

1357
00:59:57,340 --> 01:00:02,680
unanimous consent is there objection to

1358
00:59:59,770 --> 01:00:06,160
the extension of the time the

1359
01:00:02,680 --> 01:00:08,610
gentleman's time is not extended mr.

1360
01:00:06,160 --> 01:00:10,810
speaker will the gentleman yield mr.

1361
01:00:08,610 --> 01:00:11,380
chair is going to recognize mr. Vaughn

1362
01:00:10,810 --> 01:00:13,690
Dolan

1363
01:00:11,380 --> 01:00:15,610
mr. Garcia mr. Vaughn Dolan speak

1364

01:00:13,690 --> 01:00:21,550
against the amendment will the gentleman

1365
01:00:15,610 --> 01:00:23,680
yield in a minute mr. Garcia let's Baker

1366
01:00:21,550 --> 01:00:25,510
and fellow members let me do ask for

1367
01:00:23,680 --> 01:00:28,420
your attention at this time because I

1368
01:00:25,510 --> 01:00:31,810
think the issue is as important as mr.

1369
01:00:28,420 --> 01:00:33,970
Hale mentions that it may be what we are

1370
01:00:31,810 --> 01:00:35,950
attempting to do in this bill is to

1371
01:00:33,970 --> 01:00:38,260
establish standard procedures for all

1372
01:00:35,950 --> 01:00:40,240
our agencies so that every citizen of

1373
01:00:38,260 --> 01:00:42,850
this state knows what they can expect

1374
01:00:40,240 --> 01:00:47,080
from the agencies now let's assume that

1375
01:00:42,850 --> 01:00:50,260
we put this amendment on basically it

1376
01:00:47,080 --> 01:00:53,230
will leave us as we are if we knew where

1377
01:00:50,260 --> 01:00:55,270
we are today then maybe this amendment

1378
01:00:53,230 --> 01:01:00,750
would be the answer but let me show you

1379
01:00:55,270 --> 01:01:04,750
something I have here in front of me a

1380
01:01:00,750 --> 01:01:07,570
computer printout that shows nothing in

1381
01:01:04,750 --> 01:01:09,550
it except all the various cases of

1382
01:01:07,570 --> 01:01:11,710
substantial evidence versus de novo

1383
01:01:09,550 --> 01:01:14,590
versus substantial evidence de novo in

1384
01:01:11,710 --> 01:01:17,170
the state of Texas it is virtually

1385
01:01:14,590 --> 01:01:21,250
impossible for an attorney representing

1386
01:01:17,170 --> 01:01:24,100
the line or the client to know what the

1387
01:01:21,250 --> 01:01:27,010
rule before that agency is when that

1388
01:01:24,100 --> 01:01:28,570
person is going to go into the court now

1389
01:01:27,010 --> 01:01:30,430
let's take a few minutes and looking at

1390
01:01:28,570 --> 01:01:35,440
what has happened in the area of de novo

1391

01:01:30,430 --> 01:01:37,780
review in this state in 1959 there was a

1392
01:01:35,440 --> 01:01:39,460
bill before the House of Representatives

1393
01:01:37,780 --> 01:01:42,370
which passed the House and the Senate

1394
01:01:39,460 --> 01:01:44,780
was provided for trial de novo this bill

1395
01:01:42,370 --> 01:01:48,710
was passed and vetoed by the governor

1396
01:01:44,780 --> 01:01:51,109
in 1961 the same issue was before the

1397
01:01:48,710 --> 01:01:53,090
house again in House bill 290 that

1398
01:01:51,109 --> 01:01:58,670
measure passed the house and failed the

1399
01:01:53,090 --> 01:02:01,220
Senate and HJ are in 1962 was sent to

1400
01:01:58,670 --> 01:02:04,250
the people a constitutional amendment

1401
01:02:01,220 --> 01:02:06,170
that provided for trial de novo on all

1402
01:02:04,250 --> 01:02:08,660
appeals from rulings of administrative

1403
01:02:06,170 --> 01:02:12,619
agencies and that was rejected by the

1404
01:02:08,660 --> 01:02:14,180
voters on a vote of two one six hundred

1405
01:02:12,619 --> 01:02:16,369
ninety three thousand five hundred

1406
01:02:14,180 --> 01:02:19,790
seventy seven against three hundred

1407
01:02:16,369 --> 01:02:22,070
sixty eight thousand four now let's look

1408
01:02:19,790 --> 01:02:23,990
and I I want to call to your attention

1409
01:02:22,070 --> 01:02:26,720
we had a witness the other night at the

1410
01:02:23,990 --> 01:02:29,570
committee judge Matthews one of the six

1411
01:02:26,720 --> 01:02:33,140
district judges that hears the cases

1412
01:02:29,570 --> 01:02:36,250
here in Austin and he says if you do any

1413
01:02:33,140 --> 01:02:38,349
one thing to improve the administrative

1414
01:02:36,250 --> 01:02:40,849
administration of justice in this state

1415
01:02:38,349 --> 01:02:44,510
adopt the substantial evidence real is

1416
01:02:40,849 --> 01:02:48,770
the general rule and in his testimony he

1417
01:02:44,510 --> 01:02:52,089
said that it's quite doubtful that

1418

01:02:48,770 --> 01:02:56,180
people even in lawyers who practice

1419
01:02:52,089 --> 01:02:59,089
understand what substantial evidence our

1420
01:02:56,180 --> 01:03:02,380
de novo review is and let's take a look

1421
01:02:59,089 --> 01:03:06,230
at what these three various types of

1422
01:03:02,380 --> 01:03:08,150
review are in Texas today true de novo

1423
01:03:06,230 --> 01:03:11,000
review is that type of appeal which

1424
01:03:08,150 --> 01:03:12,490
exists from the Justice Court Justice of

1425
01:03:11,000 --> 01:03:16,160
the Peace court to the county court

1426
01:03:12,490 --> 01:03:18,890
literally the term means a new to start

1427
01:03:16,160 --> 01:03:21,589
over again this means that by merely

1428
01:03:18,890 --> 01:03:24,500
filing an appeal the original decision

1429
01:03:21,589 --> 01:03:26,570
is completely invalidated it has no

1430
01:03:24,500 --> 01:03:29,390
force effect or presumption of

1431
01:03:26,570 --> 01:03:30,950
correctness all inch issues are simply

1432
01:03:29,390 --> 01:03:33,410
retired retried

1433
01:03:30,950 --> 01:03:35,450
it is this type of review of agency

1434
01:03:33,410 --> 01:03:38,570
decisions which is held in certain

1435
01:03:35,450 --> 01:03:42,109
instances to be unconstitutional the

1436
01:03:38,570 --> 01:03:45,530
second concept is substantial evidence

1437
01:03:42,109 --> 01:03:47,330
de novo review this is the standard

1438
01:03:45,530 --> 01:03:50,270
which currently prevails in most

1439
01:03:47,330 --> 01:03:54,109
administrative agencies under this

1440
01:03:50,270 --> 01:03:56,110
doctrine evidence is taken anew in the

1441
01:03:54,109 --> 01:03:58,750
trial before the district court

1442
01:03:56,110 --> 01:04:00,850
the effect of this is to render the

1443
01:03:58,750 --> 01:04:03,550
record produced at the agency hearing

1444
01:04:00,850 --> 01:04:05,560
useless that means if you've had to two

1445

01:04:03,550 --> 01:04:08,170
weeks of hearings before the agencies

1446
01:04:05,560 --> 01:04:10,420
and compiled volumes of testimony of

1447
01:04:08,170 --> 01:04:11,950
which the parties agree it's exactly

1448
01:04:10,420 --> 01:04:15,160
what they would introduce in the trial

1449
01:04:11,950 --> 01:04:17,650
that is completely thrown by the wayside

1450
01:04:15,160 --> 01:04:20,380
the expense to the state is is is

1451
01:04:17,650 --> 01:04:22,810
incurred in a in phrenology and the

1452
01:04:20,380 --> 01:04:24,790
parties start over again when the

1453
01:04:22,810 --> 01:04:26,740
parties get to the district court they

1454
01:04:24,790 --> 01:04:29,320
are completely free to produce whatever

1455
01:04:26,740 --> 01:04:30,880
evidence they desire they can lay behind

1456
01:04:29,320 --> 01:04:32,620
the log at the administrative hearing

1457
01:04:30,880 --> 01:04:34,180
and wait till they get to court because

1458
01:04:32,620 --> 01:04:36,640
they think that's where they'll truly

1459
01:04:34,180 --> 01:04:38,320
have their day in court they are not

1460
01:04:36,640 --> 01:04:40,570
limited to that which was produced

1461
01:04:38,320 --> 01:04:42,760
before the agency they are not even

1462
01:04:40,570 --> 01:04:46,480
limited to evidence in existence at the

1463
01:04:42,760 --> 01:04:49,120
time the agency hearing was held and yet

1464
01:04:46,480 --> 01:04:50,920
and this is the important point and if

1465
01:04:49,120 --> 01:04:53,560
you've got a chance to listen to this

1466
01:04:50,920 --> 01:04:57,190
this is the question before the agency

1467
01:04:53,560 --> 01:04:59,590
under this review is there substantial

1468
01:04:57,190 --> 01:05:02,340
evidence to support the decision made by

1469
01:04:59,590 --> 01:05:04,900
the agency irrespective of that evidence

1470
01:05:02,340 --> 01:05:09,070
so that no matter what evidence you put

1471
01:05:04,900 --> 01:05:12,460
on in the trial the courts single

1472

01:05:09,070 --> 01:05:14,860
responsibility is to determine is there

1473
01:05:12,460 --> 01:05:18,430
substantial evidence under which the

1474
01:05:14,860 --> 01:05:21,580
facts before that agency were obtained

1475
01:05:18,430 --> 01:05:24,310
to sustain the action taken by that

1476
01:05:21,580 --> 01:05:27,550
agency mr. bigger now let's look at the

1477
01:05:24,310 --> 01:05:29,230
third concept that's going all right

1478
01:05:27,550 --> 01:05:32,050
third concept is the proposed

1479
01:05:29,230 --> 01:05:34,210
substantial evidence rule this is the

1480
01:05:32,050 --> 01:05:36,720
type of review that exists in federal

1481
01:05:34,210 --> 01:05:39,460
courts and in most state courts

1482
01:05:36,720 --> 01:05:41,110
forty-eight states now have an

1483
01:05:39,460 --> 01:05:44,260
Administrative Procedure Act our

1484
01:05:41,110 --> 01:05:46,450
standard procedures of this nature under

1485
01:05:44,260 --> 01:05:49,000
this doctrine a party on appeal is

1486
01:05:46,450 --> 01:05:52,030
limited to the record made at the agency

1487
01:05:49,000 --> 01:05:55,030
hearing thus the party is required to

1488
01:05:52,030 --> 01:05:57,850
produce before the agency the body which

1489
01:05:55,030 --> 01:05:59,940
makes the initial decision all of the

1490
01:05:57,850 --> 01:06:03,400
evidence on which he intends to rely

1491
01:05:59,940 --> 01:06:06,100
this rule applies to the agency as well

1492
01:06:03,400 --> 01:06:07,610
as the individual it means that the

1493
01:06:06,100 --> 01:06:10,340
original decision will be

1494
01:06:07,610 --> 01:06:13,070
based upon all available evidence and

1495
01:06:10,340 --> 01:06:16,400
that on appeal it will be judged by that

1496
01:06:13,070 --> 01:06:18,980
same evidence it just doesn't make good

1497
01:06:16,400 --> 01:06:21,530
sense to have an agency render a

1498
01:06:18,980 --> 01:06:24,230
decision upon one set of evidentiary

1499

01:06:21,530 --> 01:06:27,470
facts and the judge that hears it on

1500
01:06:24,230 --> 01:06:30,560
appeal on a different set of facts on

1501
01:06:27,470 --> 01:06:33,620
that appeal these are the three basic

1502
01:06:30,560 --> 01:06:35,990
types of substantial evidence I think it

1503
01:06:33,620 --> 01:06:38,060
makes sense to establish as a general

1504
01:06:35,990 --> 01:06:40,790
rule for the state of Texas the

1505
01:06:38,060 --> 01:06:44,330
substantial evidence rule then if there

1506
01:06:40,790 --> 01:06:47,270
are particular situations that merit de

1507
01:06:44,330 --> 01:06:51,350
novo review let this legislature address

1508
01:06:47,270 --> 01:06:53,660
that problem as the need arises I will

1509
01:06:51,350 --> 01:06:54,680
yell mr. speaker Thank You mr. bigger

1510
01:06:53,660 --> 01:06:58,190
will the gentleman yield

1511
01:06:54,680 --> 01:07:01,310
gentleman yields mr. : thank you sir mr.

1512
01:06:58,190 --> 01:07:02,870
Vaughn Dolan my only problem with that

1513
01:07:01,310 --> 01:07:05,180
with the concept of the substantial

1514
01:07:02,870 --> 01:07:07,700
evidence rule it is best set out by

1515
01:07:05,180 --> 01:07:10,840
perhaps an example let's suppose that

1516
01:07:07,700 --> 01:07:13,850
you mr. Vaughn Dolan as a client are

1517
01:07:10,840 --> 01:07:15,650
aggrieved by some order of a state

1518
01:07:13,850 --> 01:07:18,830
agency all right

1519
01:07:15,650 --> 01:07:21,320
you go to that state agency and say I'm

1520
01:07:18,830 --> 01:07:23,990
aggrieved by that order and the

1521
01:07:21,320 --> 01:07:25,580
substantial evidence rule all in other

1522
01:07:23,990 --> 01:07:28,190
words the whole reason for the order is

1523
01:07:25,580 --> 01:07:30,730
made because of some interworking of

1524
01:07:28,190 --> 01:07:33,290
that agency correct in all probability

1525
01:07:30,730 --> 01:07:35,480
that in other words they vitiated out an

1526

01:07:33,290 --> 01:07:39,560
order that's aggrieved you now you say

1527
01:07:35,480 --> 01:07:41,360
well where do I go under the substantial

1528
01:07:39,560 --> 01:07:43,370
evidence rule it doesn't do any good to

1529
01:07:41,360 --> 01:07:45,790
go to court doesn't it most certainly

1530
01:07:43,370 --> 01:07:49,760
does well let me read you this language

1531
01:07:45,790 --> 01:07:52,160
on page 22 F the court may not

1532
01:07:49,760 --> 01:07:54,920
substitute its judgment for that of the

1533
01:07:52,160 --> 01:07:57,680
agency as to the weight of the evidence

1534
01:07:54,920 --> 01:08:00,170
on questions of fact committed to agency

1535
01:07:57,680 --> 01:08:01,670
discretion and I'm reading there from

1536
01:08:00,170 --> 01:08:03,680
the bill and that's all I'm saying I

1537
01:08:01,670 --> 01:08:06,470
would like to provide you as my client

1538
01:08:03,680 --> 01:08:08,930
mr. Vaughn Dolan with an opportunity for

1539
01:08:06,470 --> 01:08:10,400
review the only place you can truly get

1540
01:08:08,930 --> 01:08:12,530
it reviewed under the substantial

1541
01:08:10,400 --> 01:08:13,940
evidence rule is in the agency and

1542
01:08:12,530 --> 01:08:15,140
they're the ones that have grieved you

1543
01:08:13,940 --> 01:08:16,790
in the first place to call

1544
01:08:15,140 --> 01:08:18,500
when you've raised the exact point for

1545
01:08:16,790 --> 01:08:21,110
the reason that we cannot continue to

1546
01:08:18,500 --> 01:08:24,050
have de novo review in Texas and that is

1547
01:08:21,110 --> 01:08:26,630
that when you go on de novo review you

1548
01:08:24,050 --> 01:08:30,650
have they look at the substantial

1549
01:08:26,630 --> 01:08:32,870
evidence of that agency's original

1550
01:08:30,650 --> 01:08:37,160
hearing and the evidence presented at

1551
01:08:32,870 --> 01:08:39,230
the trial now they cannot remand they

1552
01:08:37,160 --> 01:08:42,080
can't they cannot revert they can

1553

01:08:39,230 --> 01:08:45,170
reverse they cannot remand to the agency

1554
01:08:42,080 --> 01:08:47,120
to determine new evidence and this is

1555
01:08:45,170 --> 01:08:49,430
exactly what we would allow if new

1556
01:08:47,120 --> 01:08:52,160
evidence is developed if some cause

1557
01:08:49,430 --> 01:08:55,490
exists why the agency abused its

1558
01:08:52,160 --> 01:08:58,460
discretion then you go back on remand to

1559
01:08:55,490 --> 01:09:00,890
the agency and rebuild your record allow

1560
01:08:58,460 --> 01:09:02,870
the agency to change its decision allow

1561
01:09:00,890 --> 01:09:05,090
you to come back into court if you're

1562
01:09:02,870 --> 01:09:06,800
still agreed and continue to have your

1563
01:09:05,090 --> 01:09:09,440
hearing to make sure that the agency

1564
01:09:06,800 --> 01:09:11,240
provides you due process my point

1565
01:09:09,440 --> 01:09:13,220
exactly mr. Vaughn Dolan you just made

1566
01:09:11,240 --> 01:09:15,020
you've made the case for having to novo

1567
01:09:13,220 --> 01:09:17,960
appeal but we can't get back to the

1568
01:09:15,020 --> 01:09:20,090
courts to the agencies today the courts

1569
01:09:17,960 --> 01:09:22,730
cannot remand to the agency to take new

1570
01:09:20,090 --> 01:09:23,840
evidence the agency is the one is the

1571
01:09:22,730 --> 01:09:26,060
agency's the one that heard the

1572
01:09:23,840 --> 01:09:27,680
testimony in the first place you're

1573
01:09:26,060 --> 01:09:29,510
making a case that your appointment

1574
01:09:27,680 --> 01:09:31,670
that's just analogizes if we might mr.

1575
01:09:29,510 --> 01:09:34,100
Vaughn Dolan with any civil case or any

1576
01:09:31,670 --> 01:09:37,310
criminal case in this state what happens

1577
01:09:34,100 --> 01:09:38,780
on appeal they're not always required to

1578
01:09:37,310 --> 01:09:40,220
remand you've got an opportunity in

1579
01:09:38,780 --> 01:09:43,190
those in those instances for complete

1580

01:09:40,220 --> 01:09:45,260
reversal - but what I'm suggesting is is

1581
01:09:43,190 --> 01:09:47,540
that the substantial evidence rule now

1582
01:09:45,260 --> 01:09:49,220
first of all by the way as I understand

1583
01:09:47,540 --> 01:09:51,260
the Hillman correct me if I'm wrong and

1584
01:09:49,220 --> 01:09:52,400
I'm and I truly am interested in knowing

1585
01:09:51,260 --> 01:09:54,530
whether or not I understand the

1586
01:09:52,400 --> 01:09:57,680
amendment he says unless otherwise

1587
01:09:54,530 --> 01:09:59,120
provided by statute we go to de novo is

1588
01:09:57,680 --> 01:10:02,420
that about what your understanding of

1589
01:09:59,120 --> 01:10:05,150
his amendment is mr. Hales amendment I

1590
01:10:02,420 --> 01:10:08,000
understand that mr. mr. Hales amendment

1591
01:10:05,150 --> 01:10:11,210
merely retains the status quo in other

1592
01:10:08,000 --> 01:10:13,100
words every time we pass a piece of

1593
01:10:11,210 --> 01:10:15,200
legislation regarding an agency in its

1594
01:10:13,100 --> 01:10:16,970
appeal we can say whether it's de novo

1595
01:10:15,200 --> 01:10:18,710
or whether it's substantial evidence

1596
01:10:16,970 --> 01:10:20,090
that's right and you could do why mr.

1597
01:10:18,710 --> 01:10:22,190
Vaughn Dolan should should why in the

1598
01:10:20,090 --> 01:10:24,940
world should we be in this bill

1599
01:10:22,190 --> 01:10:27,370
attempted to blanket either rule

1600
01:10:24,940 --> 01:10:29,800
even rule either de novo or substantial

1601
01:10:27,370 --> 01:10:31,870
evidence in this bill for every state

1602
01:10:29,800 --> 01:10:34,060
agency alright mr. Coleman this is I

1603
01:10:31,870 --> 01:10:36,790
mentioned before the committee is is the

1604
01:10:34,060 --> 01:10:38,350
issue before the legislature and one

1605
01:10:36,790 --> 01:10:40,210
that the legislature has to address

1606
01:10:38,350 --> 01:10:41,590
itself to one that I've told many

1607

01:10:40,210 --> 01:10:43,330
members this morning you have to vote

1608
01:10:41,590 --> 01:10:46,360
your personal convictions on this

1609
01:10:43,330 --> 01:10:48,760
measure it's my personal feeling that we

1610
01:10:46,360 --> 01:10:51,370
would be better off to have substantial

1611
01:10:48,760 --> 01:10:53,949
evidence as the general rule and supply

1612
01:10:51,370 --> 01:10:56,410
the exception for de novo and we have

1613
01:10:53,949 --> 01:10:58,660
such a mishmash of laws in this state

1614
01:10:56,410 --> 01:11:01,030
now that we don't know where we stand

1615
01:10:58,660 --> 01:11:02,860
and that's what I'm trying to do is to

1616
01:11:01,030 --> 01:11:05,050
allow us the opportunity to find out

1617
01:11:02,860 --> 01:11:06,730
where we stand so we can all start from

1618
01:11:05,050 --> 01:11:08,590
the same point and move forward in the

1619
01:11:06,730 --> 01:11:09,969
future okay well no we're just saying

1620
01:11:08,590 --> 01:11:12,840
mr. bond Dolan that you're just going to

1621
01:11:09,969 --> 01:11:15,370
leave it to the will the house know I

1622
01:11:12,840 --> 01:11:17,710
have a definite personal feeling and

1623
01:11:15,370 --> 01:11:19,810
personal conviction on what's right

1624
01:11:17,710 --> 01:11:21,910
it certainly is every members personal

1625
01:11:19,810 --> 01:11:23,230
feeling what chairman Koz part of other

1626
01:11:21,910 --> 01:11:24,550
gentleman's time has expired

1627
01:11:23,230 --> 01:11:29,410
point of order and well taken and

1628
01:11:24,550 --> 01:11:32,980
sustained mr. Geiger to speak against

1629
01:11:29,410 --> 01:11:35,260
the amendment to the amendment mr.

1630
01:11:32,980 --> 01:11:39,010
speaker members of old gentleman speaker

1631
01:11:35,260 --> 01:11:39,699
mr. Geiger you I'll yield to Garcia mr.

1632
01:11:39,010 --> 01:11:43,540
Gargery

1633
01:11:39,699 --> 01:11:45,400
if uniformity is what the authors of

1634

01:11:43,540 --> 01:11:49,690
this particular bill are striving to

1635
01:11:45,400 --> 01:11:52,989
attain why then are there exceptions

1636
01:11:49,690 --> 01:11:55,520
under Section 21 in matters involving

1637
01:11:52,989 --> 01:11:57,180
suspensions of driver's licenses

1638
01:11:55,520 --> 01:11:59,890
[Music]

1639
01:11:57,180 --> 01:12:08,350
Department of Public Welfare and mental

1640
01:11:59,890 --> 01:12:10,660
health and mental retardation the these

1641
01:12:08,350 --> 01:12:12,430
are some areas of the law I think where

1642
01:12:10,660 --> 01:12:15,610
the exception should be made mr. Hale

1643
01:12:12,430 --> 01:12:18,100
Thank You mr. sessions you know the

1644
01:12:15,610 --> 01:12:20,620
suspension of a driver's license is a

1645
01:12:18,100 --> 01:12:22,840
question involving the personal

1646
01:12:20,620 --> 01:12:24,489
privilege of that person how about how

1647
01:12:22,840 --> 01:12:27,130
about the license of an individual who

1648
01:12:24,489 --> 01:12:29,680
is operating the tavern how much more

1649
01:12:27,130 --> 01:12:31,449
how much more sacred is the right of

1650
01:12:29,680 --> 01:12:33,489
that individual than the right of an

1651
01:12:31,449 --> 01:12:36,400
individual to obtain a driver's license

1652
01:12:33,489 --> 01:12:38,310
or a cosmetologist who does hair or a

1653
01:12:36,400 --> 01:12:42,300
barber or a truck

1654
01:12:38,310 --> 01:12:45,150
for anybody else I mean we're talking

1655
01:12:42,300 --> 01:12:47,730
about we're talking about licenses and

1656
01:12:45,150 --> 01:12:48,570
most of these agencies granting license

1657
01:12:47,730 --> 01:12:51,240
mr. Garcia

1658
01:12:48,570 --> 01:12:54,330
as you know the question of driver's

1659
01:12:51,240 --> 01:12:57,960
license and involves matters that are

1660
01:12:54,330 --> 01:13:01,290
essentially are built around the

1661

01:12:57,960 --> 01:13:03,570
criminal proceedings how about how about

1662
01:13:01,290 --> 01:13:05,460
a tavern tower a vending machine

1663
01:13:03,570 --> 01:13:11,040
operator now you're gonna let me answer

1664
01:13:05,460 --> 01:13:14,510
your question yes a potential of it the

1665
01:13:11,040 --> 01:13:17,220
the question of Cosmetology the

1666
01:13:14,510 --> 01:13:20,210
Commission I think this involves the

1667
01:13:17,220 --> 01:13:23,580
discretion of an agency based upon the

1668
01:13:20,210 --> 01:13:27,830
legislative the scope of the legislation

1669
01:13:23,580 --> 01:13:30,750
the purpose of the legislation and the

1670
01:13:27,830 --> 01:13:33,480
those aspects that are essentially

1671
01:13:30,750 --> 01:13:36,000
policy decision doctrine is that agency

1672
01:13:33,480 --> 01:13:38,550
with that discretion and I think that

1673
01:13:36,000 --> 01:13:40,260
that's the the key question here is the

1674
01:13:38,550 --> 01:13:41,940
question of the discretion are they

1675
01:13:40,260 --> 01:13:44,040
using it properly all right so what

1676
01:13:41,940 --> 01:13:46,380
you're saying in effect is that under

1677
01:13:44,040 --> 01:13:48,840
certain circumstances certain

1678
01:13:46,380 --> 01:13:50,730
individuals if this bill becomes law

1679
01:13:48,840 --> 01:13:52,950
certain individuals are going to be

1680
01:13:50,730 --> 01:13:58,050
favored and certain individuals are

1681
01:13:52,950 --> 01:14:00,480
going to be disfavored let me ask you

1682
01:13:58,050 --> 01:14:01,260
this your lawyer dr. Geiger and I can

1683
01:14:00,480 --> 01:14:04,770
understand that

1684
01:14:01,260 --> 01:14:06,540
mr. bond Dolan may not understand the

1685
01:14:04,770 --> 01:14:08,340
intricacies of the courtroom but I'm

1686
01:14:06,540 --> 01:14:09,770
sure you will because you have been

1687
01:14:08,340 --> 01:14:13,080
there many times

1688

01:14:09,770 --> 01:14:17,400
Hawthorne he was a pharmacy he says the

1689
01:14:13,080 --> 01:14:20,010
court page 22 subsection ere the court

1690
01:14:17,400 --> 01:14:22,350
may not substitute its judgment for that

1691
01:14:20,010 --> 01:14:24,750
of the agency as to the weight of the

1692
01:14:22,350 --> 01:14:27,120
evidence on questions of fact committed

1693
01:14:24,750 --> 01:14:28,080
to agency discretion you know what what

1694
01:14:27,120 --> 01:14:32,330
does that mean

1695
01:14:28,080 --> 01:14:35,730
I think mr. Garcia that deals with the

1696
01:14:32,330 --> 01:14:42,210
the let's take a an application for a

1697
01:14:35,730 --> 01:14:44,610
savings and loan that agency is invested

1698
01:14:42,210 --> 01:14:48,190
with the discretion of knowing or should

1699
01:14:44,610 --> 01:14:52,150
determine the needs of a community and

1700
01:14:48,190 --> 01:14:55,210
they then would make the decision and

1701
01:14:52,150 --> 01:14:57,850
the court should not be permitted to

1702
01:14:55,210 --> 01:15:00,400
usurp that decision discretion or that

1703
01:14:57,850 --> 01:15:02,800
boy then why should y'all try to

1704
01:15:00,400 --> 01:15:05,469
perpetrate a fraud upon the people

1705
01:15:02,800 --> 01:15:07,810
sitting in this house by saying that we

1706
01:15:05,469 --> 01:15:10,239
are arguing the matter of appeal based

1707
01:15:07,810 --> 01:15:12,219
on either a de novo situation or

1708
01:15:10,239 --> 01:15:15,070
substantial evidence why don't you just

1709
01:15:12,219 --> 01:15:17,199
say the agency knows best what is good

1710
01:15:15,070 --> 01:15:20,860
for those that are regulated by the

1711
01:15:17,199 --> 01:15:22,719
agency mr. Garcia for my time to you I'm

1712
01:15:20,860 --> 01:15:24,550
not I resent you talking about us

1713
01:15:22,719 --> 01:15:27,010
perpetrating the fraud you no good well

1714
01:15:24,550 --> 01:15:30,400
there's no perpetration of fraud in this

1715

01:15:27,010 --> 01:15:35,139
bill I I don't yield anymore my time I

1716
01:15:30,400 --> 01:15:36,940
suggest that if I don't you Garcia mr.

1717
01:15:35,139 --> 01:15:40,840
speaker member will the gentleman yield

1718
01:15:36,940 --> 01:15:43,300
mr. speaker will the gentleman yield

1719
01:15:40,840 --> 01:15:46,360
audience gauger Gilman yields miss lunch

1720
01:15:43,300 --> 01:15:48,730
mr. Geiger in the event we don't pass

1721
01:15:46,360 --> 01:15:51,699
the he'll amendment don't you think this

1722
01:15:48,730 --> 01:15:53,679
that this would put a lot of additional

1723
01:15:51,699 --> 01:15:55,900
powers and the state agencies and take

1724
01:15:53,679 --> 01:15:57,190
it away from the courts of this state no

1725
01:15:55,900 --> 01:15:59,560
I don't think so at all

1726
01:15:57,190 --> 01:16:02,889
in other words you feel like the state

1727
01:15:59,560 --> 01:16:04,780
agencies should have all the vast powers

1728
01:16:02,889 --> 01:16:06,670
that would be you all that would be

1729
01:16:04,780 --> 01:16:08,739
afforded them in the event to hell

1730
01:16:06,670 --> 01:16:12,280
amendment all right mr. Florence we

1731
01:16:08,739 --> 01:16:14,230
create agencies we evidently feel like

1732
01:16:12,280 --> 01:16:16,449
there is a purpose for these agencies to

1733
01:16:14,230 --> 01:16:19,270
exist we invest them with discretion and

1734
01:16:16,449 --> 01:16:21,400
what we're saying is that those agencies

1735
01:16:19,270 --> 01:16:23,199
should exercise that discretion or they

1736
01:16:21,400 --> 01:16:25,480
should not exist well don't you think

1737
01:16:23,199 --> 01:16:28,540
that when you give those agencies this

1738
01:16:25,480 --> 01:16:30,730
awesome power that you are in a fantasy

1739
01:16:28,540 --> 01:16:32,380
they've gone away from the judicial

1740
01:16:30,730 --> 01:16:34,360
system of this state I don't see this

1741
01:16:32,380 --> 01:16:37,090
awesome power at all and if you'll read

1742

01:16:34,360 --> 01:16:42,280
subsection after the the exceptions that

1743
01:16:37,090 --> 01:16:43,960
are made there the applicant the court

1744
01:16:42,280 --> 01:16:45,909
shall reverse or remand the case for

1745
01:16:43,960 --> 01:16:47,889
further proceedings if substantial

1746
01:16:45,909 --> 01:16:49,780
rights of the appellant have been

1747
01:16:47,889 --> 01:16:52,270
prejudiced because of the administrative

1748
01:16:49,780 --> 01:16:54,880
findings inferences conclusions or

1749
01:16:52,270 --> 01:16:56,920
decisions and it lists these six things

1750
01:16:54,880 --> 01:16:59,199
are in violation of constitutional or

1751
01:16:56,920 --> 01:17:00,230
statutory provisions are in excess of

1752
01:16:59,199 --> 01:17:02,630
the statutory

1753
01:17:00,230 --> 01:17:05,239
the agency were made under procedures

1754
01:17:02,630 --> 01:17:08,150
not authorized by law are affected by

1755
01:17:05,239 --> 01:17:10,370
other error of law are usually supported

1756
01:17:08,150 --> 01:17:12,530
by substantial evidence and view of the

1757
01:17:10,370 --> 01:17:16,610
reliable and probative evidence in the

1758
01:17:12,530 --> 01:17:18,950
record as a whole or their arbitrary or

1759
01:17:16,610 --> 01:17:20,620
capricious or characterized by abuse of

1760
01:17:18,950 --> 01:17:23,420
discretion or clearly unwarranted

1761
01:17:20,620 --> 01:17:25,700
exercise of discretion so I think that

1762
01:17:23,420 --> 01:17:28,370
that so-called awesome power that are

1763
01:17:25,700 --> 01:17:31,489
you aware is subject to control by the

1764
01:17:28,370 --> 01:17:34,310
court are you aware that the least

1765
01:17:31,489 --> 01:17:36,710
scintilla of evidence can be substantial

1766
01:17:34,310 --> 01:17:38,860
evidence I'm not aware of that and I

1767
01:17:36,710 --> 01:17:42,140
hope that we can change that Oh

1768
01:17:38,860 --> 01:17:44,660
also there are quite a few of us that

1769

01:17:42,140 --> 01:17:46,640
are for this bill as a whole and if the

1770
01:17:44,660 --> 01:17:48,050
hell amendment doesn't pass we're going

1771
01:17:46,640 --> 01:17:50,060
to be forced to vote against this bill

1772
01:17:48,050 --> 01:17:51,620
are you aware of that sir I'm sorry that

1773
01:17:50,060 --> 01:17:53,930
you have to take that position mr.

1774
01:17:51,620 --> 01:17:55,550
Florence I think it's a good bill and I

1775
01:17:53,930 --> 01:17:58,430
think it's one that you should give very

1776
01:17:55,550 --> 01:18:00,260
serious consideration to adopting with

1777
01:17:58,430 --> 01:18:02,000
or without the Hale amendment I hope

1778
01:18:00,260 --> 01:18:04,280
that you'll adopt it without the hail of

1779
01:18:02,000 --> 01:18:06,200
enmity well with the hel amendment I'm

1780
01:18:04,280 --> 01:18:07,760
for the bill without the hill amendment

1781
01:18:06,200 --> 01:18:12,560
I'm against the bill all right mr.

1782
01:18:07,760 --> 01:18:15,380
Flores mr. speaker members the I think

1783
01:18:12,560 --> 01:18:17,180
mr. bond Dolan has made a an excellent

1784
01:18:15,380 --> 01:18:20,590
point when he's talked to you about the

1785
01:18:17,180 --> 01:18:22,790
the vast array and the disparity in the

1786
01:18:20,590 --> 01:18:26,120
non-uniform manner in which we treat our

1787
01:18:22,790 --> 01:18:28,310
cases and the folly of an agency like

1788
01:18:26,120 --> 01:18:31,670
the Railroad Commission spending months

1789
01:18:28,310 --> 01:18:33,770
taking testimony 25 volumes of testimony

1790
01:18:31,670 --> 01:18:35,420
all of which if it hadn't been for the

1791
01:18:33,770 --> 01:18:37,550
agreement of the attorneys would have

1792
01:18:35,420 --> 01:18:40,310
had to been relitigated that doesn't

1793
01:18:37,550 --> 01:18:44,570
make any sense to me I hope that you

1794
01:18:40,310 --> 01:18:47,320
will bow with us and vote against the

1795
01:18:44,570 --> 01:18:47,320
Hale Amendment

1796

01:18:52,580 --> 01:18:57,870
mr. Wilson to speak against the

1797
01:18:54,690 --> 01:19:01,590
amendment to the amendment mr. speaker

1798
01:18:57,870 --> 01:19:03,720
and members I rise as a layman at the

1799
01:19:01,590 --> 01:19:06,630
front Mike for a change to speak against

1800
01:19:03,720 --> 01:19:08,760
this amendment I don't believe that this

1801
01:19:06,630 --> 01:19:12,300
amendment is truly a fight between

1802
01:19:08,760 --> 01:19:14,670
lawyers and lawyers I think that the

1803
01:19:12,300 --> 01:19:17,130
Vaughn Dolan bill as President Lee

1804
01:19:14,670 --> 01:19:19,620
before you serves the people of Texas

1805
01:19:17,130 --> 01:19:22,650
considerably better than it would that

1806
01:19:19,620 --> 01:19:25,890
if mr. Hales amendment were adopted if

1807
01:19:22,650 --> 01:19:27,480
we do nothing else in passing this piece

1808
01:19:25,890 --> 01:19:30,570
of legislation we certainly should

1809
01:19:27,480 --> 01:19:35,370
standardize our systems of judicial

1810
01:19:30,570 --> 01:19:38,580
appeal of agency decisions today no

1811
01:19:35,370 --> 01:19:40,680
citizen in the state knows which agency

1812
01:19:38,580 --> 01:19:43,860
has what form of Appeal and how they can

1813
01:19:40,680 --> 01:19:46,290
comply with that appeal at the very

1814
01:19:43,860 --> 01:19:50,340
least you and I can do is standardize

1815
01:19:46,290 --> 01:19:52,020
that form of appeal every time we have

1816
01:19:50,340 --> 01:19:54,960
an agency bill come before this

1817
01:19:52,020 --> 01:19:57,860
legislature I see mr. Hale up here

1818
01:19:54,960 --> 01:20:00,810
running with a trial de novo amendment

1819
01:19:57,860 --> 01:20:04,170
and a layman I'm not sure I understand

1820
01:20:00,810 --> 01:20:06,960
trial to novo but I think I do the way

1821
01:20:04,170 --> 01:20:08,820
trial de novo works to me is you just

1822
01:20:06,960 --> 01:20:10,770
throw out everything the agencies done

1823

01:20:08,820 --> 01:20:14,190
and go to the court and try it all over

1824
01:20:10,770 --> 01:20:16,680
again so that means any layman must hire

1825
01:20:14,190 --> 01:20:20,280
him a lawyer may go through two cases to

1826
01:20:16,680 --> 01:20:21,930
finally get to a final decision I don't

1827
01:20:20,280 --> 01:20:24,660
think the people of Texas wore it that

1828
01:20:21,930 --> 01:20:26,550
way I think it makes the state agents

1829
01:20:24,660 --> 01:20:28,020
arbitrary in their decisions

1830
01:20:26,550 --> 01:20:31,430
I think the Alcoholic Beverage

1831
01:20:28,020 --> 01:20:35,090
Commission is one where they deprive

1832
01:20:31,430 --> 01:20:36,750
persons who are losing the license of

1833
01:20:35,090 --> 01:20:40,320
due process

1834
01:20:36,750 --> 01:20:42,150
realizing that probably 999 out of a

1835
01:20:40,320 --> 01:20:44,780
thousand won't appeal in the first place

1836
01:20:42,150 --> 01:20:47,730
so they win that many cases just because

1837
01:20:44,780 --> 01:20:50,430
the person who is aggrieved defaults and

1838
01:20:47,730 --> 01:20:52,140
doesn't appeal I just don't think that

1839
01:20:50,430 --> 01:20:53,640
that's the where agencies ought to run I

1840
01:20:52,140 --> 01:20:55,230
think we ought to standardize the

1841
01:20:53,640 --> 01:20:57,960
procedure and I think that's what this

1842
01:20:55,230 --> 01:21:00,720
bill does and I'm certainly in favor of

1843
01:20:57,960 --> 01:21:01,490
keeping the bill in its present form and

1844
01:21:00,720 --> 01:21:03,380
standard

1845
01:21:01,490 --> 01:21:06,890
that procedure in voting against the

1846
01:21:03,380 --> 01:21:08,690
Hale amendment mr. Peter that's : well

1847
01:21:06,890 --> 01:21:10,640
gentlemen you'll for a quick question yo

1848
01:21:08,690 --> 01:21:13,130
mr. Li gentleman yells what's going miss

1849
01:21:10,640 --> 01:21:14,540
listen not my only Monica I don't like

1850

01:21:13,130 --> 01:21:16,160
you I like your concept of having

1851
01:21:14,540 --> 01:21:18,800
uniformity and I think that that's what

1852
01:21:16,160 --> 01:21:20,690
really the heart of this bill does and I

1853
01:21:18,800 --> 01:21:23,600
support the concept of the bill for

1854
01:21:20,690 --> 01:21:25,040
rules and regulations the only question

1855
01:21:23,600 --> 01:21:27,230
that we're really concerned with here

1856
01:21:25,040 --> 01:21:28,580
though are we not as just the with the

1857
01:21:27,230 --> 01:21:31,070
amendment to the amendment by mr. Hale

1858
01:21:28,580 --> 01:21:33,860
is just the type of Appeals that we have

1859
01:21:31,070 --> 01:21:36,140
well it's not just the type it allows

1860
01:21:33,860 --> 01:21:38,150
for all types mr. Coleman

1861
01:21:36,140 --> 01:21:40,280
it does not standardize the appeal

1862
01:21:38,150 --> 01:21:41,750
process I think that if we're going to

1863
01:21:40,280 --> 01:21:43,610
have in a minute we already procedures

1864
01:21:41,750 --> 01:21:45,680
act we ought to standardize the field

1865
01:21:43,610 --> 01:21:47,600
where the lawyers where the Lowcountry

1866
01:21:45,680 --> 01:21:49,970
lawyers out here don't practice in

1867
01:21:47,600 --> 01:21:51,530
Austin every day women do get a case

1868
01:21:49,970 --> 01:21:53,750
representing a client out there in the

1869
01:21:51,530 --> 01:21:55,640
country or some city that it's not close

1870
01:21:53,750 --> 01:21:57,290
to often if they'll come up here and

1871
01:21:55,640 --> 01:21:59,540
know what they have to do to represent

1872
01:21:57,290 --> 01:22:01,010
their client don't misunderstand me what

1873
01:21:59,540 --> 01:22:03,380
might one what I'm saying is that in

1874
01:22:01,010 --> 01:22:05,120
other words Devon Doan attempt is to

1875
01:22:03,380 --> 01:22:07,490
standardize the process for appeal

1876
01:22:05,120 --> 01:22:11,120
absolute has been substantial evidence

1877

01:22:07,490 --> 01:22:13,070
yes sir all right yet yet really and

1878
01:22:11,120 --> 01:22:15,650
truly on the other side of the court he

1879
01:22:13,070 --> 01:22:18,110
hasn't made a case for that versus de

1880
01:22:15,650 --> 01:22:19,880
novo has he well if we're going to pick

1881
01:22:18,110 --> 01:22:22,730
one why did he pick substantial evidence

1882
01:22:19,880 --> 01:22:24,860
let me say that the way I understand the

1883
01:22:22,730 --> 01:22:27,200
substantial evidence rule mr. Coleman is

1884
01:22:24,860 --> 01:22:31,130
if there is not substantial evidence

1885
01:22:27,200 --> 01:22:33,920
that the agency making a decision has

1886
01:22:31,130 --> 01:22:37,790
acted arbitrarily the Court denies the

1887
01:22:33,920 --> 01:22:40,010
field if in fact under trial de novo the

1888
01:22:37,790 --> 01:22:41,450
court must accept the appeal and hear

1889
01:22:40,010 --> 01:22:44,030
the case completely over whether the

1890
01:22:41,450 --> 01:22:45,260
substantial evidence of not as a layman

1891
01:22:44,030 --> 01:22:47,450
and that's the only way I can speak to

1892
01:22:45,260 --> 01:22:49,430
you I'm not don't even claim any part of

1893
01:22:47,450 --> 01:22:50,900
being a lawyer don't want to be one well

1894
01:22:49,430 --> 01:22:53,060
I don't I've never practiced from state

1895
01:22:50,900 --> 01:22:54,650
agencies and I but I'm just I'm just a

1896
01:22:53,060 --> 01:22:57,680
jetty if we're going to respect our

1897
01:22:54,650 --> 01:22:59,600
agency's rights to make a decision then

1898
01:22:57,680 --> 01:23:01,880
they ought to make that decision on them

1899
01:22:59,600 --> 01:23:03,950
evidence that's presented to them if

1900
01:23:01,880 --> 01:23:05,660
there is substantial evidence that they

1901
01:23:03,950 --> 01:23:07,670
did make an arbitrary decision they

1902
01:23:05,660 --> 01:23:09,050
ought to have an appeal I don't think

1903
01:23:07,670 --> 01:23:11,600
they ought to have an automatic appeal

1904

01:23:09,050 --> 01:23:13,610
to the district court in often just

1905
01:23:11,600 --> 01:23:14,250
because of trial - no I don't think you

1906
01:23:13,610 --> 01:23:15,960
ought to have a

1907
01:23:14,250 --> 01:23:17,820
you without substantial evidence that's

1908
01:23:15,960 --> 01:23:19,320
not so we know let me explain to you

1909
01:23:17,820 --> 01:23:21,540
first of all de novo is not an automatic

1910
01:23:19,320 --> 01:23:23,550
appeal let me just first of all clarify

1911
01:23:21,540 --> 01:23:25,260
that I don't want anybody be misled to

1912
01:23:23,550 --> 01:23:27,630
think that there's a you know that

1913
01:23:25,260 --> 01:23:29,280
that's all about what abstention

1914
01:23:27,630 --> 01:23:30,870
evidence does is it puts it right back

1915
01:23:29,280 --> 01:23:32,160
to the state agency that issued the

1916
01:23:30,870 --> 01:23:34,350
order in the first place and that's all

1917
01:23:32,160 --> 01:23:36,420
that it does what I'm suggesting and

1918
01:23:34,350 --> 01:23:37,800
what the Hale amendments suggest and I'm

1919
01:23:36,420 --> 01:23:40,500
gonna speak to the Hale amendment to the

1920
01:23:37,800 --> 01:23:43,590
amendment is simply that we as a

1921
01:23:40,500 --> 01:23:46,110
legislative body can decide with each

1922
01:23:43,590 --> 01:23:47,880
agency how important it is to have

1923
01:23:46,110 --> 01:23:51,080
either rule and I don't see anything

1924
01:23:47,880 --> 01:23:54,060
wrong with the legislature on an agency

1925
01:23:51,080 --> 01:23:56,430
is that each agency has a different

1926
01:23:54,060 --> 01:23:59,220
approach the history of Texas doesn't

1927
01:23:56,430 --> 01:24:01,140
know which approach is in operation the

1928
01:23:59,220 --> 01:24:02,640
lawyers out there that are not familiar

1929
01:24:01,140 --> 01:24:04,200
with Austin in the Travis County

1930
01:24:02,640 --> 01:24:05,910
district courts and the appeal process

1931

01:24:04,200 --> 01:24:09,480
oh you've gotta do a hook in the law

1932
01:24:05,910 --> 01:24:11,490
book look in the statute house you'll

1933
01:24:09,480 --> 01:24:14,010
they got under that agency and they

1934
01:24:11,490 --> 01:24:16,280
don't know so I think I think truthfully

1935
01:24:14,010 --> 01:24:20,130
the substantial evidence rule in my

1936
01:24:16,280 --> 01:24:22,680
opinion serves us better i think the

1937
01:24:20,130 --> 01:24:24,780
uniform application of one of system of

1938
01:24:22,680 --> 01:24:26,550
appeal from agency decisions will

1939
01:24:24,780 --> 01:24:28,350
certainly serve the state better and the

1940
01:24:26,550 --> 01:24:28,950
people better well then why not to know

1941
01:24:28,350 --> 01:24:30,930
me

1942
01:24:28,950 --> 01:24:33,600
to me that's the heart of the whole bill

1943
01:24:30,930 --> 01:24:35,520
why not analyzing it mr. Hales amendment

1944
01:24:33,600 --> 01:24:38,310
will allow it to be either one that's

1945
01:24:35,520 --> 01:24:39,900
right but why don't we make it all

1946
01:24:38,310 --> 01:24:42,390
DeNoble we wouldn't have any

1947
01:24:39,900 --> 01:24:44,160
standardized appeal and as a layman I

1948
01:24:42,390 --> 01:24:46,080
want to know when I come to Austin

1949
01:24:44,160 --> 01:24:48,270
whether it's willing Alcoholic Beverage

1950
01:24:46,080 --> 01:24:50,340
Commission or Railroad Commission any

1951
01:24:48,270 --> 01:24:52,740
other Commission and what my rights are

1952
01:24:50,340 --> 01:24:53,910
to the court as a layman as a layman

1953
01:24:52,740 --> 01:24:55,740
then you'd but you'd be just as

1954
01:24:53,910 --> 01:24:57,870
satisfied if it was uniformly diNovo

1955
01:24:55,740 --> 01:24:59,340
then by that argument way I understand

1956
01:24:57,870 --> 01:25:01,170
it no go I wouldn't because I'd have to

1957
01:24:59,340 --> 01:25:03,120
present the whole case over and repeat

1958

01:25:01,170 --> 01:25:04,800
what I've already done before an agency

1959
01:25:03,120 --> 01:25:06,630
we're using on interested in trusting

1960
01:25:04,800 --> 01:25:08,310
the juries of this state after an agency

1961
01:25:06,630 --> 01:25:10,140
again I don't want a client you want to

1962
01:25:08,310 --> 01:25:13,050
make a speech about juries come up here

1963
01:25:10,140 --> 01:25:15,780
this front michael open do you mrs.

1964
01:25:13,050 --> 01:25:16,230
biggert gentleman yield mr. wells new

1965
01:25:15,780 --> 01:25:20,100
yield

1966
01:25:16,230 --> 01:25:22,190
surely mr. Wilson isn't the whole

1967
01:25:20,100 --> 01:25:26,719
problem with de novo the

1968
01:25:22,190 --> 01:25:31,730
fact that when you have a de novo type

1969
01:25:26,719 --> 01:25:34,219
situation the individuals trying that

1970
01:25:31,730 --> 01:25:38,330
those facts with the administrative

1971
01:25:34,219 --> 01:25:43,100
agency do not have to introduce all of

1972
01:25:38,330 --> 01:25:47,620
the facts that they have or if after

1973
01:25:43,100 --> 01:25:50,719
they have been if after they have their

1974
01:25:47,620 --> 01:25:54,110
if after the decision has been made and

1975
01:25:50,719 --> 01:25:56,300
it's adverse to the individuals case he

1976
01:25:54,110 --> 01:25:59,600
just goes to the district court and

1977
01:25:56,300 --> 01:26:03,199
waits until he can develop additional

1978
01:25:59,600 --> 01:26:07,190
facts which didn't exist at the time

1979
01:26:03,199 --> 01:26:10,400
that that case was tried in the agency

1980
01:26:07,190 --> 01:26:14,960
and there is in effect a continuing

1981
01:26:10,400 --> 01:26:17,719
ongoing process whereby the individual

1982
01:26:14,960 --> 01:26:20,420
finally develops all of his facts when

1983
01:26:17,719 --> 01:26:23,390
he gets to the court and the agency is

1984
01:26:20,420 --> 01:26:25,400
in it in effect bypassed that's exactly

1985

01:26:23,390 --> 01:26:27,140
the way I understand it mr. Bach there's

1986
01:26:25,400 --> 01:26:29,719
no end to it in other words with a

1987
01:26:27,140 --> 01:26:32,480
demote de novo field you can come in and

1988
01:26:29,719 --> 01:26:35,210
you it seems to me never presented to

1989
01:26:32,480 --> 01:26:37,580
the agency it seems to me then that we

1990
01:26:35,210 --> 01:26:40,340
either have substantial evidence and

1991
01:26:37,580 --> 01:26:44,540
allow the agencies to make their

1992
01:26:40,340 --> 01:26:47,570
decision or we put all of the agency's

1993
01:26:44,540 --> 01:26:51,230
decisions into the courts and give them

1994
01:26:47,570 --> 01:26:53,420
no decision-making powers at all well I

1995
01:26:51,230 --> 01:26:56,960
mean that's what it's one or the other

1996
01:26:53,420 --> 01:26:58,940
it's not in an in-between situation let

1997
01:26:56,960 --> 01:27:01,040
me say that I think first of all we have

1998
01:26:58,940 --> 01:27:03,980
a responsibility to standardize the

1999
01:27:01,040 --> 01:27:06,050
appeal through some agency decision the

2000
01:27:03,980 --> 01:27:08,150
Hail Amendment does not standardize

2001
01:27:06,050 --> 01:27:10,219
those appeal processes eliminate the

2002
01:27:08,150 --> 01:27:12,530
first fault with a hey let me ask you on

2003
01:27:10,219 --> 01:27:14,600
the next point the second part is I said

2004
01:27:12,530 --> 01:27:16,910
mr. Bach is it I am in favor of the

2005
01:27:14,600 --> 01:27:19,699
statute this is a substantial evidence

2006
01:27:16,910 --> 01:27:21,410
rule I just believe that the average

2007
01:27:19,699 --> 01:27:22,100
layman in Texas would understand that

2008
01:27:21,410 --> 01:27:23,660
better

2009
01:27:22,100 --> 01:27:26,510
then we'd understand what we're faced

2010
01:27:23,660 --> 01:27:28,400
with that all the evidence of a case

2011
01:27:26,510 --> 01:27:29,640
should be presented to that agency if a

2012

01:27:28,400 --> 01:27:31,560
court finds that it

2013
01:27:29,640 --> 01:27:32,600
not near new facts the agency ought to

2014
01:27:31,560 --> 01:27:38,010
have the right to make that decision

2015
01:27:32,600 --> 01:27:40,350
prior to an appeal stated mr. Wilson

2016
01:27:38,010 --> 01:27:42,720
have you you noticed the the book down

2017
01:27:40,350 --> 01:27:44,880
there that mr. Vaughn Dolan showed us

2018
01:27:42,720 --> 01:27:46,680
that was all the cases even the lawyers

2019
01:27:44,880 --> 01:27:49,560
and the judges can't make up their mind

2020
01:27:46,680 --> 01:27:52,560
right Thank You mr. speaker and members

2021
01:27:49,560 --> 01:27:54,630
I truly believe that Devon Dolan bill

2022
01:27:52,560 --> 01:27:56,790
and it's before you serves the people of

2023
01:27:54,630 --> 01:27:58,920
Texas better I'm not sure whether

2024
01:27:56,790 --> 01:28:00,930
whether the Hale amendment serves the

2025
01:27:58,920 --> 01:28:03,240
people or the judiciary or the lawyers

2026
01:28:00,930 --> 01:28:05,070
better I hope you'll vote no on the Hale

2027
01:28:03,240 --> 01:28:07,370
amendment or I on a motion table when

2028
01:28:05,070 --> 01:28:07,370
it's made

2029
01:28:18,889 --> 01:28:23,469
all right mr. Carr well speaking behalf

2030
01:28:21,199 --> 01:28:28,699
of the Hale amendment to the amendment

2031
01:28:23,469 --> 01:28:32,210
mr. speaker members the issue really

2032
01:28:28,699 --> 01:28:37,159
involves who makes the ultimate judgment

2033
01:28:32,210 --> 01:28:39,170
I know that it sounds real good to say

2034
01:28:37,159 --> 01:28:41,179
that we can you know clean this thing up

2035
01:28:39,170 --> 01:28:45,020
and standardize it and get on with the

2036
01:28:41,179 --> 01:28:47,119
business and if it worked like it should

2037
01:28:45,020 --> 01:28:48,889
based on what you read in the textbooks

2038
01:28:47,119 --> 01:28:51,350
that it'd be wonderful but you're

2039

01:28:48,889 --> 01:28:53,090
dealing with state agencies you're

2040
01:28:51,350 --> 01:28:57,710
dealing with bureaucrats that don't

2041
01:28:53,090 --> 01:29:02,540
always hold the fault before their eyes

2042
01:28:57,710 --> 01:29:05,239
and rule with justice in their hearts

2043
01:29:02,540 --> 01:29:09,409
and with blindness toward the people

2044
01:29:05,239 --> 01:29:11,600
before them now when you know people as

2045
01:29:09,409 --> 01:29:13,190
mr. Wilson said they think substantial

2046
01:29:11,600 --> 01:29:14,869
evidence rule he figures it's just

2047
01:29:13,190 --> 01:29:18,199
wonderful well they do until they're

2048
01:29:14,869 --> 01:29:20,030
abused and when they're abused and quite

2049
01:29:18,199 --> 01:29:24,199
often they are abused they deserve a

2050
01:29:20,030 --> 01:29:27,679
right to have 12 people tried and true

2051
01:29:24,199 --> 01:29:29,600
decide that issue and once before you is

2052
01:29:27,679 --> 01:29:32,540
do you want to increase the power of the

2053
01:29:29,600 --> 01:29:33,409
bureaucracy or do you have faith in

2054
01:29:32,540 --> 01:29:35,449
juries

2055
01:29:33,409 --> 01:29:38,929
well that juries don't always make right

2056
01:29:35,449 --> 01:29:40,400
decisions I've tried cases before juries

2057
01:29:38,929 --> 01:29:42,130
and at least I've been convinced on

2058
01:29:40,400 --> 01:29:44,540
occasion or two that they didn't see

2059
01:29:42,130 --> 01:29:46,670
justice it's certainly not as I saw it

2060
01:29:44,540 --> 01:29:49,670
but over the long haul they do a good

2061
01:29:46,670 --> 01:29:51,949
job over the long haul the state

2062
01:29:49,670 --> 01:29:54,550
agencies or any bureaucrats don't always

2063
01:29:51,949 --> 01:29:58,310
do a good job well I had much more faith

2064
01:29:54,550 --> 01:30:00,050
in the jury system than I do in the

2065
01:29:58,310 --> 01:30:02,060
bureaucrats now if you want to increase

2066

01:30:00,050 --> 01:30:03,380
the power of the bureaucracy you vote

2067
01:30:02,060 --> 01:30:06,230
against the Hale amendment because

2068
01:30:03,380 --> 01:30:09,920
that's exactly what you're doing if you

2069
01:30:06,230 --> 01:30:13,400
have more faith in people that come from

2070
01:30:09,920 --> 01:30:15,260
the area affected then you vote for the

2071
01:30:13,400 --> 01:30:16,909
Hale amendment because that's exactly

2072
01:30:15,260 --> 01:30:17,989
the issue before you mr. speaker will

2073
01:30:16,909 --> 01:30:20,750
gentleman yield for a question

2074
01:30:17,989 --> 01:30:23,630
do you let's go yes young mr. Vail Mr

2075
01:30:20,750 --> 01:30:26,090
Carr well is it not a fact that when we

2076
01:30:23,630 --> 01:30:28,730
have the when we have the trial de novo

2077
01:30:26,090 --> 01:30:31,130
there's boards and agencies and bureaus

2078
01:30:28,730 --> 01:30:34,940
tend to be a little bit more democratic

2079
01:30:31,130 --> 01:30:38,929
because they know that whatever action

2080
01:30:34,940 --> 01:30:42,260
or order of a take or give will be will

2081
01:30:38,929 --> 01:30:46,400
be subject to review by a citizen jury

2082
01:30:42,260 --> 01:30:48,469
if a citizen of this state fields are

2083
01:30:46,400 --> 01:30:50,270
grieved about that decision that's

2084
01:30:48,469 --> 01:30:52,040
exactly right and you can look at the

2085
01:30:50,270 --> 01:30:54,050
state agencies that have substantial

2086
01:30:52,040 --> 01:30:57,369
evidence and you can you know it's just

2087
01:30:54,050 --> 01:31:00,440
abundantly clear that they're arbitrary

2088
01:30:57,369 --> 01:31:03,860
you know they're they assume the posture

2089
01:31:00,440 --> 01:31:08,599
of dictators and if they know that they

2090
01:31:03,860 --> 01:31:11,330
are subject to review by jury then you

2091
01:31:08,599 --> 01:31:13,670
don't have the problems because they

2092
01:31:11,330 --> 01:31:15,500
make an effort to be fair because they

2093

01:31:13,670 --> 01:31:18,080
know they're subject to criticism and

2094
01:31:15,500 --> 01:31:20,449
reversal later this is not a lawyer's

2095
01:31:18,080 --> 01:31:23,510
bill this really is a bill that affects

2096
01:31:20,449 --> 01:31:26,030
people and people are affected much more

2097
01:31:23,510 --> 01:31:28,219
fairly when judgment is ultimately

2098
01:31:26,030 --> 01:31:30,650
rendered or can be rendered by a jury

2099
01:31:28,219 --> 01:31:32,560
rather than by bureaucrats that sit up

2100
01:31:30,650 --> 01:31:34,940
here there's bigger well gentlemen you

2101
01:31:32,560 --> 01:31:36,409
you missed call well yes sir gentleman

2102
01:31:34,940 --> 01:31:37,940
yields miss neighbors missed call well

2103
01:31:36,409 --> 01:31:40,130
you've had an opportunity to have you

2104
01:31:37,940 --> 01:31:42,139
not to practice before an agency that

2105
01:31:40,130 --> 01:31:44,510
uses this substantial evidence we will

2106
01:31:42,139 --> 01:31:48,110
have you know yes sir have you ever

2107
01:31:44,510 --> 01:31:51,949
found a successful way to cross-examine

2108
01:31:48,110 --> 01:31:55,760
an affidavit no because it won't talk

2109
01:31:51,949 --> 01:31:57,770
back and that kind of evidence they

2110
01:31:55,760 --> 01:32:00,110
receive you don't have a right of

2111
01:31:57,770 --> 01:32:02,599
cross-examination and it's not my right

2112
01:32:00,110 --> 01:32:06,619
to cross-examine it's the client the

2113
01:32:02,599 --> 01:32:09,230
person who has a an interest in the

2114
01:32:06,619 --> 01:32:12,010
dispute and that's what you take away

2115
01:32:09,230 --> 01:32:14,179
from him you take away the right to

2116
01:32:12,010 --> 01:32:17,090
cross-examine and to bring out the facts

2117
01:32:14,179 --> 01:32:18,949
from which people can make judgment and

2118
01:32:17,090 --> 01:32:21,020
that ultimate judgment should not be

2119
01:32:18,949 --> 01:32:22,280
made by bureaucrats it ought to be made

2120

01:32:21,020 --> 01:32:24,560
by people that have no

2121
01:32:22,280 --> 01:32:26,990
interest in the case they're not subject

2122
01:32:24,560 --> 01:32:28,700
to the pressures of any special interest

2123
01:32:26,990 --> 01:32:30,350
group from one side of the other they

2124
01:32:28,700 --> 01:32:32,990
could care less they just want to do

2125
01:32:30,350 --> 01:32:35,000
what they think the facts call for them

2126
01:32:32,990 --> 01:32:37,250
to decide in the case well I think

2127
01:32:35,000 --> 01:32:38,750
you've explained it very well on that

2128
01:32:37,250 --> 01:32:41,540
particular point miss Carlisle

2129
01:32:38,750 --> 01:32:43,520
specifically it's not a lawyers fine you

2130
01:32:41,540 --> 01:32:46,310
know the reason that I bring this up is

2131
01:32:43,520 --> 01:32:49,340
because in practicing you have that

2132
01:32:46,310 --> 01:32:52,220
opportunity to be denied that right and

2133
01:32:49,340 --> 01:32:54,830
it's not it's not affecting you but it

2134
01:32:52,220 --> 01:32:57,350
is affecting the people that have these

2135
01:32:54,830 --> 01:33:00,260
decisions before the agencies that are

2136
01:32:57,350 --> 01:33:02,780
made whenever they know that those that

2137
01:33:00,260 --> 01:33:05,660
those rulings are going to be subject to

2138
01:33:02,780 --> 01:33:07,880
judicial review they tend to consider

2139
01:33:05,660 --> 01:33:12,380
well maybe that affidavit is not

2140
01:33:07,880 --> 01:33:13,790
entirely completely might we say that's

2141
01:33:12,380 --> 01:33:16,100
right and that's one of the maintenance

2142
01:33:13,790 --> 01:33:18,470
reasons that I'm in favor of the Hale

2143
01:33:16,100 --> 01:33:21,110
Amendment and one of the main reasons

2144
01:33:18,470 --> 01:33:30,320
that I urge this house to adopt the Hale

2145
01:33:21,110 --> 01:33:31,700
Amendment thanks good amendment mr. Lowe

2146
01:33:30,320 --> 01:33:33,730
needs to speak against the amendment to

2147

01:33:31,700 --> 01:33:36,260
the amendment mr. speaker and members

2148
01:33:33,730 --> 01:33:39,940
arise to speak against the Hale

2149
01:33:36,260 --> 01:33:43,480
amendment not because it does any damage

2150
01:33:39,940 --> 01:33:47,620
because I don't think that it does I

2151
01:33:43,480 --> 01:33:52,190
have myself always been a proponent of

2152
01:33:47,620 --> 01:33:54,230
trial de novo because I recognized that

2153
01:33:52,190 --> 01:33:57,800
many of the agencies that this

2154
01:33:54,230 --> 01:34:01,130
legislature created once they were

2155
01:33:57,800 --> 01:34:04,730
created acted in an arbitrary fashion

2156
01:34:01,130 --> 01:34:09,560
and the public was damaged by that very

2157
01:34:04,730 --> 01:34:12,110
arbitrariness we did not have an

2158
01:34:09,560 --> 01:34:16,100
Administrative Procedures Act we were

2159
01:34:12,110 --> 01:34:19,850
one of three states in the Union that

2160
01:34:16,100 --> 01:34:20,300
did not have an arbitrator procedures

2161
01:34:19,850 --> 01:34:24,650
Act

2162
01:34:20,300 --> 01:34:27,920
so it was vital that we had reviewed to

2163
01:34:24,650 --> 01:34:31,720
the courts but the very issue that we're

2164
01:34:27,920 --> 01:34:34,880
debating here today is an administrative

2165
01:34:31,720 --> 01:34:36,580
Administrative Procedures Act which will

2166
01:34:34,880 --> 01:34:39,650
in and of itself

2167
01:34:36,580 --> 01:34:43,940
eliminate the very evils that brought

2168
01:34:39,650 --> 01:34:46,880
about the necessity for trial de novo as

2169
01:34:43,940 --> 01:34:49,400
I say mr. Hales amendment does no damage

2170
01:34:46,880 --> 01:34:52,070
because it leaves us at the status quo

2171
01:34:49,400 --> 01:34:57,050
but what we're trying to do is to

2172
01:34:52,070 --> 01:35:00,950
improve the status quo we all we are

2173
01:34:57,050 --> 01:35:03,230
saying by continuing trial de novo is

2174

01:35:00,950 --> 01:35:06,110
saying that the legislature in its

2175
01:35:03,230 --> 01:35:08,450
wisdom created an agency and had no

2176
01:35:06,110 --> 01:35:08,900
control over it after they did it that

2177
01:35:08,450 --> 01:35:11,920
they

2178
01:35:08,900 --> 01:35:14,660
abrogated their own responsibility I

2179
01:35:11,920 --> 01:35:17,810
don't think that this will now be the

2180
01:35:14,660 --> 01:35:19,550
case under this act many of the examples

2181
01:35:17,810 --> 01:35:23,590
that were brought up on the back

2182
01:35:19,550 --> 01:35:25,970
microphone were very legitimate examples

2183
01:35:23,590 --> 01:35:28,250
mr. neighbors brought up the fact that

2184
01:35:25,970 --> 01:35:30,560
many times just an affidavit is

2185
01:35:28,250 --> 01:35:33,590
introduced against you and you cannot

2186
01:35:30,560 --> 01:35:38,060
cross examine it we eliminate that in

2187
01:35:33,590 --> 01:35:41,000
this act that will not happen anymore so

2188
01:35:38,060 --> 01:35:43,000
the very nature of this act removes the

2189
01:35:41,000 --> 01:35:46,460
need for trial de novo

2190
01:35:43,000 --> 01:35:48,800
if you continue trial de novo you are

2191
01:35:46,460 --> 01:35:51,890
continuing an expense that is

2192
01:35:48,800 --> 01:35:54,800
unnecessary because everything that is

2193
01:35:51,890 --> 01:35:56,780
litigated throughout the agency you just

2194
01:35:54,800 --> 01:35:59,570
have to start over again on trial de

2195
01:35:56,780 --> 01:36:02,120
novo and it is the expensive cases that

2196
01:35:59,570 --> 01:36:04,190
this happens in the cases that are very

2197
01:36:02,120 --> 01:36:06,410
technical that the cases in which there

2198
01:36:04,190 --> 01:36:10,190
is volumes and volumes of testimony

2199
01:36:06,410 --> 01:36:12,290
which are useless once you go in to

2200
01:36:10,190 --> 01:36:16,940
trial de novo because you just start all

2201

01:36:12,290 --> 01:36:19,960
over again either you trust the agency

2202
01:36:16,940 --> 01:36:23,390
just mr. garvey that we're going to to

2203
01:36:19,960 --> 01:36:26,420
repose some degree of trust in these

2204
01:36:23,390 --> 01:36:28,730
agencies that we create or you ought to

2205
01:36:26,420 --> 01:36:31,880
eliminate administrative hearings

2206
01:36:28,730 --> 01:36:34,280
entirely you ought to just get rid of

2207
01:36:31,880 --> 01:36:36,980
them and say anytime you agree by an

2208
01:36:34,280 --> 01:36:39,650
agency you go to court well all of us

2209
01:36:36,980 --> 01:36:41,040
know what would happen if we did that so

2210
01:36:39,650 --> 01:36:43,590
somewhere

2211
01:36:41,040 --> 01:36:46,080
along the line some agencies are doing a

2212
01:36:43,590 --> 01:36:48,780
good job and remember mr. Hales

2213
01:36:46,080 --> 01:36:51,600
Amendment does not say we will have

2214
01:36:48,780 --> 01:36:53,880
trial de novo it simply says in those

2215
01:36:51,600 --> 01:36:55,950
cases that we have it we will continue

2216
01:36:53,880 --> 01:37:01,380
it in those cases that we don't we will

2217
01:36:55,950 --> 01:37:04,800
use the substantial evidence rule so why

2218
01:37:01,380 --> 01:37:08,100
some of the thing the agencies have

2219
01:37:04,800 --> 01:37:10,140
trial de novo now the reason for it was

2220
01:37:08,100 --> 01:37:12,450
we didn't have an Administrative

2221
01:37:10,140 --> 01:37:14,760
Procedures Act but now we're going to

2222
01:37:12,450 --> 01:37:17,130
and I think the need for it does not

2223
01:37:14,760 --> 01:37:19,500
exist any further and I will yield at

2224
01:37:17,130 --> 01:37:21,660
this time mr. Maloney let me see if I

2225
01:37:19,500 --> 01:37:23,550
can understand your reasoning you say

2226
01:37:21,660 --> 01:37:26,040
that you've always been a proponent of

2227
01:37:23,550 --> 01:37:27,360
trial de novo correct and that this bill

2228

01:37:26,040 --> 01:37:30,660
which is being proposed by

2229
01:37:27,360 --> 01:37:33,150
representative Andolan upon its adoption

2230
01:37:30,660 --> 01:37:35,400
will make trial de novo unnecessary

2231
01:37:33,150 --> 01:37:37,920
because it's going to provide uniformity

2232
01:37:35,400 --> 01:37:40,910
and protection to those people that are

2233
01:37:37,920 --> 01:37:45,720
administered by these agencies correct I

2234
01:37:40,910 --> 01:37:47,130
read the the bill you know I don't know

2235
01:37:45,720 --> 01:37:49,440
how many times you've been before an

2236
01:37:47,130 --> 01:37:52,490
administrative agency but I'm very

2237
01:37:49,440 --> 01:37:55,620
seldom killed on the on the procedural

2238
01:37:52,490 --> 01:37:57,600
problems I'm killed on the substantive

2239
01:37:55,620 --> 01:37:59,910
problems I'm killed by the testimony

2240
01:37:57,600 --> 01:38:03,600
that is given that if this bill is

2241
01:37:59,910 --> 01:38:06,570
adopted would find a trial judge to

2242
01:38:03,600 --> 01:38:09,120
accept as gospel it would not permit a

2243
01:38:06,570 --> 01:38:12,240
trial judge to weigh testimony as to

2244
01:38:09,120 --> 01:38:14,640
particular violations of substantive

2245
01:38:12,240 --> 01:38:17,760
matters rather than procedural it would

2246
01:38:14,640 --> 01:38:19,710
just tie his hands completely this bill

2247
01:38:17,760 --> 01:38:21,300
does not speak to whether or not

2248
01:38:19,710 --> 01:38:24,300
testimony of this individual is

2249
01:38:21,300 --> 01:38:26,760
sufficient to deny a license let's say

2250
01:38:24,300 --> 01:38:28,250
that at all all he says is that this is

2251
01:38:26,760 --> 01:38:32,040
the procedure that you were to follow

2252
01:38:28,250 --> 01:38:34,260
now my question is how many agencies

2253
01:38:32,040 --> 01:38:36,540
have you appeared before where you have

2254
01:38:34,260 --> 01:38:40,410
been adversely affected by a ruling that

2255

01:38:36,540 --> 01:38:42,330
was procedural several times and I think

2256
01:38:40,410 --> 01:38:45,080
that that is what this bill gets to

2257
01:38:42,330 --> 01:38:48,810
because I couldn't find that procedural

2258
01:38:45,080 --> 01:38:50,340
rule although I can find it okay now let

2259
01:38:48,810 --> 01:38:52,850
me ask you this how many times have you

2260
01:38:50,340 --> 01:38:55,450
appeared before an agency where the

2261
01:38:52,850 --> 01:38:58,910
instance has affected your client

2262
01:38:55,450 --> 01:39:03,080
substance of testimony given by an agent

2263
01:38:58,910 --> 01:39:04,450
of that department well I'm sorry I

2264
01:39:03,080 --> 01:39:08,030
don't understand the question

2265
01:39:04,450 --> 01:39:10,700
his testimony I give you because you're

2266
01:39:08,030 --> 01:39:12,320
very simple a very simple example one of

2267
01:39:10,700 --> 01:39:14,780
the things that would be controlled by

2268
01:39:12,320 --> 01:39:18,050
this would be a situation where say a

2269

01:39:14,780 --> 01:39:22,340

tavern keeper so liquor after-hours

2270

01:39:18,050 --> 01:39:24,200

correct correct all right all right wait

2271

01:39:22,340 --> 01:39:26,090

a minute the engine let me say this

2272

01:39:24,200 --> 01:39:28,310

before you go any further because I I do

2273

01:39:26,090 --> 01:39:31,520

want to turn this over you are picking

2274

01:39:28,310 --> 01:39:34,310

out an area that I'm in 100% agreement

2275

01:39:31,520 --> 01:39:36,980

with you because ABC does not follow due

2276

01:39:34,310 --> 01:39:37,910

process this will stop that this this

2277

01:39:36,980 --> 01:39:39,980

will stop that

2278

01:39:37,910 --> 01:39:42,860

in other words of an agent comes before

2279

01:39:39,980 --> 01:39:45,080

the agency and says I was there and I

2280

01:39:42,860 --> 01:39:48,170

witnessed this individual selling liquor

2281

01:39:45,080 --> 01:39:50,860

after hours and the the Hearing Examiner

2282

01:39:48,170 --> 01:39:53,240
says all right I accept what you say

2283
01:39:50,860 --> 01:39:55,340
despite these 20 witnesses that the

2284
01:39:53,240 --> 01:39:57,650
tavern keeper has who says that he did

2285
01:39:55,340 --> 01:40:00,230
not violate the law this would in effect

2286
01:39:57,650 --> 01:40:02,300
buy in the hands of a trial judge to

2287
01:40:00,230 --> 01:40:04,760
accept the decision of the hearings

2288
01:40:02,300 --> 01:40:06,500
examiner would it not yes mr. Garcia but

2289
01:40:04,760 --> 01:40:08,180
you're an excellent trial lawyer you

2290
01:40:06,500 --> 01:40:10,070
know that a jury can make that same

2291
01:40:08,180 --> 01:40:14,300
decision they can believe one witness

2292
01:40:10,070 --> 01:40:18,110
against a thousand the only difference

2293
01:40:14,300 --> 01:40:20,390
is that a jury is the peer that is

2294
01:40:18,110 --> 01:40:21,770
deciding the fate of an individual that

2295
01:40:20,390 --> 01:40:25,460
is guaranteed to him by the Constitution

2296
01:40:21,770 --> 01:40:27,920
a judge may also be appear but he is not

2297
01:40:25,460 --> 01:40:30,500
an agency employee here you have got an

2298
01:40:27,920 --> 01:40:32,750
agency that you are seeking to reverse a

2299
01:40:30,500 --> 01:40:34,940
decision of one of their children so to

2300
01:40:32,750 --> 01:40:37,550
speak one of their agents and I don't

2301
01:40:34,940 --> 01:40:40,970
think that you can keep the credibility

2302
01:40:37,550 --> 01:40:43,100
of the system by letting that person who

2303
01:40:40,970 --> 01:40:45,200
is making the decision in the first

2304
01:40:43,100 --> 01:40:48,140
place make the decision of the second

2305
01:40:45,200 --> 01:40:51,500
place on an appellant basis Thank You

2306
01:40:48,140 --> 01:40:54,290
mr. Garcia members I ask for your aye

2307
01:40:51,500 --> 01:41:00,620
vote on a motion to table I moved to

2308
01:40:54,290 --> 01:41:03,020
table mr. Maloney is looted table chair

2309

01:41:00,620 --> 01:41:04,760
recognize mr. Hale to close on his

2310
01:41:03,020 --> 01:41:07,219
amendment to the amendment

2311
01:41:04,760 --> 01:41:09,320
mr. speaker mr. Rangel is that a

2312
01:41:07,219 --> 01:41:11,000
violation of the rules recognize a fine

2313
01:41:09,320 --> 01:41:13,310
group of people from Dallas down here to

2314
01:41:11,000 --> 01:41:15,350
watch this house in session write a film

2315
01:41:13,310 --> 01:41:17,090
alone certainly it is violation of the

2316
01:41:15,350 --> 01:41:21,400
rules mr. Ragsdale and I would caution

2317
01:41:17,090 --> 01:41:21,400
you not to do that mr. Hale

2318
01:41:32,559 --> 01:41:37,380
mr. speaker and members of the house hmm

2319
01:41:37,829 --> 01:41:44,110
as I said in my opening remarks I am

2320
01:41:42,159 --> 01:41:46,300
convinced that you're not going to cast

2321
01:41:44,110 --> 01:41:47,829
a more important vote this session of

2322
01:41:46,300 --> 01:41:50,280
the legislature than the votes you're

2323
01:41:47,829 --> 01:41:52,479
about to cast on this motion to table I

2324
01:41:50,280 --> 01:41:55,389
want the answer one or two of the

2325
01:41:52,479 --> 01:41:58,360
arguments that were made up here because

2326
01:41:55,389 --> 01:42:01,269
I think that they deserve to be answered

2327
01:41:58,360 --> 01:42:04,239
mr. Maloney and I'll take them in

2328
01:42:01,269 --> 01:42:05,860
reverse order mr. Maloney stated that he

2329
01:42:04,239 --> 01:42:08,499
believes that there is trial de novo

2330
01:42:05,860 --> 01:42:10,869
should be in certain areas and that's

2331
01:42:08,499 --> 01:42:12,630
exactly what my amendment does he

2332
01:42:10,869 --> 01:42:15,010
admitted my amendment does no harm

2333
01:42:12,630 --> 01:42:17,800
because all it does is preserve the

2334
01:42:15,010 --> 01:42:20,079
status quo but he says that his argument

2335
01:42:17,800 --> 01:42:22,239
is that we don't need trial de novo any

2336

01:42:20,079 --> 01:42:24,550
longer because the Administrative

2337
01:42:22,239 --> 01:42:27,340
Procedure Act will guarantee due process

2338
01:42:24,550 --> 01:42:29,650
I have one question I'd ask mr. Maloney

2339
01:42:27,340 --> 01:42:31,269
in that regard then if they feel that

2340
01:42:29,650 --> 01:42:33,340
strongly about the administrative

2341
01:42:31,269 --> 01:42:35,349
procedures outlined in here why do they

2342
01:42:33,340 --> 01:42:37,690
make two exceptions in the Devon Dolan

2343
01:42:35,349 --> 01:42:39,369
amendment they make exceptions on trial

2344
01:42:37,690 --> 01:42:41,619
de novo for industrial accident board

2345
01:42:39,369 --> 01:42:43,420
why did they make that exception if they

2346
01:42:41,619 --> 01:42:45,610
have so much confidence in these

2347
01:42:43,420 --> 01:42:47,320
agencies they make an exception for rape

2348
01:42:45,610 --> 01:42:48,969
cases before the Texas Railroad

2349
01:42:47,320 --> 01:42:50,469
Commission why do they make that

2350
01:42:48,969 --> 01:42:52,539
exception if they have so much

2351
01:42:50,469 --> 01:42:54,610
confidence in due process under this has

2352
01:42:52,539 --> 01:42:56,829
been a bigger jail music I will not

2353
01:42:54,610 --> 01:42:58,989
yield till I come down here mr. Willis I

2354
01:42:56,829 --> 01:43:00,820
don't have him in our mr. Wilson stated

2355
01:42:58,989 --> 01:43:03,130
that we needed uniformity and the

2356
01:43:00,820 --> 01:43:05,050
procedures we're going to get uniformity

2357
01:43:03,130 --> 01:43:07,690
either under Vaughn Dolan's or undermine

2358
01:43:05,050 --> 01:43:09,369
the only difference is under mr. Vaughn

2359
01:43:07,690 --> 01:43:11,530
Dolan's you're changing a lot of

2360
01:43:09,369 --> 01:43:13,749
substantive law in this process of

2361
01:43:11,530 --> 01:43:15,550
getting uniformity under my amendment

2362
01:43:13,749 --> 01:43:18,309
you do not make any change in the

2363

01:43:15,550 --> 01:43:20,139
substantive law governing the methods of

2364
01:43:18,309 --> 01:43:23,229
appeal but in either event you're going

2365
01:43:20,139 --> 01:43:24,699
to get uniformity of procedures and

2366
01:43:23,229 --> 01:43:29,229
that's what this Act deals with

2367
01:43:24,699 --> 01:43:31,630
procedures now mr. Vaughn Dolan's made a

2368
01:43:29,229 --> 01:43:34,329
very fine argument up here against trial

2369
01:43:31,630 --> 01:43:37,059
de novo and he states a certain point of

2370
01:43:34,329 --> 01:43:39,429
view for trial de novo I submit to you

2371
01:43:37,059 --> 01:43:41,559
that is not the issue here today we're

2372
01:43:39,429 --> 01:43:43,300
not up here arguing the merits of trial

2373
01:43:41,559 --> 01:43:45,280
in our voice against substantial

2374
01:43:43,300 --> 01:43:47,290
evidence that's a battle that

2375
01:43:45,280 --> 01:43:50,530
they should be thought out on another

2376
01:43:47,290 --> 01:43:52,540
day on another arena as we consider each

2377
01:43:50,530 --> 01:43:55,180
agency in which we're going to delegate

2378
01:43:52,540 --> 01:43:57,640
administrative powers keep in mind what

2379
01:43:55,180 --> 01:43:59,860
you're doing on these agencies we create

2380
01:43:57,640 --> 01:44:02,530
these agencies and we give them the

2381
01:43:59,860 --> 01:44:04,570
authority to make rules we also give

2382
01:44:02,530 --> 01:44:07,360
that same agency authority to adjudicate

2383
01:44:04,570 --> 01:44:09,970
those rules so what you've done in

2384
01:44:07,360 --> 01:44:12,160
administrative agencies is you combine

2385
01:44:09,970 --> 01:44:14,770
the district attorney in the court all

2386
01:44:12,160 --> 01:44:17,080
in one agency and you let the district

2387
01:44:14,770 --> 01:44:18,910
attorney prosecute the case and you let

2388
01:44:17,080 --> 01:44:21,010
the district attorney decide the case

2389
01:44:18,910 --> 01:44:22,630
and that's what you do when you delegate

2390

01:44:21,010 --> 01:44:25,120
these powers to administrative agencies

2391
01:44:22,630 --> 01:44:27,040
I told you the other day when they

2392
01:44:25,120 --> 01:44:29,230
offered the trial de novo amendment on

2393
01:44:27,040 --> 01:44:30,700
another bill and you can't me went along

2394
01:44:29,230 --> 01:44:33,490
with me on that

2395
01:44:30,700 --> 01:44:36,190
that trial de novo is the safety vial in

2396
01:44:33,490 --> 01:44:38,470
many of these agencies we put trial de

2397
01:44:36,190 --> 01:44:41,170
novo in there not to flood the courts

2398
01:44:38,470 --> 01:44:43,780
with litigation that hasn't occurred but

2399
01:44:41,170 --> 01:44:46,540
the fact that the agency knows that if

2400
01:44:43,780 --> 01:44:49,120
its decisions are subject to review by

2401
01:44:46,540 --> 01:44:51,970
the courts under trial de novo makes

2402
01:44:49,120 --> 01:44:54,910
that agency meticulous in following the

2403
01:44:51,970 --> 01:44:57,460
process it makes that agency meticulous

2404
01:44:54,910 --> 01:44:59,470
in giving adequate protection to all the

2405
01:44:57,460 --> 01:45:01,510
litigants that come before them and as a

2406
01:44:59,470 --> 01:45:04,180
result of that in those agencies where

2407
01:45:01,510 --> 01:45:06,040
you have child in novo today you find

2408
01:45:04,180 --> 01:45:07,990
that the number of Appeals that go from

2409
01:45:06,040 --> 01:45:11,380
those administrative agencies into the

2410
01:45:07,990 --> 01:45:13,990
courts are absolutely infinitesimal less

2411
01:45:11,380 --> 01:45:16,180
than five percent of all the cases filed

2412
01:45:13,990 --> 01:45:18,520
with the industrial accident board ever

2413
01:45:16,180 --> 01:45:20,470
reached the courts of Texas less than

2414
01:45:18,520 --> 01:45:22,330
five percent of all the rate cases

2415
01:45:20,470 --> 01:45:24,910
adjudicated by the Texas Railroad

2416
01:45:22,330 --> 01:45:27,250
Commission on a trial de novo appeal

2417

01:45:24,910 --> 01:45:29,050
ever reach the courts but the fact that

2418
01:45:27,250 --> 01:45:31,060
you have that the fact that the

2419
01:45:29,050 --> 01:45:33,700
legislature provided in those particular

2420
01:45:31,060 --> 01:45:35,830
areas that you would have child in novo

2421
01:45:33,700 --> 01:45:38,710
is the reason that the administrative

2422
01:45:35,830 --> 01:45:40,930
agency does such a good job the safety

2423
01:45:38,710 --> 01:45:43,780
valve is there and as a result you have

2424
01:45:40,930 --> 01:45:46,180
relatively few appeals but the right of

2425
01:45:43,780 --> 01:45:48,520
appeal is very sacred the right of the

2426
01:45:46,180 --> 01:45:50,890
citizen to go into a court and have a

2427
01:45:48,520 --> 01:45:53,020
jury of his own peers decide the case

2428
01:45:50,890 --> 01:45:55,240
rather than have the district attorney

2429
01:45:53,020 --> 01:45:57,670
of the prosecuting agency make the

2430
01:45:55,240 --> 01:45:58,500
decision for him I'll go back to what

2431
01:45:57,670 --> 01:46:00,600
mr. Vaughn

2432
01:45:58,500 --> 01:46:02,790
and said he said that well what we're

2433
01:46:00,600 --> 01:46:05,340
trying to do is model our administrative

2434
01:46:02,790 --> 01:46:07,020
agencies on the federal practice I say

2435
01:46:05,340 --> 01:46:08,400
to you those of you who have ever

2436
01:46:07,020 --> 01:46:10,620
practiced before a federal

2437
01:46:08,400 --> 01:46:11,910
administrative agency and tried to take

2438
01:46:10,620 --> 01:46:13,830
an appeal in the courts

2439
01:46:11,910 --> 01:46:16,170
if you've ever handled one of those I

2440
01:46:13,830 --> 01:46:18,870
guarantee you you'll be for my amendment

2441
01:46:16,170 --> 01:46:21,420
up here today we don't want to make our

2442
01:46:18,870 --> 01:46:23,160
state agencies in the little dictators

2443
01:46:21,420 --> 01:46:25,080
the way that many of these federal

2444

01:46:23,160 --> 01:46:27,090
agencies are where they can hand down a

2445
01:46:25,080 --> 01:46:29,070
ruling affecting the lives and

2446
01:46:27,090 --> 01:46:31,590
properties of the people and you have no

2447
01:46:29,070 --> 01:46:34,320
recourse to the courts no recourse to a

2448
01:46:31,590 --> 01:46:36,870
jury no recourse to the peers to help

2449
01:46:34,320 --> 01:46:39,750
you decide the issues that's what's

2450
01:46:36,870 --> 01:46:41,760
involved here today there is no reason

2451
01:46:39,750 --> 01:46:42,720
to a fought this battle here today in

2452
01:46:41,760 --> 01:46:44,910
the first place

2453
01:46:42,720 --> 01:46:46,980
that my amendment has nothing to do with

2454
01:46:44,910 --> 01:46:49,290
the merits of trial de novo on the

2455
01:46:46,980 --> 01:46:51,240
merits of substantial evidence that's a

2456
01:46:49,290 --> 01:46:53,430
battle it should be fought on another

2457
01:46:51,240 --> 01:46:55,920
day all I'm saying is in an

2458
01:46:53,430 --> 01:46:58,560
Administrative Procedure Act we should

2459
01:46:55,920 --> 01:47:00,720
not be making that decision mr. Vong

2460
01:46:58,560 --> 01:47:02,970
Dolan is trying to force that decision

2461
01:47:00,720 --> 01:47:05,280
on us I'm trying to say that we do not

2462
01:47:02,970 --> 01:47:07,440
make that decision here today let's

2463
01:47:05,280 --> 01:47:09,690
leave the status quo on these appeals

2464
01:47:07,440 --> 01:47:11,880
and we can consider them agency by

2465
01:47:09,690 --> 01:47:13,950
agency as we said it's been in the

2466
01:47:11,880 --> 01:47:16,680
future for that reason and those many

2467
01:47:13,950 --> 01:47:18,450
reasons I hope you'll vote with me no on

2468
01:47:16,680 --> 01:47:18,870
the motion table mr. picker or gentleman

2469
01:47:18,450 --> 01:47:20,520
yield

2470
01:47:18,870 --> 01:47:23,190
mister will you yield to mr. Ellis

2471

01:47:20,520 --> 01:47:24,600
jiminee else mr. Ellis what the hell

2472
01:47:23,190 --> 01:47:26,670
you're pointing out to agencies while

2473
01:47:24,600 --> 01:47:28,770
ago did you know that under our state

2474
01:47:26,670 --> 01:47:31,290
unemployment compensation we've had to

2475
01:47:28,770 --> 01:47:33,750
write or be no appeal for 30 years

2476
01:47:31,290 --> 01:47:36,600
thank you very much you'll lose it under

2477
01:47:33,750 --> 01:47:39,810
this bill I hope your vote no on the

2478
01:47:36,600 --> 01:47:41,970
motion mr. Hale sends up an amendment to

2479
01:47:39,810 --> 01:47:43,710
the amendment mr. Maloney has moved to

2480
01:47:41,970 --> 01:47:45,330
table the question is on the motion to

2481
01:47:43,710 --> 01:47:45,780
table the Hale amendment to the

2482
01:47:45,330 --> 01:47:48,060
amendment

2483
01:47:45,780 --> 01:47:49,680
all in favor vote aye opposed vote no

2484
01:47:48,060 --> 01:47:51,830
this a record vote the clerk will ring

2485
01:47:49,680 --> 01:47:51,830
the bell

2486
01:48:03,679 --> 01:48:08,439
I gotta clean it down a boat I got

2487
01:48:06,229 --> 01:48:08,439
please

2488
01:48:11,750 --> 01:48:22,660
have our members voted show mr. Denson

2489
01:48:17,239 --> 01:48:22,660
voting no have all members voting

2490
01:49:00,390 --> 01:49:11,210
they're being 49 as-90 knows the motion

2491
01:49:05,400 --> 01:49:14,520
to table fails Miss Baker and members

2492
01:49:11,210 --> 01:49:15,780
mr. Rondeau the following substitute for

2493
01:49:14,520 --> 01:49:19,260
the amendment to the amendment the clerk

2494
01:49:15,780 --> 01:49:22,980
will read the substitute amendment by

2495
01:49:19,260 --> 01:49:24,270
reback and mr. Riebe act to explain this

2496
01:49:22,980 --> 01:49:33,780
substitute for the amendment to the

2497
01:49:24,270 --> 01:49:43,760
amendment mr. speaker members met

2498

01:49:33,780 --> 01:49:43,760
speaker met speaker yeah

2499
01:49:47,040 --> 01:49:51,530
that's in about ten minutes mr.

2500
01:49:49,080 --> 01:49:51,530
McAllister

2501
01:52:34,519 --> 01:52:40,219
mr. president moves at the house stand

2502
01:52:37,010 --> 01:52:41,440
recessed until 1:30 p.m. is there

2503
01:52:40,219 --> 01:52:44,360
objection

2504
01:52:41,440 --> 01:52:48,679
chair here none the house is recessed

2505
01:52:44,360 --> 01:52:50,860
for 1:30 p.m. the house will come to

2506
01:52:48,679 --> 01:52:50,860
order

2507
01:52:53,019 --> 01:52:56,659
following resolution on first reading

2508
01:52:55,309 --> 01:53:08,599
reference committee to clerk will read

2509
01:52:56,659 --> 01:53:10,789
the resolution SJ r 11 by Gammage 8

2510
01:53:08,599 --> 01:53:13,070
amendments to the Constitution article

2511
01:53:10,789 --> 01:53:15,280
by article submission of constitutional

2512
01:53:13,070 --> 01:53:16,820
convention resolution number one

2513
01:53:15,280 --> 01:53:21,920
referred to the Committee on

2514
01:53:16,820 --> 01:53:24,999
constitutional revision terrace ions and

2515
01:53:21,920 --> 01:53:24,999
the president's the house the following

2516
01:53:26,679 --> 01:53:39,550
House bill 57 House bill 146 h CR 106

2517
01:53:33,050 --> 01:53:39,550
House bill 407 House bill 717

2518
01:53:47,380 --> 01:53:50,680
you represented Weddington because of

2519
01:53:49,420 --> 01:53:56,470
important business on a motion to

2520
01:53:50,680 --> 01:53:58,030
represent to middle I think skewed

2521
01:53:56,470 --> 01:53:59,380
representative Hausman back record of an

2522
01:53:58,030 --> 01:54:03,130
important business on the motion of

2523
01:53:59,380 --> 01:54:04,510
representative Jones of El Paso excused

2524
01:54:03,130 --> 01:54:05,680
representative Newton because of the

2525

01:54:04,510 --> 01:54:07,030
important business on emotion of

2526
01:54:05,680 --> 01:54:07,660
representative neighbors is there

2527
01:54:07,030 --> 01:54:17,890
objection

2528
01:54:07,660 --> 01:54:19,450
chair hears none House bill 21:36

2529
01:54:17,890 --> 01:54:21,100
relating the admission of students to

2530
01:54:19,450 --> 01:54:22,750
certain state supported medical schools

2531
01:54:21,100 --> 01:54:23,740
and to private medical schools was

2532
01:54:22,750 --> 01:54:25,960
originally referred to Committee on

2533
01:54:23,740 --> 01:54:27,820
health and welfare chair after further

2534
01:54:25,960 --> 01:54:30,310
investigation now correct this referral

2535
01:54:27,820 --> 01:54:33,090
of House bill two to one three six to

2536
01:54:30,310 --> 01:54:33,090
the Committee on higher education

2537
01:57:07,119 --> 01:57:10,230
back with my will

2538
01:57:12,270 --> 01:57:19,760
if enough if enough people go to the

2539
01:57:15,030 --> 01:57:19,760
ballet we're gonna ask Felix

2540
01:57:45,559 --> 01:57:49,420
mr. Jones of Harry's on the floor

2541
01:57:57,850 --> 01:58:01,770
you don't make you motion

2542
01:58:05,560 --> 01:58:11,800
chair recognizes mr. Jones my motion mr.

2543
01:58:08,650 --> 01:58:14,440
speaker and members I move that we grant

2544
01:58:11,800 --> 01:58:18,870
the request to the Senate for a

2545
01:58:14,440 --> 01:58:21,760
conference committee on Senate bill 58 a

2546
01:58:18,870 --> 01:58:24,430
Senate bill 58 as you will recall is the

2547
01:58:21,760 --> 01:58:26,380
one that pertains to an Occupational

2548
01:58:24,430 --> 01:58:30,400
driver's license being granted by the

2549
01:58:26,380 --> 01:58:33,100
suspending Court are you heard the

2550
01:58:30,400 --> 01:58:34,990
motion mr. Jones request that we grant a

2551
01:58:33,100 --> 01:58:36,990
Commerce Committee on the Senate bill 58

2552

01:58:34,990 --> 01:58:39,280

is there objection

2553

01:58:36,990 --> 01:58:41,680

Jerry here's none and the conference

2554

01:58:39,280 --> 01:58:42,940

committee is granted chair appoints the

2555

01:58:41,680 --> 01:58:45,940

following Commerce Committee clerk will

2556

01:58:42,940 --> 01:58:49,210

read the conference committee conference

2557

01:58:45,940 --> 01:58:54,570

committee on Senate bill 58 Jones of

2558

01:58:49,210 --> 01:58:57,570

Harris chairman spurlock Maloney Tanner

2559

01:58:54,570 --> 01:58:57,570

Coleman

2560

01:59:06,940 --> 01:59:11,410

chair recognizes mr. Baker for our

2561

01:59:08,890 --> 01:59:12,850

motion the chair members I'm losing all

2562

01:59:11,410 --> 01:59:14,680

rows and a dolphin conference committee

2563

01:59:12,850 --> 01:59:16,450

report on House bill 53

2564

01:59:14,680 --> 01:59:17,710

remember this we had to send this from

2565

01:59:16,450 --> 01:59:19,750

to conference committee because of a

2566
01:59:17,710 --> 01:59:21,430
little defect this is a bill of course

2567
01:59:19,750 --> 01:59:22,810
that would permit mothers of

2568
01:59:21,430 --> 01:59:24,130
illegitimate children to get copies of

2569
01:59:22,810 --> 01:59:29,710
birth certificates without going for the

2570
01:59:24,130 --> 01:59:31,720
County Judge Esther Baker moves that we

2571
01:59:29,710 --> 01:59:33,010
spend all necessary rules and often

2572
01:59:31,720 --> 01:59:35,700
conference committee report on House

2573
01:59:33,010 --> 01:59:37,870
bill 53 is there objection

2574
01:59:35,700 --> 01:59:39,910
chair here is not in the conference

2575
01:59:37,870 --> 01:59:42,390
committee report on House bill 53 is

2576
01:59:39,910 --> 01:59:42,390
adopted

2577
01:59:49,020 --> 01:59:58,350
Thank You members mr. Washington on the

2578
01:59:51,489 --> 01:59:58,350
floor after Washington on the floor

2579

01:59:59,310 --> 02:00:08,110
chair going to recognize mr. Massey on a

2580
02:00:05,980 --> 02:00:10,350
matter pertaining to a telegram it was

2581
02:00:08,110 --> 02:00:15,400
distributed to your desk this morning

2582
02:00:10,350 --> 02:00:18,270
mr. speaker members you got a copy of a

2583
02:00:15,400 --> 02:00:21,130
telegram put on your desk this morning

2584
02:00:18,270 --> 02:00:24,820
and the telegram of course as you will

2585
02:00:21,130 --> 02:00:30,250
note is addressed to the Texas House and

2586
02:00:24,820 --> 02:00:34,300
Austin my office got a telephone call

2587
02:00:30,250 --> 02:00:36,280
about 11:40 this morning from a person

2588
02:00:34,300 --> 02:00:39,520
who purported to be the author of that

2589
02:00:36,280 --> 02:00:41,409
wire who wanted to speak with me my

2590
02:00:39,520 --> 02:00:43,420
secretary talked with him told him I was

2591
02:00:41,409 --> 02:00:46,300
on the floor and I would come down and

2592
02:00:43,420 --> 02:00:49,360
and return his call he told her that the

2593
02:00:46,300 --> 02:00:51,310
telegram was a personal opinion that he

2594
02:00:49,360 --> 02:00:53,650
was very angry and that this was in no

2595
02:00:51,310 --> 02:00:56,980
way a threat and that he was not a

2596
02:00:53,650 --> 02:00:58,360
spokesman for tsta and he wanted to know

2597
02:00:56,980 --> 02:01:00,250
if in some way that he could get this

2598
02:00:58,360 --> 02:01:01,239
message to the membership when I

2599
02:01:00,250 --> 02:01:03,610
returned for lunch

2600
02:01:01,239 --> 02:01:06,550
I called Rhodes junior school junior

2601
02:01:03,610 --> 02:01:07,480
high in San Antonio and asked for a man

2602
02:01:06,550 --> 02:01:10,960
by that name

2603
02:01:07,480 --> 02:01:13,270
and this man representing to be that

2604
02:01:10,960 --> 02:01:16,060
person came to the phone and I talked

2605
02:01:13,270 --> 02:01:17,800
with him and he said something like he

2606

02:01:16,060 --> 02:01:19,840
understands there has been a problem

2607
02:01:17,800 --> 02:01:23,469
said I sent that telegram yesterday it

2608
02:01:19,840 --> 02:01:25,270
was not a not a threat I was afraid you

2609
02:01:23,469 --> 02:01:26,710
know how talk goes back and forth and

2610
02:01:25,270 --> 02:01:28,540
things and I heard some talk about a

2611
02:01:26,710 --> 02:01:30,880
strike and it scares me and I do not

2612
02:01:28,540 --> 02:01:32,800
want to strike he said the telegram was

2613
02:01:30,880 --> 02:01:34,030
sent to representative Clayton I told

2614
02:01:32,800 --> 02:01:35,890
him that Clayton's name did not appear

2615
02:01:34,030 --> 02:01:37,540
anywhere on the telegram and it was

2616
02:01:35,890 --> 02:01:40,449
addressed to the Texas House and that's

2617
02:01:37,540 --> 02:01:42,640
150 members of us and I had the telegram

2618
02:01:40,449 --> 02:01:45,219
and he said well that was Western Union

2619
02:01:42,640 --> 02:01:47,290
Zehra said I'm sorry was not sent to

2620
02:01:45,219 --> 02:01:48,880
representative Clayton IIST Western

2621
02:01:47,290 --> 02:01:49,989
Union to send it to representative

2622
02:01:48,880 --> 02:01:52,719
Clayton and he didn't want it

2623
02:01:49,989 --> 02:01:54,790
distributed said it no in no way

2624
02:01:52,719 --> 02:01:57,730
constitutes the threat says yes I am a

2625
02:01:54,790 --> 02:01:58,750
tsta teacher I am afraid I'm under stand

2626
02:01:57,730 --> 02:02:01,630
this thing was passed

2627
02:01:58,750 --> 02:02:04,330
it's not intended as a threat he said

2628
02:02:01,630 --> 02:02:06,160
that the express-news called him the

2629
02:02:04,330 --> 02:02:07,750
news from San Antonio and they told him

2630
02:02:06,160 --> 02:02:09,100
they're thin copies passed out and they

2631
02:02:07,750 --> 02:02:10,690
wanted to know if it was a threat he

2632
02:02:09,100 --> 02:02:13,360
said I want to make sure that the bill

2633

02:02:10,690 --> 02:02:14,710
was passed that would not disappoint the

2634
02:02:13,360 --> 02:02:17,290
teachers and that they would not

2635
02:02:14,710 --> 02:02:19,150
consider striking and he wanted this

2636
02:02:17,290 --> 02:02:20,800
message gotten to the membership and I

2637
02:02:19,150 --> 02:02:23,190
told him I'd ask the speaker if I could

2638
02:02:20,800 --> 02:02:23,190
do so

2639
02:02:32,710 --> 02:02:40,720
she recognizes mr. waadt white for

2640
02:02:35,770 --> 02:02:41,950
permission to introduce bill they're

2641
02:02:40,720 --> 02:02:44,710
speaking members this is a bill that

2642
02:02:41,950 --> 02:02:46,750
would it relates to eliminating certain

2643
02:02:44,710 --> 02:02:48,520
obsolete unconstitutional otherwise the

2644
02:02:46,750 --> 02:02:52,270
necessary statutes from the property tax

2645
02:02:48,520 --> 02:02:54,190
laws there are about 25 different

2646
02:02:52,270 --> 02:02:56,650
sections of the property tax law that

2647
02:02:54,190 --> 02:03:00,970
would be eliminating with this bill

2648
02:02:56,650 --> 02:03:02,560
that's all it does as to white

2649
02:03:00,970 --> 02:03:10,200
request permission to introduce a bill

2650
02:03:02,560 --> 02:03:10,200
is there objection is there objection

2651
02:03:11,880 --> 02:03:18,210
sure here none permission is granted

2652
02:04:43,810 --> 02:04:48,040
chair recognizes representative Wheaton

2653
02:04:45,910 --> 02:04:50,350
I ask permission the grant of an

2654
02:04:48,040 --> 02:04:52,330
introduced bill mr. speaker members of

2655
02:04:50,350 --> 02:04:54,460
the house I have a local bill it's a

2656
02:04:52,330 --> 02:04:56,620
local municipal water district bill it's

2657
02:04:54,460 --> 02:04:58,030
in existence now this just makes

2658
02:04:56,620 --> 02:05:00,550
permission for them to issue some other

2659
02:04:58,030 --> 02:05:03,040
some extra bonds the revenue bonds this

2660

02:05:00,550 --> 02:05:12,370
is all that it does local bill for San

2661
02:05:03,040 --> 02:05:15,190
Patricio County it's a local bill and

2662
02:05:12,370 --> 02:05:16,570
mr. weeding the file as bill remembers

2663
02:05:15,190 --> 02:05:18,640
you don't need permission to introduce

2664
02:05:16,570 --> 02:05:21,240
local bills only bills that are not

2665
02:05:18,640 --> 02:05:21,240
local in nature

2666
02:07:26,060 --> 02:07:29,270
members will proceed with the bill in

2667
02:07:27,980 --> 02:07:32,140
dismay we're waiting for an amendment

2668
02:07:29,270 --> 02:07:32,140
that's being copied

2669
02:08:45,690 --> 02:08:54,060
remember so you might know where we're

2670
02:08:47,639 --> 02:08:55,920
at before we recess for lunch mr. Reebok

2671
02:08:54,060 --> 02:08:57,900
the chariot really I laid out an

2672
02:08:55,920 --> 02:09:02,460
amendment to mr. Hales amendment by mr.

2673
02:08:57,900 --> 02:09:06,630
repack mr. Reebok Roulet amendment down

2674
02:09:02,460 --> 02:09:09,690
and now the chair lays out a substitute

2675
02:09:06,630 --> 02:09:14,639
to the hale amendment the clerk will

2676
02:09:09,690 --> 02:09:17,130
read the substitute amendment by ruff

2677
02:09:14,639 --> 02:09:19,920
reback i'm in committee amendment number

2678
02:09:17,130 --> 02:09:23,090
1 to Senate bill 41 by deleting all of

2679
02:09:19,920 --> 02:09:26,639
section 19 and substituting in leader

2680
02:09:23,090 --> 02:09:31,440
mr. ray back to explain his substitute

2681
02:09:26,639 --> 02:09:36,600
amendment mr. speaker members my

2682
02:09:31,440 --> 02:09:39,210
proposal here it simply changes the

2683
02:09:36,600 --> 02:09:40,980
wording that the petition is filed in

2684
02:09:39,210 --> 02:09:43,500
the district court of Travis County the

2685
02:09:40,980 --> 02:09:45,270
rule presently it reads the petition is

2686
02:09:43,500 --> 02:09:48,659
filed in the district court of Travis

2687

02:09:45,270 --> 02:09:51,090
County we have changed that the petition

2688
02:09:48,659 --> 02:09:55,440
is filed in any district court of Texas

2689
02:09:51,090 --> 02:09:56,460
now personal experience I had to go all

2690
02:09:55,440 --> 02:09:58,980
the way to the Supreme Court of the

2691
02:09:56,460 --> 02:10:01,560
state and fortunately I was successful

2692
02:09:58,980 --> 02:10:04,440
because of the present procedure we had

2693
02:10:01,560 --> 02:10:06,929
now we have been able to begin this

2694
02:10:04,440 --> 02:10:09,690
proceeding after after the

2695
02:10:06,929 --> 02:10:12,150
administrative agency agreed my client

2696
02:10:09,690 --> 02:10:14,280
if we had been able to file our suit in

2697
02:10:12,150 --> 02:10:15,810
the district court of fair county we

2698
02:10:14,280 --> 02:10:20,460
would not have had to go to the Supreme

2699
02:10:15,810 --> 02:10:22,530
Court of the state to get relief I think

2700
02:10:20,460 --> 02:10:25,770
many of you and those of you who are

2701
02:10:22,530 --> 02:10:29,100
lawyers should understand that right now

2702
02:10:25,770 --> 02:10:31,679
if your client is aggrieved by an action

2703
02:10:29,100 --> 02:10:33,600
of an administrative agency and you've

2704
02:10:31,679 --> 02:10:35,070
used up your administrative procedures

2705
02:10:33,600 --> 02:10:39,449
you've exhausted your administrative

2706
02:10:35,070 --> 02:10:40,770
remedies under this particular act of

2707
02:10:39,449 --> 02:10:44,400
course you would have to file your suit

2708
02:10:40,770 --> 02:10:47,400
in Travis County all I'm asking you is

2709
02:10:44,400 --> 02:10:49,380
that we change it slightly so that you

2710
02:10:47,400 --> 02:10:50,909
could file your suit in any court of

2711
02:10:49,380 --> 02:10:52,650
competent jurisdiction any of our

2712
02:10:50,909 --> 02:10:55,889
district courts in the state of Texas

2713
02:10:52,650 --> 02:10:57,880
those of you who aren't lawyers I think

2714

02:10:55,889 --> 02:11:00,070
could understand that that your

2715
02:10:57,880 --> 02:11:01,929
you or any of your associates

2716
02:11:00,070 --> 02:11:04,510
constituents or what have you would

2717
02:11:01,929 --> 02:11:07,139
rather be and appear before a court in

2718
02:11:04,510 --> 02:11:10,750
your own home community with your peers

2719
02:11:07,139 --> 02:11:12,750
than in travis county if any of you have

2720
02:11:10,750 --> 02:11:15,670
had to choose a jury in this community

2721
02:11:12,750 --> 02:11:17,650
you'll find that everybody in this city

2722
02:11:15,670 --> 02:11:19,270
of austin almost works for the state of

2723
02:11:17,650 --> 02:11:20,679
texas even if they worked for the

2724
02:11:19,270 --> 02:11:22,239
university they work for the state of

2725
02:11:20,679 --> 02:11:23,739
texas now

2726
02:11:22,239 --> 02:11:26,440
nothing wrong with that but i'd rather

2727
02:11:23,739 --> 02:11:28,690
be able to go in my court bayer county

2728
02:11:26,440 --> 02:11:31,570
where not everyone on that jury has an

2729
02:11:28,690 --> 02:11:34,330
interest in the state of texas this is

2730
02:11:31,570 --> 02:11:41,050
all I'm doing and I would urge you to

2731
02:11:34,330 --> 02:11:45,130
accept this Thank You mr. mr. Gondo mr.

2732
02:11:41,050 --> 02:11:48,940
Vonn Dola to oppose the amendment mr.

2733
02:11:45,130 --> 02:11:51,460
speaker and fellow members the issue

2734
02:11:48,940 --> 02:11:54,520
before us on substantial evidence versus

2735
02:11:51,460 --> 02:11:58,150
trial de novo is one which needed to be

2736
02:11:54,520 --> 02:11:59,650
debated on the floor I want to thank you

2737
02:11:58,150 --> 02:12:03,489
all for the attention that you've given

2738
02:11:59,650 --> 02:12:06,520
us in this and I plan after we defeat

2739
02:12:03,489 --> 02:12:10,870
this amendment to accept mr. Hales

2740
02:12:06,520 --> 02:12:14,860
amendment as proposed now if you will

2741

02:12:10,870 --> 02:12:18,070
look at the Hale amendment you will note

2742
02:12:14,860 --> 02:12:20,110
that his amendment provides that by

2743
02:12:18,070 --> 02:12:24,520
statutes you can establish venue

2744
02:12:20,110 --> 02:12:27,699
elsewhere it provides that unless the

2745
02:12:24,520 --> 02:12:29,830
statute provides otherwise the petition

2746
02:12:27,699 --> 02:12:33,429
is filed in the district court of Travis

2747
02:12:29,830 --> 02:12:35,679
County this is the residency of our

2748
02:12:33,429 --> 02:12:39,340
state agencies it is the place where

2749
02:12:35,679 --> 02:12:41,620
general venues should lie unless the

2750
02:12:39,340 --> 02:12:44,920
legislature feels that by statute we

2751
02:12:41,620 --> 02:12:47,590
should establish venue elsewhere mr.

2752
02:12:44,920 --> 02:12:50,620
Hales amendment takes care of that

2753
02:12:47,590 --> 02:12:54,639
situation and I think properly this is a

2754
02:12:50,620 --> 02:12:56,199
substantive question and as he as mr.

2755
02:12:54,639 --> 02:12:59,889
Hale said we should not address

2756
02:12:56,199 --> 02:13:02,530
substance in the substantial evidence

2757
02:12:59,889 --> 02:13:05,170
versus trial de novo issue you should

2758
02:13:02,530 --> 02:13:08,020
also not address the question of venue

2759
02:13:05,170 --> 02:13:09,439
in this provision which mr. Riddick is

2760
02:13:08,020 --> 02:13:11,769
attempting to do

2761
02:13:09,439 --> 02:13:14,419
for those reasons I would ask you to

2762
02:13:11,769 --> 02:13:25,489
vote aye on the motion of table when it

2763
02:13:14,419 --> 02:13:26,749
is made and I yield and at this time I

2764
02:13:25,489 --> 02:13:30,769
would move to table

2765
02:13:26,749 --> 02:13:34,119
okay mr. Riebe back to close mr. speaker

2766
02:13:30,769 --> 02:13:36,979
members let me say this mr. Hale has no

2767
02:13:34,119 --> 02:13:39,320
strong objection to the concept of being

2768

02:13:36,979 --> 02:13:41,719
able to sue in any district court in the

2769
02:13:39,320 --> 02:13:47,269
state we are keeping the trial de novo

2770
02:13:41,719 --> 02:13:49,579
as Don rein said a trial by jury all

2771
02:13:47,269 --> 02:13:52,820
we're saying by this proposal and again

2772
02:13:49,579 --> 02:13:54,889
mr. Hale had no strong objection against

2773
02:13:52,820 --> 02:13:57,320
this idea of being able to soon the

2774
02:13:54,889 --> 02:13:59,150
district court of your own County we are

2775
02:13:57,320 --> 02:14:03,139
just saying that you do have this right

2776
02:13:59,150 --> 02:14:11,959
and I urge you to vote no on the motion

2777
02:14:03,139 --> 02:14:13,639
to table all right mr. ryebeck sends up

2778
02:14:11,959 --> 02:14:15,499
an amendment mr. Vaughn Dolan moves the

2779
02:14:13,639 --> 02:14:17,630
table the question occurs on a motion to

2780
02:14:15,499 --> 02:14:19,610
table all those in favor of the motion

2781
02:14:17,630 --> 02:14:30,729
to table vote aye all those opposed will

2782
02:14:19,610 --> 02:14:30,729
vote no division vote members

2783
02:14:32,460 --> 02:14:42,179
show mr. Vaughn Dolan voting I have all

2784
02:14:38,730 --> 02:14:47,340
members voted showmance car well voting

2785
02:14:42,179 --> 02:14:48,659
a showmance a halo voting have all

2786
02:14:47,340 --> 02:14:51,650
members tell mr. it back voting

2787
02:14:48,659 --> 02:14:51,650
know-it-all members voted

2788
02:14:57,200 --> 02:15:02,890
I shall miss town devoting a show mr.

2789
02:14:59,540 --> 02:15:02,890
Olsen voting have all members voted

2790
02:15:03,250 --> 02:15:07,300
don't miss him I tell you voting No

2791
02:15:22,880 --> 02:15:38,550
so mr. Donaldson voting I show mr. shark

2792
02:15:32,570 --> 02:15:40,260
voting I instead of no cheers please to

2793
02:15:38,550 --> 02:15:42,270
recognize the distinguished farmer

2794
02:15:40,260 --> 02:15:44,100
remember this body mr. Waylan semanas on

2795

02:15:42,270 --> 02:15:49,230
the back the chamber back here wailing

2796
02:15:44,100 --> 02:15:55,200
good to have you still mr. C most voting

2797
02:15:49,230 --> 02:15:57,000
aye mr. Picard

2798
02:15:55,200 --> 02:15:59,400
I like well as a point of order that mr.

2799
02:15:57,000 --> 02:16:03,290
Simmons is not tired in accordance with

2800
02:15:59,400 --> 02:16:06,660
the rules and he'd be removed forward

2801
02:16:03,290 --> 02:16:08,100
miss mr. speaker I'll counter contradict

2802
02:16:06,660 --> 02:16:08,610
that he's dressed better than I've ever

2803
02:16:08,100 --> 02:16:10,940
seen

2804
02:16:08,610 --> 02:16:14,970
[Laughter]

2805
02:16:10,940 --> 02:16:18,150
sure believes he sees a time they're

2806
02:16:14,970 --> 02:16:20,580
being 68 eyes and 48 nose one president

2807
02:16:18,150 --> 02:16:25,110
not voting the motion to table the river

2808
02:16:20,580 --> 02:16:26,490
back substitute prevails the following

2809
02:16:25,110 --> 02:16:32,400
substitute the clerk will read the

2810
02:16:26,490 --> 02:16:34,380
substitute amendment by Hale I'm in the

2811
02:16:32,400 --> 02:16:37,050
Hale amendment to the floor amendment

2812
02:16:34,380 --> 02:16:38,820
mr. Hale to explain the substitute my

2813
02:16:37,050 --> 02:16:41,280
speaker members house this is purely

2814
02:16:38,820 --> 02:16:44,300
corrective mr. Vaughn Dolan pointed out

2815
02:16:41,280 --> 02:16:46,349
to me one or two little small

2816
02:16:44,300 --> 02:16:49,230
typographical changes that had been made

2817
02:16:46,349 --> 02:16:51,150
both in my bill and in his and I failed

2818
02:16:49,230 --> 02:16:53,309
include him in my first amendment but

2819
02:16:51,150 --> 02:16:54,179
it's in essence the amendment we debated

2820
02:16:53,309 --> 02:16:56,700
earlier this morning

2821
02:16:54,179 --> 02:16:59,219
this is purely a corrective changed and

2822

02:16:56,700 --> 02:17:02,070

I move it to duster as today all sends

2823

02:16:59,219 --> 02:17:04,650

up a substitute is there objection to

2824

02:17:02,070 --> 02:17:07,250

its adoption Jerry here is known and it

2825

02:17:04,650 --> 02:17:07,250

is adopted

2826

02:17:12,710 --> 02:17:21,920

the question now occurs upon the Vaughn

2827

02:17:15,140 --> 02:17:23,660

Dolan Vaughn Dolan the question occurs

2828

02:17:21,920 --> 02:17:25,340

upon the adoption of the Hale amendment

2829

02:17:23,660 --> 02:17:29,530

is substituted is there objection to its

2830

02:17:25,340 --> 02:17:32,900

adoption there objection to its adoption

2831

02:17:29,530 --> 02:17:36,190

chair here is none the Hale amendment as

2832

02:17:32,900 --> 02:17:36,190

substituted is adopted

2833

02:17:41,929 --> 02:17:47,340

question now occurs upon Devon Dolan

2834

02:17:44,670 --> 02:17:50,880

amendment as amended his/her objection

2835

02:17:47,340 --> 02:17:52,559

to its adoption chair here's 9 and of

2836
02:17:50,880 --> 02:17:57,240
Andolan amendment as amended he has

2837
02:17:52,559 --> 02:17:59,990
adopted falling captain amendment the

2838
02:17:57,240 --> 02:17:59,990
clerk will read the amendment

2839
02:18:07,170 --> 02:18:13,929
amendment by Paul Dolan I'm in Senate

2840
02:18:10,210 --> 02:18:15,790
bill mr. Vaughn Doan lose that the

2841
02:18:13,929 --> 02:18:18,279
caption of the bill of caption to the

2842
02:18:15,790 --> 02:18:21,119
bo-peep move I've changed to conform to

2843
02:18:18,279 --> 02:18:21,119
the body is there objection

2844
02:18:26,909 --> 02:18:30,130
all right the question is on the

2845
02:18:28,689 --> 02:18:30,869
adoption of the caption amendment is

2846
02:18:30,130 --> 02:18:33,630
there objection

2847
02:18:30,869 --> 02:18:36,489
chair here none the amendment is adopted

2848
02:18:33,630 --> 02:18:38,739
mr. Vaughn Dolan now moves that Senate

2849

02:18:36,489 --> 02:18:40,840
bill 41 be passed a third reading is

2850
02:18:38,739 --> 02:18:43,300
there all those in favor of passage say

2851
02:18:40,840 --> 02:18:44,010
to bill 3141 the third reading will say

2852
02:18:43,300 --> 02:18:48,340
aye

2853
02:18:44,010 --> 02:18:55,479
all those opposed no Senate bill 41 is

2854
02:18:48,340 --> 02:18:56,979
passed a third reading mr. Vaughn Dolan

2855
02:18:55,479 --> 02:18:59,380
moves to reconsider the table to vote by

2856
02:18:56,979 --> 02:19:01,869
which Senate bill 41 was passed third

2857
02:18:59,380 --> 02:19:05,500
reading is Rea objection chair here is

2858
02:19:01,869 --> 02:19:07,649
known as sword Thank You mr. speaker

2859
02:19:05,500 --> 02:19:07,649
members

2860
02:19:17,189 --> 02:19:23,569
chair lays out is postponed Ben is

2861
02:19:19,380 --> 02:19:23,569
Senate bill 28 and recognizes mr. penny

2862
02:19:26,569 --> 02:19:29,840
mr. penny

2863
02:19:34,080 --> 02:19:37,370
that's Fanny on the floor

2864
02:20:14,570 --> 02:20:17,170
hi

2865
02:20:18,660 --> 02:20:21,620
okay

2866
02:20:41,720 --> 02:20:53,460
chair recognizes mr. penny on the house

2867
02:20:44,460 --> 02:20:57,300
and bill 28 miss speaker and members

2868
02:20:53,460 --> 02:20:59,760
Senate bill 28 is a bar sponsored

2869
02:20:57,300 --> 02:21:03,140
prepaid legal services bill that we had

2870
02:20:59,760 --> 02:21:06,750
up last week and we postponed it until

2871
02:21:03,140 --> 02:21:09,300
this week in order to give most of you a

2872
02:21:06,750 --> 02:21:10,699
little more time to look over an

2873
02:21:09,300 --> 02:21:13,050
amendment we had that would have

2874
02:21:10,699 --> 02:21:17,069
authorized insurance carriers to also

2875
02:21:13,050 --> 02:21:19,470
write the coverage today we distributed

2876

02:21:17,069 --> 02:21:22,109
to you a letter which I hope most of you

2877
02:21:19,470 --> 02:21:23,580
will take the time to read from the

2878
02:21:22,109 --> 02:21:26,640
classroom teachers association

2879
02:21:23,580 --> 02:21:29,640
describing the manner in which they feel

2880
02:21:26,640 --> 02:21:31,529
that they've been helped and the the the

2881
02:21:29,640 --> 02:21:33,600
benefits that they have received from a

2882
02:21:31,529 --> 02:21:40,319
similar plan a pilot project in Houston

2883
02:21:33,600 --> 02:21:43,890
Texas and I would certainly urge you now

2884
02:21:40,319 --> 02:21:45,330
to vote for this and that let us start

2885
02:21:43,890 --> 02:21:47,580
developing some of these prepaid legal

2886
02:21:45,330 --> 02:21:50,069
plans in Texas so that middle-class

2887
02:21:47,580 --> 02:21:56,670
Texans can begin to afford the

2888
02:21:50,069 --> 02:21:59,130
advantages of legal service mr. picker

2889
02:21:56,670 --> 02:22:03,540
was gentlemen you yield miss penny

2890
02:21:59,130 --> 02:22:06,870
yeoman yield matteo mr. penny i was one

2891
02:22:03,540 --> 02:22:10,380
of those votes the other day to postpone

2892
02:22:06,870 --> 02:22:14,310
because i was concerned about the

2893
02:22:10,380 --> 02:22:17,370
possibility of these nonprofit

2894
02:22:14,310 --> 02:22:20,520
corporations being used as a vehicle for

2895
02:22:17,370 --> 02:22:23,220
channeling law business to a select

2896
02:22:20,520 --> 02:22:25,290
group of attorneys would you speak to

2897
02:22:23,220 --> 02:22:28,859
that as to what the bill provides on

2898
02:22:25,290 --> 02:22:31,109
that topic I mean I know there are other

2899
02:22:28,859 --> 02:22:33,630
members who talk to me about it and they

2900
02:22:31,109 --> 02:22:34,439
have the same concern about the bill

2901
02:22:33,630 --> 02:22:38,640
that I had

2902
02:22:34,439 --> 02:22:44,790
okay mr. Hale article 23 11 on page 8

2903

02:22:38,640 --> 02:22:47,359
specifies to who the corporation may

2904
02:22:44,790 --> 02:22:47,359
contract

2905
02:22:48,280 --> 02:22:56,230
and then you go on to

2906
02:22:55,040 --> 02:23:01,910
twenty-three-twelve

2907
02:22:56,230 --> 02:23:03,410
and specifically that that limitation

2908
02:23:01,910 --> 02:23:04,880
there reads that the corporation

2909
02:23:03,410 --> 02:23:06,740
complying with the requirements of this

2910
02:23:04,880 --> 02:23:09,140
chapter shall not contract itself to

2911
02:23:06,740 --> 02:23:10,730
practice law in any manner nor shall the

2912
02:23:09,140 --> 02:23:12,530
corporation control or attempt to

2913
02:23:10,730 --> 02:23:15,380
control the relations existing between a

2914
02:23:12,530 --> 02:23:16,820
participant and his or her attorney but

2915
02:23:15,380 --> 02:23:18,890
the corporation shall confine its

2916
02:23:16,820 --> 02:23:20,750
activities to contracting as an agent on

2917
02:23:18,890 --> 02:23:23,000
behalf of its participants for legal

2918
02:23:20,750 --> 02:23:25,310
services to be rendered only by and

2919
02:23:23,000 --> 02:23:26,570
through contracting attorneys who shall

2920
02:23:25,310 --> 02:23:29,030
never be employees of the corporation

2921
02:23:26,570 --> 02:23:31,190
but shall at all times be independent

2922
02:23:29,030 --> 02:23:32,540
contractors maintaining a direct lawyer

2923
02:23:31,190 --> 02:23:35,840
and client relationship with the

2924
02:23:32,540 --> 02:23:37,700
participants such corporation must agree

2925
02:23:35,840 --> 02:23:39,230
to contract under twenty three eleven

2926
02:23:37,700 --> 02:23:40,400
which give them that's the preceding

2927
02:23:39,230 --> 02:23:42,950
section and give them the authority to

2928
02:23:40,400 --> 02:23:45,860
contract must agree to contract under

2929
02:23:42,950 --> 02:23:47,660
article 23 11 with any attorney licensed

2930

02:23:45,860 --> 02:23:49,970
by the Supreme Court to practice law in

2931
02:23:47,660 --> 02:23:51,470
Texas and it goes on to Santos

2932
02:23:49,970 --> 02:23:53,120
contracting attorneys shall maintain

2933
02:23:51,470 --> 02:23:54,740
such professional liability and errors

2934
02:23:53,120 --> 02:23:56,870
and omissions insurance the corporation

2935
02:23:54,740 --> 02:23:58,970
shall deem proper and the State Board of

2936
02:23:56,870 --> 02:24:00,440
Insurance by a uniform rule declares me

2937
02:23:58,970 --> 02:24:03,560
a minimum amount of seats its coverage

2938
02:24:00,440 --> 02:24:06,470
to be maintained mr. Hale that

2939
02:24:03,560 --> 02:24:12,740
specifically keeps it what is known as

2940
02:24:06,470 --> 02:24:17,420
an open panel and that that would be in

2941
02:24:12,740 --> 02:24:23,030
my opinion enough to keep the board from

2942
02:24:17,420 --> 02:24:25,070
our the insurance you know company door

2943
02:24:23,030 --> 02:24:28,600
or this particular corporation from from

2944
02:24:25,070 --> 02:24:28,600
doing what you're worried about

2945
02:24:32,600 --> 02:24:42,150
look at article 2303 mr. fini and how

2946
02:24:39,271 --> 02:24:45,240
does that tie in with with article 23 11

2947
02:24:42,150 --> 02:24:52,110
that that also sort of Concerned me

2948
02:24:45,240 --> 02:24:54,480
each corporation mr. Hale that just says

2949
02:24:52,110 --> 02:24:57,150
that before anybody can get

2950
02:24:54,480 --> 02:25:00,030
authorization to operate under the

2951
02:24:57,150 --> 02:25:02,760
provisions of this section they've got

2952
02:25:00,030 --> 02:25:04,950
to have enough attorneys signed up to

2953
02:25:02,760 --> 02:25:07,320
support the program that will be able to

2954
02:25:04,950 --> 02:25:09,390
service the amount of benefit

2955
02:25:07,320 --> 02:25:12,660
certificates that can you know think

2956
02:25:09,390 --> 02:25:13,890
they'll be able to issue and the State

2957

02:25:12,660 --> 02:25:15,570
Board of Insurance has to make that

2958
02:25:13,890 --> 02:25:17,670
determination that there will be enough

2959
02:25:15,570 --> 02:25:20,850
attorney signed up in order to service

2960
02:25:17,670 --> 02:25:24,120
the clients and they would they would be

2961
02:25:20,850 --> 02:25:26,820
signed up under Section 23 11 yes sir is

2962
02:25:24,120 --> 02:25:30,811
that correct yes and would they would

2963
02:25:26,820 --> 02:25:33,271
the nonprofit corporation then set the

2964
02:25:30,811 --> 02:25:35,010
schedule of fees or the services

2965
02:25:33,271 --> 02:25:37,740
performed how sir

2966
02:25:35,010 --> 02:25:41,100
how wait wait like schedule of fees no

2967
02:25:37,740 --> 02:25:42,811
sir I mean is it the out of the

2968
02:25:41,100 --> 02:25:44,580
statement that was made somewhere I

2969
02:25:42,811 --> 02:25:47,311
think the other day or perhaps in

2970
02:25:44,580 --> 02:25:50,460
committee there and this was compared to

2971
02:25:47,311 --> 02:25:52,740
Blue Cross Blue Shield insurance well as

2972
02:25:50,460 --> 02:25:56,100
I understand Blue Cross Blue Shield sets

2973
02:25:52,740 --> 02:25:57,600
out certain certain things in each area

2974
02:25:56,100 --> 02:26:00,870
do that would do the same well they do

2975
02:25:57,600 --> 02:26:02,850
the same on this the benefit

2976
02:26:00,870 --> 02:26:05,490
certificates that you buy I mean they've

2977
02:26:02,850 --> 02:26:07,200
been a policy or the contract that you

2978
02:26:05,490 --> 02:26:09,420
have would would depend upon the

2979
02:26:07,200 --> 02:26:13,190
contract but some contracts do set forth

2980
02:26:09,420 --> 02:26:16,230
they a certain amount for specified acts

2981
02:26:13,190 --> 02:26:17,790
so much per hour of consultation and

2982
02:26:16,230 --> 02:26:21,120
you're allowed so many hours under the

2983
02:26:17,790 --> 02:26:24,960
under the under the contract so much per

2984

02:26:21,120 --> 02:26:26,340
for drawing a will things like this

2985
02:26:24,960 --> 02:26:29,490
there would be some of this but it would

2986
02:26:26,340 --> 02:26:32,510
not be limiting upon the lawyer unless

2987
02:26:29,490 --> 02:26:32,510
he wanted to agree to that

2988
02:26:35,330 --> 02:26:39,470
the following amendment would lurk

2989
02:26:39,859 --> 02:26:47,430
calling amendment a clerk will read the

2990
02:26:41,820 --> 02:26:49,800
amendment amendment by grant I meant mr.

2991
02:26:47,430 --> 02:26:52,410
grant to explain the amendment mr.

2992
02:26:49,800 --> 02:26:55,170
speaker members what my amendment does

2993
02:26:52,410 --> 02:26:59,010
is add a new section to the bill called

2994
02:26:55,170 --> 02:27:01,290
limitations I have been concerned that a

2995
02:26:59,010 --> 02:27:03,270
few lawyers will get to participate in

2996
02:27:01,290 --> 02:27:05,010
this and that would not help the

2997
02:27:03,270 --> 02:27:06,600
attorneys and then would not help the

2998
02:27:05,010 --> 02:27:09,660
people because we need to make available

2999
02:27:06,600 --> 02:27:11,550
any legal counsel that is available to

3000
02:27:09,660 --> 02:27:14,390
them in their town or whatever area we

3001
02:27:11,550 --> 02:27:17,970
have so what my committee amendment does

3002
02:27:14,390 --> 02:27:20,070
it says that the insurer being an

3003
02:27:17,970 --> 02:27:21,510
insurance company and we've already got

3004
02:27:20,070 --> 02:27:24,359
a provision in there for the nonprofit

3005
02:27:21,510 --> 02:27:26,490
organizations it says such insurance

3006
02:27:24,359 --> 02:27:28,410
agreed to contract with any attorney

3007
02:27:26,490 --> 02:27:30,899
licensed but Supreme Court practice law

3008
02:27:28,410 --> 02:27:32,670
in Texas so if one of your clients if

3009
02:27:30,899 --> 02:27:34,620
you were an attorney came in or you as a

3010
02:27:32,670 --> 02:27:36,120
client went in and this particular

3011

02:27:34,620 --> 02:27:38,370
attorney was not a member of this

3012
02:27:36,120 --> 02:27:39,899
program that you'd been paying into all

3013
02:27:38,370 --> 02:27:43,080
you'd have to this attorney would have

3014
02:27:39,899 --> 02:27:45,149
to do is contact this program and say I

3015
02:27:43,080 --> 02:27:46,290
want to participate on the same basis as

3016
02:27:45,149 --> 02:27:48,510
all the other attorneys are

3017
02:27:46,290 --> 02:27:50,609
participating and you they could not

3018
02:27:48,510 --> 02:27:52,770
refuse you if you're a license number of

3019
02:27:50,609 --> 02:27:54,720
the Barlett state of Texas and that's

3020
02:27:52,770 --> 02:27:56,609
all this amendment does and I think it's

3021
02:27:54,720 --> 02:27:58,500
acceptable to the author this way the

3022
02:27:56,609 --> 02:28:00,030
insurance company won't be telling you

3023
02:27:58,500 --> 02:28:02,280
that you've got to choose from this list

3024
02:28:00,030 --> 02:28:04,020
the lawyers and none other because any

3025
02:28:02,280 --> 02:28:07,200
lawyer in the state of Texas is eligible

3026
02:28:04,020 --> 02:28:08,760
to participate iMovies adoption that's

3027
02:28:07,200 --> 02:28:10,350
grants end up an amendment this

3028
02:28:08,760 --> 02:28:13,260
amendment is acceptable the author is

3029
02:28:10,350 --> 02:28:16,580
the objection to its adoption Jerry here

3030
02:28:13,260 --> 02:28:16,580
is none the amendment is adopted

3031
02:28:28,159 --> 02:28:40,729
Jared recognized it mr. grant speak for

3032
02:28:30,739 --> 02:28:43,340
the middle mr. speaker mr. speaker mr.

3033
02:28:40,729 --> 02:28:45,380
gentleman gentleman yield mr. Watson

3034
02:28:43,340 --> 02:28:48,500
mr. grant I believe you just put on an

3035
02:28:45,380 --> 02:28:51,109
amendment tonight because I voted for it

3036
02:28:48,500 --> 02:28:53,600
but I want to clear myself this bill now

3037
02:28:51,109 --> 02:28:58,250
would allow me if to choose my own

3038

02:28:53,600 --> 02:29:00,439
attorney right aye mr. speaker members

3039
02:28:58,250 --> 02:29:03,109
let me get property before the floor no

3040
02:29:00,439 --> 02:29:05,119
this doesn't exactly allow that this

3041
02:29:03,109 --> 02:29:08,149
just allows any attorney to participate

3042
02:29:05,119 --> 02:29:10,310
in the we have two sections this bill

3043
02:29:08,149 --> 02:29:12,470
one is a non-profit section which my

3044
02:29:10,310 --> 02:29:14,060
amendment doesn't deal with my amendment

3045
02:29:12,470 --> 02:29:16,340
deals with the part where you have

3046
02:29:14,060 --> 02:29:18,710
insurance companies that are making a

3047
02:29:16,340 --> 02:29:20,180
profit and this says that any licensed

3048
02:29:18,710 --> 02:29:21,739
attorney who wants to participate in a

3049
02:29:20,180 --> 02:29:23,330
particular program can notify that

3050
02:29:21,739 --> 02:29:25,640
insurance company that he wants to be

3051
02:29:23,330 --> 02:29:28,880
part of that program okay let me take

3052
02:29:25,640 --> 02:29:30,470
you one step further then we negotiated

3053
02:29:28,880 --> 02:29:33,680
a contract with a company to participate

3054
02:29:30,470 --> 02:29:35,600
in this thing on whatever basis it has

3055
02:29:33,680 --> 02:29:39,560
to be done under then one of our people

3056
02:29:35,600 --> 02:29:41,180
decide they want to hire Ben grant for

3057
02:29:39,560 --> 02:29:43,250
divorce of whatever then what would

3058
02:29:41,180 --> 02:29:45,050
happen to be in grant how would it then

3059
02:29:43,250 --> 02:29:47,720
if I wanted to be a part of that program

3060
02:29:45,050 --> 02:29:50,060
then I would contact this board of

3061
02:29:47,720 --> 02:29:51,590
directors of this nonprofit corporation

3062
02:29:50,060 --> 02:29:53,270
of this profit corporation whichever it

3063
02:29:51,590 --> 02:29:55,040
is we spent your company and I would

3064
02:29:53,270 --> 02:29:56,750
tell them and I want to participate as

3065

02:29:55,040 --> 02:29:59,210
one of their attorneys in the program

3066
02:29:56,750 --> 02:30:00,649
and then they would there may be a fee

3067
02:29:59,210 --> 02:30:02,779
that I'd have to pay to get into the

3068
02:30:00,649 --> 02:30:05,180
program I may have to agree on certain

3069
02:30:02,779 --> 02:30:06,920
terms but I I could get any if I was

3070
02:30:05,180 --> 02:30:08,359
willing to come in on site basis all the

3071
02:30:06,920 --> 02:30:09,949
other attorneys well but they wouldn't

3072
02:30:08,359 --> 02:30:11,239
they couldn't refuse you that that's

3073
02:30:09,949 --> 02:30:13,460
true okay thank you

3074
02:30:11,239 --> 02:30:15,739
okay mr. speaker members let me have

3075
02:30:13,460 --> 02:30:16,819
your attention just a minute because I

3076
02:30:15,739 --> 02:30:19,460
think this is an important piece of

3077
02:30:16,819 --> 02:30:23,420
legislation and some of you asked me

3078
02:30:19,460 --> 02:30:28,300
what is owned a fini up to well I'm

3079
02:30:23,420 --> 02:30:28,300
going to take Dave fitty is up to good I

3080
02:30:28,510 --> 02:30:34,239
think this is a good program many of you

3081
02:30:32,180 --> 02:30:36,150
will remember that two years ago I

3082
02:30:34,239 --> 02:30:37,740
introduced a bill

3083
02:30:36,150 --> 02:30:40,021
that would have done the same thing and

3084
02:30:37,740 --> 02:30:42,120
we ended up a minion so we'd only have a

3085
02:30:40,021 --> 02:30:44,190
pilot program in Texas where the

3086
02:30:42,120 --> 02:30:46,080
classroom teachers association and it

3087
02:30:44,190 --> 02:30:48,030
was a successful program you have a pass

3088
02:30:46,080 --> 02:30:50,190
out on your desk giving you comments

3089
02:30:48,030 --> 02:30:52,590
from various people who participated and

3090
02:30:50,190 --> 02:30:54,300
the way they thought it helped them this

3091
02:30:52,590 --> 02:30:56,550
program began in Shreveport Louisiana

3092

02:30:54,300 --> 02:30:58,500
right across the state line for me this

3093
02:30:56,550 --> 02:31:01,771
was the pilot program in the United

3094
02:30:58,500 --> 02:31:03,750
States and it was very successful there

3095
02:31:01,771 --> 02:31:05,790
we had a fellow who participated that

3096
02:31:03,750 --> 02:31:09,240
program up there an attorney from 3/4 to

3097
02:31:05,790 --> 02:31:12,030
testified before our committee and of

3098
02:31:09,240 --> 02:31:14,010
course you know just like illnesses you

3099
02:31:12,030 --> 02:31:15,360
have catastrophic legal expenses

3100
02:31:14,010 --> 02:31:17,610
sometimes and this would give people

3101
02:31:15,360 --> 02:31:19,590
that want to ensure gets that sort of

3102
02:31:17,610 --> 02:31:21,601
thing an opportunity and another thing

3103
02:31:19,590 --> 02:31:24,990
that he emphasized was that we have

3104
02:31:21,601 --> 02:31:27,000
preventive law in the sense that these

3105
02:31:24,990 --> 02:31:28,800
people go and see a lawyer before they

3106
02:31:27,000 --> 02:31:30,601
get into trouble and have problems to

3107
02:31:28,800 --> 02:31:33,000
check whether about the contracts

3108
02:31:30,601 --> 02:31:34,470
they're getting into or the beads that

3109
02:31:33,000 --> 02:31:36,540
they're accepting or whatever their

3110
02:31:34,470 --> 02:31:38,101
legal arrangements are landlord tenant

3111
02:31:36,540 --> 02:31:40,380
relations or whatever and they find out

3112
02:31:38,101 --> 02:31:43,140
what the law is and so it's been a

3113
02:31:40,380 --> 02:31:46,320
preventative law measure and I think in

3114
02:31:43,140 --> 02:31:50,940
our complex society this is much needed

3115
02:31:46,320 --> 02:31:52,860
mr. speaker not and gentlement you not

3116
02:31:50,940 --> 02:31:55,200
at this time you know this time it's

3117
02:31:52,860 --> 02:31:57,601
over if you look back here on the north

3118
02:31:55,200 --> 02:32:00,630
wall on your north wall there's a fellow

3119

02:31:57,601 --> 02:32:02,670
named John Nance Gardner looking down at

3120
02:32:00,630 --> 02:32:06,030
you and he had two basic philosophies of

3121
02:32:02,670 --> 02:32:07,430
government he says that one thing

3122
02:32:06,030 --> 02:32:10,561
government you should do is provide

3123
02:32:07,430 --> 02:32:12,450
opportunities now all this does is not

3124
02:32:10,561 --> 02:32:14,311
mandatory for anybody but this provides

3125
02:32:12,450 --> 02:32:16,950
an opportunity if a classroom teachers

3126
02:32:14,311 --> 02:32:18,690
association any other group or a person

3127
02:32:16,950 --> 02:32:20,880
in just a citizen wants to get an

3128
02:32:18,690 --> 02:32:23,670
insurance of this kind it's a voluntary

3129
02:32:20,880 --> 02:32:25,230
thing they can get it it provides that

3130
02:32:23,670 --> 02:32:27,271
opportunity so they can pay a little

3131
02:32:25,230 --> 02:32:29,130
each week just like they do own medical

3132
02:32:27,271 --> 02:32:31,561
insurance or any other type of insurance

3133
02:32:29,130 --> 02:32:34,050
and they could be guaranteed that they

3134
02:32:31,561 --> 02:32:36,660
would have some legal advice secondly

3135
02:32:34,050 --> 02:32:39,000
all john nance garner said that a

3136
02:32:36,660 --> 02:32:40,950
government should protect the people and

3137
02:32:39,000 --> 02:32:43,680
I think this bill does that

3138
02:32:40,950 --> 02:32:44,920
because these programs have to get prior

3139
02:32:43,680 --> 02:32:47,109
approval

3140
02:32:44,920 --> 02:32:48,970
from the Insurance Commission you have

3141
02:32:47,109 --> 02:32:51,070
the protection aware mr. Christie look

3142
02:32:48,970 --> 02:32:53,500
at these plants and seeing if they're

3143
02:32:51,070 --> 02:32:55,960
sound if they will work if there's

3144
02:32:53,500 --> 02:32:58,120
enough funds in there that to offer the

3145
02:32:55,960 --> 02:33:00,939
legal services that these people say

3146

02:32:58,120 --> 02:33:03,490
they will offer and therefore protecting

3147
02:33:00,939 --> 02:33:07,300
the consumer these two fundamental

3148
02:33:03,490 --> 02:33:09,189
things are provided in this bill and I

3149
02:33:07,300 --> 02:33:10,990
think it's a good program a good piece

3150
02:33:09,189 --> 02:33:12,880
of legislation I think and provide the

3151
02:33:10,990 --> 02:33:16,390
poor people and the middle-class people

3152
02:33:12,880 --> 02:33:19,479
an opportunity to be cover and have

3153
02:33:16,390 --> 02:33:21,780
legal help I'll yield at this time mr.

3154
02:33:19,479 --> 02:33:25,420
Baker gentleman yields miss Sullivan

3155
02:33:21,780 --> 02:33:28,450
then as your committee studied this bill

3156
02:33:25,420 --> 02:33:30,760
very carefully since this bill was

3157
02:33:28,450 --> 02:33:33,070
invaded by our committee we took

3158
02:33:30,760 --> 02:33:37,000
testimony on it and not only this

3159
02:33:33,070 --> 02:33:38,830
session two years ago we also studied it

3160
02:33:37,000 --> 02:33:40,390
and took testimony on it this hadn't

3161
02:33:38,830 --> 02:33:42,640
been something overnight there's been a

3162
02:33:40,390 --> 02:33:43,990
lot of work put into this bill I knew we

3163
02:33:42,640 --> 02:33:46,090
talked about it something last year

3164
02:33:43,990 --> 02:33:49,300
there were a couple of questions I had

3165
02:33:46,090 --> 02:33:51,250
about the bill which I've had some

3166
02:33:49,300 --> 02:33:54,479
people come to me since I voted against

3167
02:33:51,250 --> 02:33:56,890
it the other day and try to explain I

3168
02:33:54,479 --> 02:33:59,109
thought that there was some possibility

3169
02:33:56,890 --> 02:34:01,630
we were letting the insurance board get

3170
02:33:59,109 --> 02:34:03,399
into besetting are you convinced that

3171
02:34:01,630 --> 02:34:04,810
this is not their game this is not true

3172
02:34:03,399 --> 02:34:07,000
if you look at every program and plan

3173

02:34:04,810 --> 02:34:08,500
that's been set up it doesn't tell the

3174
02:34:07,000 --> 02:34:10,000
attorney how much he's going to have to

3175
02:34:08,500 --> 02:34:12,220
charge or how little he can charge it

3176
02:34:10,000 --> 02:34:15,520
will say under your insurance program

3177
02:34:12,220 --> 02:34:17,050
this will play X amount on certain

3178
02:34:15,520 --> 02:34:18,729
things for office conferences for

3179
02:34:17,050 --> 02:34:20,200
drawing of the will the attorney can

3180
02:34:18,729 --> 02:34:21,820
charge less you charge more it's just

3181
02:34:20,200 --> 02:34:23,710
like if you go to a doctor vein he tells

3182
02:34:21,820 --> 02:34:26,439
you I won't charge you \$250 take out

3183
02:34:23,710 --> 02:34:29,020
your gallbladder your insurance maybe

3184
02:34:26,439 --> 02:34:31,000
only covers 200 okay you'd have to pay

3185
02:34:29,020 --> 02:34:33,010
the \$50 difference or if he says I only

3186
02:34:31,000 --> 02:34:34,570
charge 150 then that's all your

3187
02:34:33,010 --> 02:34:36,310
insurance company would pay so it

3188
02:34:34,570 --> 02:34:38,140
doesn't tell the attorney it doesn't

3189
02:34:36,310 --> 02:34:40,060
tell the client what he's got to pay for

3190
02:34:38,140 --> 02:34:42,460
certain services he just says we will

3191
02:34:40,060 --> 02:34:44,859
play so much in the direction of each of

3192
02:34:42,460 --> 02:34:46,930
these things I also had a question as to

3193
02:34:44,859 --> 02:34:50,189
whether or not this was going to result

3194
02:34:46,930 --> 02:34:53,290
in these insurance companies setting up

3195
02:34:50,189 --> 02:34:56,010
panels of attorneys in the large cities

3196
02:34:53,290 --> 02:34:57,960
in us country lawyers getting left out

3197
02:34:56,010 --> 02:34:59,819
could okay now I don't know whether you

3198
02:34:57,960 --> 02:35:02,250
read the amendment that I just adopted

3199
02:34:59,819 --> 02:35:04,800
but it says and just very plain language

3200

02:35:02,250 --> 02:35:07,410
such insurer must agree to contract with

3201
02:35:04,800 --> 02:35:08,790
any attorney licensed to practice law by

3202
02:35:07,410 --> 02:35:10,740
the Supreme Court in the state of Texas

3203
02:35:08,790 --> 02:35:12,630
that includes every attorney in the

3204
02:35:10,740 --> 02:35:14,399
state of Texas would be eligible fish

3205
02:35:12,630 --> 02:35:15,990
mate in any plan a program cannot be

3206
02:35:14,399 --> 02:35:18,290
closed out that's my amendment with just

3207
02:35:15,990 --> 02:35:20,939
adopted all right well now I've had a

3208
02:35:18,290 --> 02:35:23,310
man from the Bar Association come around

3209
02:35:20,939 --> 02:35:24,600
and explain that to me but you and I had

3210
02:35:23,310 --> 02:35:27,330
the pleasure sitting on the same

3211
02:35:24,600 --> 02:35:30,149
committee last year when a your poor

3212
02:35:27,330 --> 02:35:32,880
last with the family code was presented

3213
02:35:30,149 --> 02:35:35,069
to us as having been completely extended

3214
02:35:32,880 --> 02:35:37,020
for about five years Bob time it was

3215
02:35:35,069 --> 02:35:38,700
somewhat true the Bar Association didn't

3216
02:35:37,020 --> 02:35:40,470
tell me to put this on the insurance

3217
02:35:38,700 --> 02:35:43,109
company didn't tell me to put it on I

3218
02:35:40,470 --> 02:35:44,960
told myself that we had to have this or

3219
02:35:43,109 --> 02:35:48,149
I could not support this legislation

3220
02:35:44,960 --> 02:35:50,250
this was drafted this morning and put on

3221
02:35:48,149 --> 02:35:52,649
there on that last section to guarantee

3222
02:35:50,250 --> 02:35:54,870
that and I have studied the bill

3223
02:35:52,649 --> 02:35:56,640
thoroughly and I put that on there for

3224
02:35:54,870 --> 02:35:58,350
your protection and I know it's there

3225
02:35:56,640 --> 02:36:00,120
well that's the reason I wanted to ask

3226
02:35:58,350 --> 02:36:01,680
you these questions because I didn't

3227

02:36:00,120 --> 02:36:03,300
want to get caught in the same trap that

3228
02:36:01,680 --> 02:36:05,160
our committee got caught in a couple of

3229
02:36:03,300 --> 02:36:07,500
years ago by listening to some Bar

3230
02:36:05,160 --> 02:36:10,350
Association people and being in my

3231
02:36:07,500 --> 02:36:11,819
opinion led astray if your committee has

3232
02:36:10,350 --> 02:36:13,890
studied it then I could probably go

3233
02:36:11,819 --> 02:36:15,660
along with it but if we've just given

3234
02:36:13,890 --> 02:36:17,399
something a lake tana promise that the

3235
02:36:15,660 --> 02:36:19,890
Bar Association has brought up here then

3236
02:36:17,399 --> 02:36:21,840
I can't support it unless this language

3237
02:36:19,890 --> 02:36:25,710
was in the bill I cannot support it

3238
02:36:21,840 --> 02:36:26,069
Thank You mr. speaker will the gentleman

3239
02:36:25,710 --> 02:36:27,930
yield

3240
02:36:26,069 --> 02:36:29,880
yo miss grant I'll yield to mr. Garcia

3241
02:36:27,930 --> 02:36:32,310
for one question gentleman yields mr.

3242
02:36:29,880 --> 02:36:34,740
Garcia mr. grant

3243
02:36:32,310 --> 02:36:37,380
would you mind carrying this to the raid

3244
02:36:34,740 --> 02:36:40,950
a situation that one might encounter

3245
02:36:37,380 --> 02:36:45,779
with your amendment what concerns may

3246
02:36:40,950 --> 02:36:47,460
been is that the insurer makes the

3247
02:36:45,779 --> 02:36:50,220
selection of the attorney to represent

3248
02:36:47,460 --> 02:36:54,569
an individual or a group of individuals

3249
02:36:50,220 --> 02:36:55,859
am I correct there would be a list of

3250
02:36:54,569 --> 02:36:57,750
attorneys who said they wanted to

3251
02:36:55,859 --> 02:36:59,580
participate in this program and agreed

3252
02:36:57,750 --> 02:37:01,620
to participate in it now let's say

3253
02:36:59,580 --> 02:37:03,600
somebody came to Matt Garcia down in San

3254

02:37:01,620 --> 02:37:05,729
Antonio and he said look I've blown

3255
02:37:03,600 --> 02:37:07,710
classroom teachers association we pay in

3256
02:37:05,729 --> 02:37:09,840
so much every month out of

3257
02:37:07,710 --> 02:37:12,900
our salary may be fifty cents a week or

3258
02:37:09,840 --> 02:37:15,720
whatever it comes to and I won't to use

3259
02:37:12,900 --> 02:37:17,850
this money for our legal services okay

3260
02:37:15,720 --> 02:37:20,550
you say well I am NOT a participant in

3261
02:37:17,850 --> 02:37:23,670
that presently but I assume will be so

3262
02:37:20,550 --> 02:37:25,320
all Matt Garcia's got to do is go to the

3263
02:37:23,670 --> 02:37:26,550
classroom teachers association program

3264
02:37:25,320 --> 02:37:28,200
and say I want to be one of your

3265
02:37:26,550 --> 02:37:29,640
participating attorneys I want to be on

3266
02:37:28,200 --> 02:37:31,740
your list and meet whatever requirements

3267
02:37:29,640 --> 02:37:33,180
the other all the other attorneys so you

3268
02:37:31,740 --> 02:37:34,800
could not be discriminated against all

3269
02:37:33,180 --> 02:37:36,420
the other tourneys have met and you will

3270
02:37:34,800 --> 02:37:37,979
be admitted to that program and you

3271
02:37:36,420 --> 02:37:40,229
could represent that person all right I

3272
02:37:37,979 --> 02:37:42,660
met but let's assume that's one question

3273
02:37:40,229 --> 02:37:44,820
mr. Garcia I understand mr. Webb but it

3274
02:37:42,660 --> 02:37:46,710
invites another okay and there's nothing

3275
02:37:44,820 --> 02:37:49,500
worse than an unfinished question for

3276
02:37:46,710 --> 02:37:51,830
Anthony let's assume that the that the

3277
02:37:49,500 --> 02:37:55,260
individual who belongs to the TST a

3278
02:37:51,830 --> 02:37:59,150
rather than going to been grant or Matt

3279
02:37:55,260 --> 02:38:03,510
Garcia attorney he goes to the insurer

3280
02:37:59,150 --> 02:38:07,530
and then grant and Matt Garcia do not

3281

02:38:03,510 --> 02:38:09,720
belong to the Association the insurer

3282
02:38:07,530 --> 02:38:11,880
then would make the selection of the

3283
02:38:09,720 --> 02:38:12,900
attorney for the individual needing the

3284
02:38:11,880 --> 02:38:15,030
services of an attorney

3285
02:38:12,900 --> 02:38:16,410
only what not he would furnish him a

3286
02:38:15,030 --> 02:38:18,090
list of attorneys that have agreed to

3287
02:38:16,410 --> 02:38:20,100
participate and he will choose one out

3288
02:38:18,090 --> 02:38:20,729
of that list if Matt Garcia wants to be

3289
02:38:20,100 --> 02:38:22,410
on that list

3290
02:38:20,729 --> 02:38:24,750
he can't be and it's his fault if he's

3291
02:38:22,410 --> 02:38:26,490
not on there in other words what the

3292
02:38:24,750 --> 02:38:28,860
person walks in they say here's a list

3293
02:38:26,490 --> 02:38:31,200
of attorneys who have submitted their

3294
02:38:28,860 --> 02:38:33,330
names to Mars and to participate whether

3295
02:38:31,200 --> 02:38:36,210
you dissipate you pick one of them and

3296
02:38:33,330 --> 02:38:38,820
and we will refer you right on to him

3297
02:38:36,210 --> 02:38:40,800
and you become that attorneys client we

3298
02:38:38,820 --> 02:38:43,740
will not interfere in any way with a

3299
02:38:40,800 --> 02:38:45,600
relationship we will not set fees yes

3300
02:38:43,740 --> 02:38:48,300
that that's the rest of mine that they

3301
02:38:45,600 --> 02:38:49,500
yes they will in no way practice law or

3302
02:38:48,300 --> 02:38:52,320
anything else I'll give them this

3303
02:38:49,500 --> 02:38:54,870
approved list and further the client or

3304
02:38:52,320 --> 02:38:56,190
the participant will be told that if

3305
02:38:54,870 --> 02:38:59,460
it's an attorney that's not on the

3306
02:38:56,190 --> 02:39:01,290
approved list that he can get on that

3307
02:38:59,460 --> 02:39:03,360
list just like all the rest of it he

3308

02:39:01,290 --> 02:39:06,540
wants to all right now I have read I

3309
02:39:03,360 --> 02:39:08,670
have read the bill I can't find anywhere

3310
02:39:06,540 --> 02:39:11,220
where there is a policing of this

3311
02:39:08,670 --> 02:39:13,980
situation to ascertain whether or not

3312
02:39:11,220 --> 02:39:15,990
the insurer is guaranteed

3313
02:39:13,980 --> 02:39:18,570
every person who belongs to the

3314
02:39:15,990 --> 02:39:21,811
Association or as part of the agreement

3315
02:39:18,570 --> 02:39:23,851
is duly and properly considered when

3316
02:39:21,811 --> 02:39:25,410
someone comes up for the selection as

3317
02:39:23,851 --> 02:39:27,030
chairman goes point of order that the

3318
02:39:25,410 --> 02:39:28,681
gentleman's time has expired a point of

3319
02:39:27,030 --> 02:39:31,980
order and well taken and sustained I

3320
02:39:28,681 --> 02:39:33,631
assure you the Bar Association the time

3321
02:39:31,980 --> 02:39:38,221
I'm not supporting the bill anyway mr.

3322
02:39:33,631 --> 02:39:50,851
speaker mr. Houston back speak against

3323
02:39:38,221 --> 02:39:53,820
the bill members of the house if you

3324
02:39:50,851 --> 02:39:56,610
will listen to me carefully and I don't

3325
02:39:53,820 --> 02:39:59,250
mean just the lawyers I mean every

3326
02:39:56,610 --> 02:40:03,091
person in the house from every walk of

3327
02:39:59,250 --> 02:40:05,250
life this type of bill can affect you

3328
02:40:03,091 --> 02:40:07,530
and finally I'm going to get an

3329
02:40:05,250 --> 02:40:13,440
opportunity to explain to you what this

3330
02:40:07,530 --> 02:40:16,561
bill really does I don't know what I can

3331
02:40:13,440 --> 02:40:18,240
do to get your attention I guess the

3332
02:40:16,561 --> 02:40:20,660
best way occurs we have some order in

3333
02:40:18,240 --> 02:40:23,011
the house where we here mr. hosted by

3334
02:40:20,660 --> 02:40:25,591
members we're not going to proceed until

3335

02:40:23,011 --> 02:40:28,440
we do have some order so that you might

3336
02:40:25,591 --> 02:40:30,091
hear the debate this speaker will

3337
02:40:28,440 --> 02:40:32,070
gentleman you over one question not at

3338
02:40:30,091 --> 02:40:34,250
this time mr. Clark until we have some

3339
02:40:32,070 --> 02:40:34,250
order

3340
02:40:47,899 --> 02:40:52,709
miss Dawson Blackwood you you I'll yield

3341
02:40:51,239 --> 02:40:54,390
to you Jim as soon as I finish my

3342
02:40:52,709 --> 02:40:58,949
remarks gentleman to yield in a minute

3343
02:40:54,390 --> 02:41:00,539
mr. Clarke now if you're a insurance man

3344
02:40:58,949 --> 02:41:02,819
if you're a teacher if you're an

3345
02:41:00,539 --> 02:41:05,220
architect if you're a businessman if

3346
02:41:02,819 --> 02:41:07,010
you're a construction worker it doesn't

3347
02:41:05,220 --> 02:41:11,760
make any difference

3348
02:41:07,010 --> 02:41:16,680
think about this this bill simply does

3349
02:41:11,760 --> 02:41:21,720
this it allows a group of lawyers to

3350
02:41:16,680 --> 02:41:23,129
underwrite a group insurance policy now

3351
02:41:21,720 --> 02:41:24,959
that doesn't necessarily mean that they

3352
02:41:23,129 --> 02:41:27,659
will put the money into it but they are

3353
02:41:24,959 --> 02:41:31,529
essentially the basis for the group

3354
02:41:27,659 --> 02:41:34,020
insurance policy so for example in my

3355
02:41:31,529 --> 02:41:38,869
hometown there's a complex where a lot

3356
02:41:34,020 --> 02:41:42,119
of workers common laborers do not

3357
02:41:38,869 --> 02:41:45,419
necessarily have a large amount of money

3358
02:41:42,119 --> 02:41:48,930
now they are my clients they come to me

3359
02:41:45,419 --> 02:41:50,489
on a regular basis well now they are

3360
02:41:48,930 --> 02:41:52,560
going to be the people that probably

3361
02:41:50,489 --> 02:41:54,779
would get into this type of insurance

3362

02:41:52,560 --> 02:41:57,689
plan prepaid legal services sort of like

3363
02:41:54,779 --> 02:42:00,569
a hospitalization group hospitalization

3364
02:41:57,689 --> 02:42:02,970
so they get into the plan then they walk

3365
02:42:00,569 --> 02:42:06,989
into the office the group insurance

3366
02:42:02,970 --> 02:42:09,449
office and they say can under my

3367
02:42:06,989 --> 02:42:11,189
insurance can I get a will drawn and the

3368
02:42:09,449 --> 02:42:13,229
man will say you are sure you sure can

3369
02:42:11,189 --> 02:42:15,930
and they'll say well great listen my

3370
02:42:13,229 --> 02:42:18,629
lawyers John Hosting back and I want to

3371
02:42:15,930 --> 02:42:20,640
go to him and get this wheel drawn and

3372
02:42:18,629 --> 02:42:21,989
the guys say well the lists a minute let

3373
02:42:20,640 --> 02:42:23,699
me get out my little sheet of paper so

3374
02:42:21,989 --> 02:42:26,189
he'll pull out a sheet of paper he'll

3375
02:42:23,699 --> 02:42:28,350
say well John Hosting Beck's name in on

3376
02:42:26,189 --> 02:42:29,939
this group of lawyers that belongs to

3377
02:42:28,350 --> 02:42:31,979
this group says you can't go to John

3378
02:42:29,939 --> 02:42:32,640
Hosting back unless you want to pay for

3379
02:42:31,979 --> 02:42:35,039
it yourself

3380
02:42:32,640 --> 02:42:38,520
however I've got a list of lawyers here

3381
02:42:35,039 --> 02:42:40,430
ten names X Y Z he says you can go to

3382
02:42:38,520 --> 02:42:44,129
any one of them and we'll pay for it

3383
02:42:40,430 --> 02:42:47,879
now what that does is actually that is

3384
02:42:44,129 --> 02:42:50,669
preventing that worker that individual

3385
02:42:47,879 --> 02:42:53,970
from coming to the attorney of his

3386
02:42:50,669 --> 02:42:57,510
choice and that organization paying that

3387
02:42:53,970 --> 02:42:59,579
attorneys fees now you you think just

3388
02:42:57,510 --> 02:43:01,079
think about that for a second it cuts

3389

02:42:59,579 --> 02:43:02,819

both ways

3390

02:43:01,079 --> 02:43:05,460

the answer this is going to be this way

3391

02:43:02,819 --> 02:43:08,010

well John you can voluntarily join this

3392

02:43:05,460 --> 02:43:09,960

group well what if I don't want to join

3393

02:43:08,010 --> 02:43:12,119

this group what if I don't don't like

3394

02:43:09,960 --> 02:43:13,710

some of the policies of this group what

3395

02:43:12,119 --> 02:43:16,920

if I don't want to be a member but yet

3396

02:43:13,710 --> 02:43:19,050

at the same time what if this men that I

3397

02:43:16,920 --> 02:43:21,390

have been representing for two years or

3398

02:43:19,050 --> 02:43:24,119

three years or ten years wants to use me

3399

02:43:21,390 --> 02:43:26,850

you know what it really is it lends

3400

02:43:24,119 --> 02:43:29,430

itself to solicitation of business

3401

02:43:26,850 --> 02:43:31,800

that's all it is and that is against the

3402

02:43:29,430 --> 02:43:34,649

canons of ethics of the attorney's

3403
02:43:31,800 --> 02:43:36,300
profession at this time now I don't want

3404
02:43:34,649 --> 02:43:39,449
to be putting position of being forced

3405
02:43:36,300 --> 02:43:41,039
to join an organization to represent a

3406
02:43:39,449 --> 02:43:44,430
man that I've been representing

3407
02:43:41,039 --> 02:43:46,850
heretofore and you can ask the authors

3408
02:43:44,430 --> 02:43:49,649
of this bill you ask them if the

3409
02:43:46,850 --> 02:43:52,529
individual who wants to hire an attorney

3410
02:43:49,649 --> 02:43:55,199
under this group policy and he cannot

3411
02:43:52,529 --> 02:43:56,909
hire an attorney of his choice or if he

3412
02:43:55,199 --> 02:44:00,180
can hire an attorney of his choice on

3413
02:43:56,909 --> 02:44:02,880
the list that they provided now I'm not

3414
02:44:00,180 --> 02:44:08,090
going to kid you this amendment makes

3415
02:44:02,880 --> 02:44:10,529
some Corrections but it does not correct

3416

02:44:08,090 --> 02:44:13,979

it does not correct

3417

02:44:10,529 --> 02:44:16,319

the freedom of choice aspect now I would

3418

02:44:13,979 --> 02:44:18,449

be for this bill I am I am for one thing

3419

02:44:16,319 --> 02:44:21,329

Blue Cross Blue Shield is a great idea

3420

02:44:18,449 --> 02:44:23,100

this is based on the same principle but

3421

02:44:21,329 --> 02:44:24,119

on Blue Cross Blue Shield you can go to

3422

02:44:23,100 --> 02:44:27,359

the doctor of your choice

3423

02:44:24,119 --> 02:44:29,340

under this bill you cannot go to the

3424

02:44:27,359 --> 02:44:31,439

attorney of your choice now that ain't

3425

02:44:29,340 --> 02:44:33,300

right I don't care how you cut it it

3426

02:44:31,439 --> 02:44:37,319

didn't right for the lawyers and then

3427

02:44:33,300 --> 02:44:41,909

right for the worker now go one step

3428

02:44:37,319 --> 02:44:44,369

further and this is primary to lawyers

3429

02:44:41,909 --> 02:44:52,340

but I can speak to any of you because

3430
02:44:44,369 --> 02:44:52,340
each one of you now

3431
02:44:52,471 --> 02:44:59,561
let me say this they passed out been

3432
02:44:56,561 --> 02:45:01,960
passed out a schedule of legal service

3433
02:44:59,561 --> 02:45:03,971
benefits I'm primarily talking to

3434
02:45:01,960 --> 02:45:05,920
lawyers but I'll talk to anybody in here

3435
02:45:03,971 --> 02:45:08,021
who charges a fee for their service

3436
02:45:05,920 --> 02:45:13,721
whatever their profession one of the

3437
02:45:08,021 --> 02:45:15,670
examples is a lawyer can receive \$30 for

3438
02:45:13,721 --> 02:45:25,300
going and representing a client in front

3439
02:45:15,670 --> 02:45:27,460
of the City Council for a change the

3440
02:45:25,300 --> 02:45:28,750
yield is toasting back out I'm gonna

3441
02:45:27,460 --> 02:45:30,851
yield to mr. Clark first they don't

3442
02:45:28,750 --> 02:45:32,471
yield mr. Pires don't mr. Gailey name

3443

02:45:30,851 --> 02:45:33,431
would you just tell the house who today

3444
02:45:32,471 --> 02:45:36,190
is mr. halston

3445
02:45:33,431 --> 02:45:39,070
yes this was this particular schedule of

3446
02:45:36,190 --> 02:45:41,530
legal service benefits as I understand

3447
02:45:39,070 --> 02:45:44,110
it was submitted by one of the insurance

3448
02:45:41,530 --> 02:45:47,530
companies I believe in the name of it

3449
02:45:44,110 --> 02:45:50,050
was you know Mart and it's just a

3450
02:45:47,530 --> 02:45:52,630
schedule of legal service benefits and

3451
02:45:50,050 --> 02:45:56,320
it provides a schedule for for all sorts

3452
02:45:52,630 --> 02:45:58,540
of all sorts of legal work mr. picker

3453
02:45:56,320 --> 02:46:00,370
well gentleman um you know mr. Clark

3454
02:45:58,540 --> 02:46:02,891
General Mills much Clark being a label

3455
02:46:00,370 --> 02:46:04,210
not being a lawyer what it for yeah in

3456
02:46:02,891 --> 02:46:06,851
other words you're forcing my lawyer

3457
02:46:04,210 --> 02:46:09,130
you're forcing my lawyer to join this

3458
02:46:06,851 --> 02:46:13,360
association say for instance I went to

3459
02:46:09,130 --> 02:46:14,471
him for legal service and he said well I

3460
02:46:13,360 --> 02:46:16,510
can't do it

3461
02:46:14,471 --> 02:46:19,000
you know because I don't belong to that

3462
02:46:16,510 --> 02:46:21,431
particular Association Jim you hit you

3463
02:46:19,000 --> 02:46:23,021
hit it just right our Lord see you I

3464
02:46:21,431 --> 02:46:25,931
have been representing you for five

3465
02:46:23,021 --> 02:46:28,300
years and as your your company that you

3466
02:46:25,931 --> 02:46:30,760
work for and they join this group

3467
02:46:28,300 --> 02:46:32,170
prepaid legal services and you went in

3468
02:46:30,760 --> 02:46:34,000
there and you wanted something done you

3469
02:46:32,170 --> 02:46:36,971
say I want my lawyer to do it and

3470

02:46:34,000 --> 02:46:38,351
they'll say well your lawyer can do it

3471
02:46:36,971 --> 02:46:40,480
but it won't be covered by this

3472
02:46:38,351 --> 02:46:42,670
insurance policy unless he comes in and

3473
02:46:40,480 --> 02:46:44,290
joins this group well how long yes how

3474
02:46:42,670 --> 02:46:46,330
long would it take him to John it say

3475
02:46:44,290 --> 02:46:48,580
for instance we had a problem coming up

3476
02:46:46,330 --> 02:46:50,710
and I needed the services of some lawyer

3477
02:46:48,580 --> 02:46:52,540
and so forth and he said well you know

3478
02:46:50,710 --> 02:46:54,521
when it takes a week six weeks or six

3479
02:46:52,540 --> 02:46:56,950
months for him to to get on the on the

3480
02:46:54,521 --> 02:46:59,229
list and the only time I'm sitting there

3481
02:46:56,950 --> 02:47:02,110
and on the bylaws and the policy of each

3482
02:46:59,229 --> 02:47:04,030
individual group that's farmed some it

3483
02:47:02,110 --> 02:47:06,610
could be so immediately some it may be

3484
02:47:04,030 --> 02:47:09,010
six months it would depend on the bylaws

3485
02:47:06,610 --> 02:47:12,130
of the group that the individual group

3486
02:47:09,010 --> 02:47:14,470
that's formed but in other words it does

3487
02:47:12,130 --> 02:47:16,800
away with it was little control you know

3488
02:47:14,470 --> 02:47:19,689
there any kind of all we've been here

3489
02:47:16,800 --> 02:47:21,280
Jim you and I both know that you want to

3490
02:47:19,689 --> 02:47:23,110
go to the lawyer charge the doctor of

3491
02:47:21,280 --> 02:47:25,150
your choice and it doesn't wait with

3492
02:47:23,110 --> 02:47:27,220
that right just that supplement and

3493
02:47:25,150 --> 02:47:28,870
they'll they'll open the door up and say

3494
02:47:27,220 --> 02:47:30,610
you can go to any lawyer you want to it

3495
02:47:28,870 --> 02:47:31,960
he's covered over this policy I'll be

3496
02:47:30,610 --> 02:47:33,880
the first one to get up here and hold

3497

02:47:31,960 --> 02:47:35,800
Foxx hands and days hands and I'll be

3498
02:47:33,880 --> 02:47:36,880
with them but I think it's gonna provide

3499
02:47:35,800 --> 02:47:38,950
a service but the way they're going

3500
02:47:36,880 --> 02:47:41,620
about it's wrong and in the final answer

3501
02:47:38,950 --> 02:47:43,840
then final question is it creates a kind

3502
02:47:41,620 --> 02:47:48,280
of a closed shop within a closed shop is

3503
02:47:43,840 --> 02:47:49,930
that right well that's right but what it

3504
02:47:48,280 --> 02:47:51,550
does it just sets it up for the big boy

3505
02:47:49,930 --> 02:47:52,540
and eat up the little boy mr. speaker

3506
02:47:51,550 --> 02:47:55,180
will the gentleman yield

3507
02:47:52,540 --> 02:47:56,380
yaws back geminians Mexico Sam they're

3508
02:47:55,180 --> 02:47:58,060
toast mark I was looking at

3509
02:47:56,380 --> 02:48:02,260
representative grants amendment which

3510
02:47:58,060 --> 02:48:04,720
provides it that such insurer must agree

3511
02:48:02,260 --> 02:48:06,130
to contract with any attorney licensed

3512
02:48:04,720 --> 02:48:10,570
by the Supreme Court to practice law in

3513
02:48:06,130 --> 02:48:13,000
Texas and then I read on on page 5 of

3514
02:48:10,570 --> 02:48:15,340
the bill article 23 point O three

3515
02:48:13,000 --> 02:48:17,470
attorneys under contract says each

3516
02:48:15,340 --> 02:48:19,540
corporation complying with the

3517
02:48:17,470 --> 02:48:22,120
requirements of this chapter before

3518
02:48:19,540 --> 02:48:25,300
issuing any contract for prepaid legal

3519
02:48:22,120 --> 02:48:28,180
services shall have and so long as it

3520
02:48:25,300 --> 02:48:31,180
issue such contracts maintain such

3521
02:48:28,180 --> 02:48:33,790
number of contracting attorneys as is

3522
02:48:31,180 --> 02:48:36,400
sufficient in the determination of the

3523
02:48:33,790 --> 02:48:39,040
state board of insurance to service the

3524

02:48:36,400 --> 02:48:41,380
participant contracts contemplated by

3525
02:48:39,040 --> 02:48:44,050
the corporation's plan of operation now

3526
02:48:41,380 --> 02:48:46,540
according to the bill aside from grants

3527
02:48:44,050 --> 02:48:49,180
amendment if the State Board of

3528
02:48:46,540 --> 02:48:51,220
Insurance determines that it only takes

3529
02:48:49,180 --> 02:48:53,260
four lawyers to provide the services

3530
02:48:51,220 --> 02:48:55,840
that this corporation is obligated

3531
02:48:53,260 --> 02:48:57,580
itself to provide that corporation would

3532
02:48:55,840 --> 02:49:00,250
be well within its rights and telling

3533
02:48:57,580 --> 02:49:02,560
its participants I'm sorry but we can't

3534
02:49:00,250 --> 02:49:04,540
take the lawyer that you prefer despite

3535
02:49:02,560 --> 02:49:06,550
the fact that in the one hand were

3536
02:49:04,540 --> 02:49:08,020
obligated to contract with him on the

3537
02:49:06,550 --> 02:49:09,521
other hand the State Board of Insurance

3538
02:49:08,020 --> 02:49:11,351
says then we have enough

3539
02:49:09,521 --> 02:49:13,381
I used to take care of that now don't

3540
02:49:11,351 --> 02:49:17,320
you consider out a dangerous situation

3541
02:49:13,381 --> 02:49:19,330
it's gasoline that's let's take what Ben

3542
02:49:17,320 --> 02:49:21,341
Brown said you know and and you know

3543
02:49:19,330 --> 02:49:22,931
Matt and I know that you and I aren't

3544
02:49:21,341 --> 02:49:25,990
the type of lawyers it's gonna be one of

3545
02:49:22,931 --> 02:49:27,851
them for lawyers I believe I believe

3546
02:49:25,990 --> 02:49:29,650
you're right and I don't know whether

3547
02:49:27,851 --> 02:49:32,171
I'd want to work for seven non-lawyers

3548
02:49:29,650 --> 02:49:34,780
who go in and know nothing about law and

3549
02:49:32,171 --> 02:49:37,360
create a corporation and hire lawyers to

3550
02:49:34,780 --> 02:49:40,030
provide services for insurance but let's

3551

02:49:37,360 --> 02:49:42,311
go one step further Ben Grant says that

3552
02:49:40,030 --> 02:49:44,740
he and I could participate under the

3553
02:49:42,311 --> 02:49:46,751
plan of a client walk in and harness all

3554
02:49:44,740 --> 02:49:48,461
we had to do was just contact the

3555
02:49:46,751 --> 02:49:50,801
insurer and tell them we wanted to

3556
02:49:48,461 --> 02:49:52,811
participate how many of your clients

3557
02:49:50,801 --> 02:49:55,450
come in do you miss no instant mark and

3558
02:49:52,811 --> 02:49:57,641
say I have a legal problem but it's not

3559
02:49:55,450 --> 02:49:59,771
an emergency and I can wait two or three

3560
02:49:57,641 --> 02:50:02,230
weeks or a month or six months for you

3561
02:49:59,771 --> 02:50:04,330
to qualify if you don't belong Matt you

3562
02:50:02,230 --> 02:50:06,131
and I both know that to our clients it's

3563
02:50:04,330 --> 02:50:09,011
an emergency to them when they walk in

3564
02:50:06,131 --> 02:50:10,931
that office 80% of my clients John walk

3565
02:50:09,011 --> 02:50:13,631
in after the horse is out of the corral

3566
02:50:10,931 --> 02:50:13,961
and say get him back and then set it

3567
02:50:13,631 --> 02:50:16,211
straight

3568
02:50:13,961 --> 02:50:18,160
we've got your situation let me make one

3569
02:50:16,211 --> 02:50:20,320
more point Matt that you really brought

3570
02:50:18,160 --> 02:50:22,360
up what's going to happen when your

3571
02:50:20,320 --> 02:50:24,851
client in my client who works out here

3572
02:50:22,360 --> 02:50:27,070
for the industrial plant walks in and

3573
02:50:24,851 --> 02:50:32,341
the insurance office says you can't go

3574
02:50:27,070 --> 02:50:36,370
to the gentleman's time has expired

3575
02:50:32,341 --> 02:50:38,110
extend sustained move to extend mr.

3576
02:50:36,370 --> 02:50:40,171
Garcia moves at the gentleman's time be

3577
02:50:38,110 --> 02:50:42,641
extended is there objection

3578

02:50:40,171 --> 02:50:45,160
okay all those in favor of the extension

3579
02:50:42,641 --> 02:50:48,001
a time ago tie all those opposed vote no

3580
02:50:45,160 --> 02:50:48,001
its division vote

3581
02:50:53,700 --> 02:50:56,700
loser

3582
02:51:03,380 --> 02:51:08,300
hold on all members voted

3583
02:51:24,779 --> 02:51:29,359
so much marketing no mess people

3584
02:51:26,850 --> 02:51:29,359
televoting know

3585
02:51:41,709 --> 02:51:46,090
they're being paid to six eyes and 51

3586
02:51:44,079 --> 02:51:49,829
node1 prison not voting the gentleman's

3587
02:51:46,090 --> 02:51:52,630
time is extended I'll be very brief

3588
02:51:49,829 --> 02:51:55,539
about the plan mr. lile let me tell you

3589
02:51:52,630 --> 02:51:58,329
about the plan okay now all of you that

3590
02:51:55,539 --> 02:52:00,550
are lawyers know what is going to happen

3591
02:51:58,329 --> 02:52:02,409
your client who you've had for five

3592
02:52:00,550 --> 02:52:04,390
years is going to walk into the business

3593
02:52:02,409 --> 02:52:06,010
office of the insurance company and he's

3594
02:52:04,390 --> 02:52:07,869
going to say I want to draw up a will

3595
02:52:06,010 --> 02:52:09,939
will it be covered now so why sure

3596
02:52:07,869 --> 02:52:12,159
they'll say I want to host him back to

3597
02:52:09,939 --> 02:52:15,279
do it and they'll say well I'll host him

3598
02:52:12,159 --> 02:52:17,770
back in on our approved list what we got

3599
02:52:15,279 --> 02:52:19,630
five here that'll do you one fine job

3600
02:52:17,770 --> 02:52:20,979
and we'll pay for it now what do you

3601
02:52:19,630 --> 02:52:22,810
think's gonna happen you think he's

3602
02:52:20,979 --> 02:52:25,060
gonna call me up won't my it's

3603
02:52:22,810 --> 02:52:26,859
automatically gonna make him think I'm a

3604
02:52:25,060 --> 02:52:29,409
bad lawyer because I ain't only supreme

3605

02:52:26,859 --> 02:52:31,270
list they'll be an man that's right let

3606
02:52:29,409 --> 02:52:33,010
me ask you this question you know one of

3607
02:52:31,270 --> 02:52:35,739
the greatest problems that we have is

3608
02:52:33,010 --> 02:52:37,300
the matter of setting and collecting a

3609
02:52:35,739 --> 02:52:39,819
reasonable fee to be charged for

3610
02:52:37,300 --> 02:52:41,499
services rendered you've got a minimum

3611
02:52:39,819 --> 02:52:44,499
fee schedule that's set up by the State

3612
02:52:41,499 --> 02:52:46,959
Bar of Texas what is going to happen

3613
02:52:44,499 --> 02:52:49,749
what is going to happen when these seven

3614
02:52:46,959 --> 02:52:51,760
non-lawyers set up this corporation and

3615
02:52:49,749 --> 02:52:54,010
hire themselves a bunch of lawyers to

3616
02:52:51,760 --> 02:52:55,689
handle this business who is going to set

3617
02:52:54,010 --> 02:52:57,340
the fees for these people who come in

3618
02:52:55,689 --> 02:52:59,430
well you know who's going to set it that

3619
02:52:57,340 --> 02:53:02,050
Insurance Group it's sitting right there

3620
02:52:59,430 --> 02:53:04,600
do you think that a situation such as

3621
02:53:02,050 --> 02:53:07,029
Blue Cross Blue Shield has is good where

3622
02:53:04,600 --> 02:53:09,069
a person buys insurance they select the

3623
02:53:07,029 --> 02:53:10,749
lawyer that they want the lawyer would

3624
02:53:09,069 --> 02:53:13,449
submit the bill to the insurance company

3625
02:53:10,749 --> 02:53:15,279
and if it's reasonable and necessary the

3626
02:53:13,449 --> 02:53:16,630
insurance company would pay it you see

3627
02:53:15,279 --> 02:53:18,520
anything wrong with that if it was like

3628
02:53:16,630 --> 02:53:20,890
Blue Cross Blue Shield I'd be up here

3629
02:53:18,520 --> 02:53:22,689
fighting for this bill but it ain't the

3630
02:53:20,890 --> 02:53:29,890
problem thank you very much thank you

3631
02:53:22,689 --> 02:53:32,800
mr. Garcia that's all the way mr.

3632

02:53:29,890 --> 02:53:34,209
Holsten back as a practical matter you

3633
02:53:32,800 --> 02:53:35,619
said it's something very important

3634
02:53:34,209 --> 02:53:40,209
moment ago and I want to ask you this

3635
02:53:35,619 --> 02:53:43,659
question really isn't it true that if if

3636
02:53:40,209 --> 02:53:47,949
an individual has insurance under this

3637
02:53:43,659 --> 02:53:51,489
bill and he perhaps wants a divorce or a

3638
02:53:47,949 --> 02:53:53,350
will he find out that you're not on the

3639
02:53:51,489 --> 02:53:55,600
list

3640
02:53:53,350 --> 02:53:57,640
that he's not going to wait five or six

3641
02:53:55,600 --> 02:54:00,100
weeks while you go qualify to get on

3642
02:53:57,640 --> 02:54:02,590
this list no way no way

3643
02:54:00,100 --> 02:54:04,630
actually this bill I don't at you if you

3644
02:54:02,590 --> 02:54:07,300
don't think a proper title for this bill

3645
02:54:04,630 --> 02:54:10,300
would be the big law firms monopoly law

3646
02:54:07,300 --> 02:54:12,880
practice Act of 1975 I think it fits

3647
02:54:10,300 --> 02:54:16,119
pretty good mr. speaker with a gentleman

3648
02:54:12,880 --> 02:54:21,040
yield for myself I reluctantly gentleman

3649
02:54:16,119 --> 02:54:26,050
to go well mr. Holsten back is it true

3650
02:54:21,040 --> 02:54:29,830
that this amendment embodies both the

3651
02:54:26,050 --> 02:54:32,470
concepts of free enterprise and freedom

3652
02:54:29,830 --> 02:54:33,939
of choice if it embodied freedom of

3653
02:54:32,470 --> 02:54:36,279
choice I'd be out here fighting for the

3654
02:54:33,939 --> 02:54:38,380
bill but it doesn't well I mean the

3655
02:54:36,279 --> 02:54:40,510
individual has with this amendment he

3656
02:54:38,380 --> 02:54:43,300
would have the choice if it did I would

3657
02:54:40,510 --> 02:54:46,000
be for the bill he does a spine don't

3658
02:54:43,300 --> 02:54:49,420
ask me it does not give freedom of

3659

02:54:46,000 --> 02:54:51,159
choice know I'm talking about the

3660
02:54:49,420 --> 02:54:53,350
amendment not the bill I'm talking about

3661
02:54:51,159 --> 02:54:55,449
the amendment if it gave freedom what if

3662
02:54:53,350 --> 02:54:57,010
it the amendments been adopted and if it

3663
02:54:55,449 --> 02:55:02,949
gave freedom of choice I'd be up here

3664
02:54:57,010 --> 02:55:06,239
fighting for the bill they don't Mr

3665
02:55:02,949 --> 02:55:06,239
Speaker I move the table

3666
02:55:14,601 --> 02:55:17,380
yeah we're

3667
02:55:17,830 --> 02:55:25,810
bell tolling back moves stable to build

3668
02:55:20,510 --> 02:55:28,189
mr. powers to close mr. speaker members

3669
02:55:25,810 --> 02:55:32,510
let me have your attention for just a

3670
02:55:28,189 --> 02:55:33,710
minute mr. speaker there are just a

3671
02:55:32,510 --> 02:55:36,850
minute mr. Penney we need to get a

3672
02:55:33,710 --> 02:55:36,850
little better order before we proceed

3673
02:56:01,220 --> 02:56:04,359
there is no

3674
02:56:05,920 --> 02:56:24,250
Jerris and the president announced the

3675
02:56:07,810 --> 02:56:25,659
following Senate bill 471 members will

3676
02:56:24,250 --> 02:56:48,010
proceed with the made when we have

3677
02:56:25,659 --> 02:56:49,449
better order on the floor members we

3678
02:56:48,010 --> 02:56:51,130
have several committees who have

3679
02:56:49,449 --> 02:56:53,620
important meetings this afternoon but

3680
02:56:51,130 --> 02:56:56,460
we're not going to proceed here until we

3681
02:56:53,620 --> 02:56:56,460
have order on the floor

3682
02:57:18,740 --> 02:57:22,040
miss bigger

3683
02:57:22,170 --> 02:57:25,860
just a minute mr. penny

3684
02:57:36,479 --> 02:57:42,350
mr. powers you may proceed mr. speaker

3685
02:57:39,600 --> 02:57:45,030
mr. penny gentleman yield yo mr. powers

3686

02:57:42,350 --> 02:57:48,090
Hillman yields mr. penny mr. powers

3687
02:57:45,030 --> 02:57:49,979
there's been a lot of a lot of things

3688
02:57:48,090 --> 02:57:51,570
said about this bill I'm hearing it all

3689
02:57:49,979 --> 02:57:53,610
around a lot of whispering going on up

3690
02:57:51,570 --> 02:57:56,280
here and around all the way please

3691
02:57:53,610 --> 02:57:58,320
now as a prank it isn't the law in Texas

3692
02:57:56,280 --> 02:58:01,680
now in their case the Supreme Court case

3693
02:57:58,320 --> 02:58:05,340
it says that if a insurance company

3694
02:58:01,680 --> 02:58:06,780
tries to direct its its policyholder to

3695
02:58:05,340 --> 02:58:08,970
go to a certain hospital that's a

3696
02:58:06,780 --> 02:58:12,270
violation antitrust laws of that right

3697
02:58:08,970 --> 02:58:14,760
so in other words there's no way no way

3698
02:58:12,270 --> 02:58:16,860
an insurance company can tell anybody

3699
02:58:14,760 --> 02:58:18,840
that you got to go see lawyer a or

3700
02:58:16,860 --> 02:58:20,430
lawyer B or lawyers see that that'd be a

3701
02:58:18,840 --> 02:58:21,540
violation antitrust laws of this state

3702
02:58:20,430 --> 02:58:23,310
right that's correct

3703
02:58:21,540 --> 02:58:24,660
all right now mr. grandey said the same

3704
02:58:23,310 --> 02:58:26,670
thing in his amendment made it

3705
02:58:24,660 --> 02:58:28,979
specifically plain in this amendment

3706
02:58:26,670 --> 02:58:30,510
that insurance company can't tell you

3707
02:58:28,979 --> 02:58:31,229
who to go see isn't that right that's

3708
02:58:30,510 --> 02:58:35,450
correct

3709
02:58:31,229 --> 02:58:37,560
all right Thank You mr. speaker members

3710
02:58:35,450 --> 02:58:39,330
could I have your attention just a

3711
02:58:37,560 --> 02:58:41,220
minute this is a very important piece of

3712
02:58:39,330 --> 02:58:43,860
legislation it's going to significantly

3713

02:58:41,220 --> 02:58:46,170
affect the rights and privileges of

3714
02:58:43,860 --> 02:58:48,390
people that you represent for a long

3715
02:58:46,170 --> 02:58:50,700
time to come I think it's a major step

3716
02:58:48,390 --> 02:58:53,010
forward now we've heard a lot in this

3717
02:58:50,700 --> 02:58:54,960
legislature from people like John

3718
02:58:53,010 --> 02:58:58,050
Houston back of the federal versus state

3719
02:58:54,960 --> 02:59:00,660
question today we're right to the brink

3720
02:58:58,050 --> 02:59:03,450
of the whole dilemma and that is that

3721
02:59:00,660 --> 02:59:06,030
the public the middle American is not

3722
02:59:03,450 --> 02:59:08,100
being delivered adequate legal service

3723
02:59:06,030 --> 02:59:09,840
the federal government through senator

3724
02:59:08,100 --> 02:59:12,150
Tunney in Washington has a complete

3725
02:59:09,840 --> 02:59:14,930
committee committee studying that very

3726
02:59:12,150 --> 02:59:14,930
thing right now

3727
02:59:15,590 --> 02:59:24,060
gentlemen you leave the rostrum yes sir

3728
02:59:21,330 --> 02:59:26,670
gentleman does not you but we're to the

3729
02:59:24,060 --> 02:59:28,920
the focus of the whole federal state

3730
02:59:26,670 --> 02:59:30,830
dilemma we're trying to reach the

3731
02:59:28,920 --> 02:59:33,360
question of delivery of legal services

3732
02:59:30,830 --> 02:59:35,910
right now the very rich can't afford

3733
02:59:33,360 --> 02:59:37,770
legal services the very poor or the

3734
02:59:35,910 --> 02:59:40,500
indigent have it provided for them in

3735
02:59:37,770 --> 02:59:42,990
some way on a usual basis in criminal

3736
02:59:40,500 --> 02:59:45,090
cases usually we're talking about the

3737
02:59:42,990 --> 02:59:48,701
great bulk of Americans who are either

3738
02:59:45,090 --> 02:59:50,801
frightened or scared about lawyers

3739
02:59:48,701 --> 02:59:52,811
or some other private problem of going

3740

02:59:50,801 --> 02:59:55,031
through a lawyer's office we're trying

3741
02:59:52,811 --> 02:59:56,980
to address that problem on a state level

3742
02:59:55,031 --> 02:59:59,501
before we have the federal government

3743
02:59:56,980 --> 03:00:01,211
tell us what we can do and not do so

3744
02:59:59,501 --> 03:00:03,011
that's one thing for you to think about

3745
03:00:01,211 --> 03:00:05,321
we're talking about people who have not

3746
03:00:03,011 --> 03:00:08,021
otherwise ever been dual office once in

3747
03:00:05,321 --> 03:00:10,061
their entire lifetime and some 60% of

3748
03:00:08,021 --> 03:00:11,051
them are more of Americans fall into

3749
03:00:10,061 --> 03:00:13,301
that category

3750
03:00:11,051 --> 03:00:16,511
this addressed some of the things raised

3751
03:00:13,301 --> 03:00:18,371
by mr. Austin bang he would have you

3752
03:00:16,511 --> 03:00:21,071
believe that an attorney cannot

3753
03:00:18,371 --> 03:00:22,751
participate in this program the language

3754
03:00:21,071 --> 03:00:24,730
ladies and gentlemen says that any

3755
03:00:22,751 --> 03:00:27,281
attorney licensed by the Supreme Court

3756
03:00:24,730 --> 03:00:33,541
this Rhaegar's law in this Texas David

3757
03:00:27,281 --> 03:00:33,541
you just met misfired he does not you is

3758
03:00:33,571 --> 03:00:38,651
that they must be allowed to participate

3759
03:00:36,101 --> 03:00:41,681
we've added you know last week we had

3760
03:00:38,651 --> 03:00:43,690
this same bill uh mr. halston back asked

3761
03:00:41,681 --> 03:00:45,281
that we postpone it we have a vote on it

3762
03:00:43,690 --> 03:00:47,171
so we could work during the week we have

3763
03:00:45,281 --> 03:00:49,391
offered an amendment to solve partitas

3764
03:00:47,171 --> 03:00:51,131
problems he's come back today and

3765
03:00:49,391 --> 03:00:53,861
essentially all he's told you is that

3766
03:00:51,131 --> 03:00:56,051
he's seen a fee plan this fee plan was

3767

03:00:53,861 --> 03:00:57,491
not put together by anybody that I first

3768
03:00:56,051 --> 03:00:59,471
time I saw was on the floor of the House

3769
03:00:57,491 --> 03:01:01,480
this afternoon he was not put together

3770
03:00:59,471 --> 03:01:03,521
by the State Bar anybody else that I

3771
03:01:01,480 --> 03:01:05,831
know of they did not authorize it or

3772
03:01:03,521 --> 03:01:08,951
condone it I say to you it's simply

3773
03:01:05,831 --> 03:01:11,261
perhaps a sample of what some private

3774
03:01:08,951 --> 03:01:12,251
insurance company may bid for that's

3775
03:01:11,261 --> 03:01:14,621
their business

3776
03:01:12,251 --> 03:01:17,531
remember there is section 1 of this Act

3777
03:01:14,621 --> 03:01:21,281
which specifically allows groups of

3778
03:01:17,531 --> 03:01:23,351
people to contract with with any kind of

3779
03:01:21,281 --> 03:01:25,871
state bar plan and addressing myself to

3780
03:01:23,351 --> 03:01:27,521
mr. Garcia to say that there are only

3781
03:01:25,871 --> 03:01:30,791
four attorneys who would serve statewide

3782
03:01:27,521 --> 03:01:33,791
is ludicrous under the other provision

3783
03:01:30,791 --> 03:01:35,141
of the bill in 23 11 and 12 an attorney

3784
03:01:33,791 --> 03:01:36,730
must be able to get in

3785
03:01:35,141 --> 03:01:38,681
in other words perhaps the State Board

3786
03:01:36,730 --> 03:01:41,741
of Insurance can't review it but they

3787
03:01:38,681 --> 03:01:44,201
can't keep him out I simply asked to you

3788
03:01:41,741 --> 03:01:47,381
that you think about the fact that this

3789
03:01:44,201 --> 03:01:49,211
is something that is not emotional we're

3790
03:01:47,381 --> 03:01:52,331
talking about providing legal services

3791
03:01:49,211 --> 03:01:55,361
for people in a lawyer's office who have

3792
03:01:52,331 --> 03:01:57,281
never had it before this will do more

3793
03:01:55,361 --> 03:02:00,021
for people who want to see John Houston

3794

03:01:57,281 --> 03:02:07,580
back in Odessa Texas and has ever been

3795
03:02:00,021 --> 03:02:09,771
before I ask that you ignored please the

3796
03:02:07,580 --> 03:02:12,500
emotional arguments made from this front

3797
03:02:09,771 --> 03:02:15,500
microphone surely I think in seriousness

3798
03:02:12,500 --> 03:02:17,540
by mr. Houston back but but not

3799
03:02:15,500 --> 03:02:20,540
intellectually honest in the sense that

3800
03:02:17,540 --> 03:02:22,340
it lends to solicitation it does not

3801
03:02:20,540 --> 03:02:24,471
lend the solicitation we're talking

3802
03:02:22,340 --> 03:02:26,931
about getting services to people who

3803
03:02:24,471 --> 03:02:28,010
have not had them before now that means

3804
03:02:26,931 --> 03:02:29,660
that there's going to be a lot more

3805
03:02:28,010 --> 03:02:31,040
discussion about it you're going to have

3806
03:02:29,660 --> 03:02:34,580
a lot more people involved in the

3807
03:02:31,040 --> 03:02:36,471
process if you discuss anything perhaps

3808
03:02:34,580 --> 03:02:38,811
you have more knowledge but it doesn't

3809
03:02:36,471 --> 03:02:40,641
lend to solicitation there's nothing in

3810
03:02:38,811 --> 03:02:45,891
this bill that's going to advocate

3811
03:02:40,641 --> 03:02:47,900
condone or in any way encourage a

3812
03:02:45,891 --> 03:02:49,690
violation of the canons of ethics the

3813
03:02:47,900 --> 03:02:52,880
Disciplinary rules that lawyers undergo

3814
03:02:49,690 --> 03:02:56,360
mr. Baker I think one is talking back to

3815
03:02:52,880 --> 03:03:00,650
mr. mr. Houston bag the bill does not

3816
03:02:56,360 --> 03:03:02,570
prohibit an open panel now an open panel

3817
03:03:00,650 --> 03:03:04,971
means that as mr. Houston back said a

3818
03:03:02,570 --> 03:03:06,650
complete freedom of choice I could stand

3819
03:03:04,971 --> 03:03:08,420
up here at this front microphone and

3820
03:03:06,650 --> 03:03:10,431
speak to the lawyers or any of you in

3821

03:03:08,420 --> 03:03:13,250
this audience for hours about the

3822
03:03:10,431 --> 03:03:15,141
Goldfarb case which was only argued last

3823
03:03:13,250 --> 03:03:17,510
week or so in the United States Supreme

3824
03:03:15,141 --> 03:03:19,730
Court and mr. Garcia is asked about

3825
03:03:17,510 --> 03:03:22,221
minimum fee schedules and the

3826
03:03:19,730 --> 03:03:24,200
reasonableness of that situation now I

3827
03:03:22,221 --> 03:03:26,090
ask you to consider this that the

3828
03:03:24,200 --> 03:03:27,650
Justice Department the United States has

3829
03:03:26,090 --> 03:03:29,510
currently got all of those things under

3830
03:03:27,650 --> 03:03:32,120
investigation they're the people who

3831
03:03:29,510 --> 03:03:34,190
sued along with the Goldfarb's in that

3832
03:03:32,120 --> 03:03:35,540
case that is going up the US Supreme

3833
03:03:34,190 --> 03:03:37,580
Court and they're determining whether or

3834
03:03:35,540 --> 03:03:39,650
not minimum fee schedules are telling

3835
03:03:37,580 --> 03:03:41,780
anybody what he can do is a violation of

3836
03:03:39,650 --> 03:03:45,200
restraint of trade so we've tried to

3837
03:03:41,780 --> 03:03:47,660
draft a bill that provides BlueCross

3838
03:03:45,200 --> 03:03:49,431
type legal services to people who have

3839
03:03:47,660 --> 03:03:51,351
never gotten them before but that

3840
03:03:49,431 --> 03:03:52,700
doesn't violate either state or federal

3841
03:03:51,351 --> 03:03:55,610
antitrust laws

3842
03:03:52,700 --> 03:03:58,820
it doesn't mandate closed it doesn't

3843
03:03:55,610 --> 03:04:00,771
mandate open any lawyer can join I just

3844
03:03:58,820 --> 03:04:02,540
simply think that it meets all the

3845
03:04:00,771 --> 03:04:05,391
problems that mr. Houston back is raised

3846
03:04:02,540 --> 03:04:08,360
I urge you to consider it on what it

3847
03:04:05,391 --> 03:04:11,221
does do rather than some emotional

3848

03:04:08,360 --> 03:04:12,990
argument that it it says you can't go to

3849
03:04:11,221 --> 03:04:15,421
of your choice because as a practical

3850
03:04:12,990 --> 03:04:17,521
matter everybody who lives in your block

3851
03:04:15,421 --> 03:04:19,080
can form a voluntary association and do

3852
03:04:17,521 --> 03:04:21,990
whatever they want to there's no

3853
03:04:19,080 --> 03:04:25,500
restriction on them under this bill mr.

3854
03:04:21,990 --> 03:04:29,490
picker will heal now by the way just one

3855
03:04:25,500 --> 03:04:32,671
minute mr. house back mr. yang has moved

3856
03:04:29,490 --> 03:04:34,141
to table this bill in its entirety so

3857
03:04:32,671 --> 03:04:36,690
I'm going to ask you in a minute I want

3858
03:04:34,141 --> 03:04:38,490
to remind you twice to if you want to

3859
03:04:36,690 --> 03:04:40,051
vote for the bill you need to vote no on

3860
03:04:38,490 --> 03:04:41,790
the motion to table in just a minute

3861
03:04:40,051 --> 03:04:44,610
because some of you are not aware that

3862
03:04:41,790 --> 03:04:45,900
he made a motion to table I'll yield to

3863
03:04:44,610 --> 03:04:50,131
mr. halston bang just tossed back

3864
03:04:45,900 --> 03:04:52,431
gentleman yield now mr. Pires you talked

3865
03:04:50,131 --> 03:04:57,631
about not being intellectually honest

3866
03:04:52,431 --> 03:05:01,891
being emotional now let's just lay the

3867
03:04:57,631 --> 03:05:05,250
dice right out on the table now answer

3868
03:05:01,891 --> 03:05:06,931
the house I'd I just amendment toasting

3869
03:05:05,250 --> 03:05:08,370
back mr. grants for a point of order at

3870
03:05:06,931 --> 03:05:11,490
the gentleman's time has expired

3871
03:05:08,370 --> 03:05:12,870
the point is well-taken insisting I move

3872
03:05:11,490 --> 03:05:13,830
to extend in light of the fact they

3873
03:05:12,870 --> 03:05:15,540
don't want to have to answer this

3874
03:05:13,830 --> 03:05:19,230
question mr. get back to you requesting

3875

03:05:15,540 --> 03:05:20,671
motion to extend yes posting back is

3876
03:05:19,230 --> 03:05:21,750
asked to extend the gentleman's time is

3877
03:05:20,671 --> 03:05:23,940
there objection

3878
03:05:21,750 --> 03:05:26,330
all right there is objection members

3879
03:05:23,940 --> 03:05:28,230
vote I vote no the non-record vote

3880
03:05:26,330 --> 03:05:33,650
questions whether or not the gentleman's

3881
03:05:28,230 --> 03:05:33,650
time should be extended turn on machine

3882
03:05:40,190 --> 03:05:48,001
instructor machines the gentleman's time

3883
03:05:42,150 --> 03:05:50,431
is not extended the motion fails mesh

3884
03:05:48,001 --> 03:05:52,351
paper members part miss toasting back is

3885
03:05:50,431 --> 03:05:54,891
your vote again vote I vote thank you

3886
03:05:52,351 --> 03:05:54,891
thank you

3887
03:05:55,791 --> 03:06:00,200
saintly Oh an extension mr. Finney

3888
03:06:00,291 --> 03:06:06,681
distract the board the gentleman's time

3889
03:06:02,431 --> 03:06:06,681
is extended mr. powers you may continue

3890
03:06:09,771 --> 03:06:14,160
welcome back to the Johnny Pike show now

3891
03:06:12,360 --> 03:06:17,160
now let's just lay the cards on the

3892
03:06:14,160 --> 03:06:21,150
table Pike all right John it's what I

3893
03:06:17,160 --> 03:06:22,980
told the house just just tell the house

3894
03:06:21,150 --> 03:06:25,230
face up it's what I told him the truth

3895
03:06:22,980 --> 03:06:26,940
about the man who goes in and wants to

3896
03:06:25,230 --> 03:06:28,801
hire me in and I'm not in the group and

3897
03:06:26,940 --> 03:06:30,811
if I'm not in the group they will not

3898
03:06:28,801 --> 03:06:33,061
pay for it is that true or not well I

3899
03:06:30,811 --> 03:06:35,160
think you're assuming you know how

3900
03:06:33,061 --> 03:06:36,931
strict the group is John I think that's

3901
03:06:35,160 --> 03:06:39,841
where you've missed and I and I didn't

3902

03:06:36,931 --> 03:06:42,061
mean to my quick isn't it is it the

3903
03:06:39,841 --> 03:06:43,681
truth or not let's not talk around it is

3904
03:06:42,061 --> 03:06:44,820
it the truth wait a second which kind of

3905
03:06:43,681 --> 03:06:46,711
group are you talking about under

3906
03:06:44,820 --> 03:06:49,950
section 1 or section 2 we're going to

3907
03:06:46,711 --> 03:06:54,331
walk in to a group that is a group that

3908
03:06:49,950 --> 03:06:55,860
that only will let will only pay for the

3909
03:06:54,331 --> 03:06:57,721
lawyers that are a member of the group

3910
03:06:55,860 --> 03:06:59,851
you haven't you haven't told us whether

3911
03:06:57,721 --> 03:07:01,141
it's a private plan or a bar plan or

3912
03:06:59,851 --> 03:07:02,820
what can there's all kinds of

3913
03:07:01,141 --> 03:07:04,921
flexibility now mr. house back I will

3914
03:07:02,820 --> 03:07:07,980
say this perhaps you and I cannot

3915
03:07:04,921 --> 03:07:10,320
semantically talk on that level I will

3916
03:07:07,980 --> 03:07:12,181
say to you that I think that it's the

3917
03:07:10,320 --> 03:07:14,221
type of benefit that if you don't want

3918
03:07:12,181 --> 03:07:15,961
to participate in it obviously as a

3919
03:07:14,221 --> 03:07:17,671
member of the group you don't have to

3920
03:07:15,961 --> 03:07:19,950
you can go out and form the people on

3921
03:07:17,671 --> 03:07:23,091
your block and form a different group in

3922
03:07:19,950 --> 03:07:26,329
other words we've got all kinds of

3923
03:07:23,091 --> 03:07:28,770
question I'm gonna get up

3924
03:07:26,329 --> 03:07:30,029
they finish my question answer you're

3925
03:07:28,770 --> 03:07:31,829
not answering the question

3926
03:07:30,029 --> 03:07:35,249
you're talking around the question I'm

3927
03:07:31,829 --> 03:07:37,140
asking you straight on gentlemen members

3928
03:07:35,249 --> 03:07:38,760
of the house there have been several

3929

03:07:37,140 --> 03:07:41,100
requests during the day for better order

3930
03:07:38,760 --> 03:07:43,470
now at this stage of the day we're

3931
03:07:41,100 --> 03:07:45,420
getting to a point where it's difficult

3932
03:07:43,470 --> 03:07:46,739
to follow the debate and I'll ask the

3933
03:07:45,420 --> 03:07:49,470
members on both the front in the back

3934
03:07:46,739 --> 03:07:51,840
microphone also to try to keep their

3935
03:07:49,470 --> 03:07:54,329
debate limited to questions and answers

3936
03:07:51,840 --> 03:07:56,579
so the members might understand and I

3937
03:07:54,329 --> 03:07:58,770
urge you to try to follow the rules of

3938
03:07:56,579 --> 03:08:00,359
decorum and debate and let's get about

3939
03:07:58,770 --> 03:08:02,130
the business of the house mr. Hostin

3940
03:08:00,359 --> 03:08:03,569
back you might be more specific mr.

3941
03:08:02,130 --> 03:08:05,039
Pires so that we won't have any

3942
03:08:03,569 --> 03:08:07,439
misunderstanding let's talk about the

3943
03:08:05,039 --> 03:08:09,840
profit plan and I made the point before

3944
03:08:07,439 --> 03:08:11,670
the house that if a man came in and been

3945
03:08:09,840 --> 03:08:13,619
my client for five years and he was

3946
03:08:11,670 --> 03:08:16,079
under this plan and it was planned for

3947
03:08:13,619 --> 03:08:18,989
only those lawyers that were in the plan

3948
03:08:16,079 --> 03:08:20,909
would be eligible to receive a fee under

3949
03:08:18,989 --> 03:08:22,770
that insurance otherwise the man would

3950
03:08:20,909 --> 03:08:25,170
have to pay me out of his own pocket now

3951
03:08:22,770 --> 03:08:27,409
is that or is that not the truth under

3952
03:08:25,170 --> 03:08:29,369
this bill I don't think that's a correct

3953
03:08:27,409 --> 03:08:31,590
construct what you're going to say is

3954
03:08:29,369 --> 03:08:33,960
that I can come back and and I can join

3955
03:08:31,590 --> 03:08:35,579
a group if I want to to participate if I

3956

03:08:33,960 --> 03:08:36,960
can qualify in three weeks while this

3957
03:08:35,579 --> 03:08:38,579
man is trying to get a restraining order

3958
03:08:36,960 --> 03:08:41,520
assuming I want to join the group

3959
03:08:38,579 --> 03:08:43,770
well John you're assuming that the group

3960
03:08:41,520 --> 03:08:45,630
is mandatory that's that's the erroneous

3961
03:08:43,770 --> 03:08:47,579
assumption you're making there's all

3962
03:08:45,630 --> 03:08:50,100
kinds of flexibilities of the membership

3963
03:08:47,579 --> 03:08:51,659
of groups there are absolutely no end of

3964
03:08:50,100 --> 03:08:54,510
what kind of groups that can be formed

3965
03:08:51,659 --> 03:08:56,699
you can form one on your block in in

3966
03:08:54,510 --> 03:08:58,499
Ector County or you can form one of the

3967
03:08:56,699 --> 03:09:00,869
people that you go to church with on

3968
03:08:58,499 --> 03:09:03,659
Sunday anybody in the world can form a

3969
03:09:00,869 --> 03:09:05,970
group and you're you're you're already

3970
03:09:03,659 --> 03:09:08,039
conjuring up the fact that somebody's

3971
03:09:05,970 --> 03:09:09,930
going to have a closed panel situation

3972
03:09:08,039 --> 03:09:13,050
and that's why we added the amendment to

3973
03:09:09,930 --> 03:09:15,659
try to alleviate your concerns I agree

3974
03:09:13,050 --> 03:09:19,619
with you that that it does not mandate

3975
03:09:15,659 --> 03:09:22,380
either open nor closed completely either

3976
03:09:19,619 --> 03:09:24,720
way it allows it flexibility to operate

3977
03:09:22,380 --> 03:09:26,430
it allows the private companies to write

3978
03:09:24,720 --> 03:09:29,369
under Section 2 because they don't have

3979
03:09:26,430 --> 03:09:31,590
any actual risk experience as of now

3980
03:09:29,369 --> 03:09:33,479
nobody does it's a pilot project well

3981
03:09:31,590 --> 03:09:35,521
mr. Pires you and i have talked about

3982
03:09:33,479 --> 03:09:37,740
this at length in the

3983

03:09:35,521 --> 03:09:39,301
the man from the State Bar who's working

3984
03:09:37,740 --> 03:09:41,580
on this bill has talked about this at

3985
03:09:39,301 --> 03:09:44,730
length it's been explained to me clearly

3986
03:09:41,580 --> 03:09:47,160
that what I say is the truth now my

3987
03:09:44,730 --> 03:09:49,620
question is what is your objection other

3988
03:09:47,160 --> 03:09:51,480
than these so-called legal arguments

3989
03:09:49,620 --> 03:09:54,330
that you've been putting out why can't

3990
03:09:51,480 --> 03:09:56,400
we have a situation like BlueCross

3991
03:09:54,330 --> 03:09:59,221
BlueShield when a man gets hurt when a

3992
03:09:56,400 --> 03:10:02,280
man is hospitalized when a child or a

3993
03:09:59,221 --> 03:10:03,870
woman is hurt or hospitalized why can't

3994
03:10:02,280 --> 03:10:05,551
they go to the attorney of their choice

3995
03:10:03,870 --> 03:10:07,920
without all this legal rigmarole about

3996
03:10:05,551 --> 03:10:10,200
having to qualify for the plan having to

3997
03:10:07,920 --> 03:10:11,881
fit into the pea schedule why can't we

3998
03:10:10,200 --> 03:10:13,650
bill for our reasonable services why

3999
03:10:11,881 --> 03:10:15,811
can't it be a freedom of choice

4000
03:10:13,650 --> 03:10:18,450
situation why can't you have a bill like

4001
03:10:15,811 --> 03:10:20,910
that well John I think your bill doesn't

4002
03:10:18,450 --> 03:10:22,471
do that does it well yes it does you

4003
03:10:20,910 --> 03:10:25,500
just don't understand what the bill says

4004
03:10:22,471 --> 03:10:27,511
John I mean I can I can't understand why

4005
03:10:25,500 --> 03:10:30,150
if it did that you and I would have any

4006
03:10:27,511 --> 03:10:32,551
problem no I think that if you read the

4007
03:10:30,150 --> 03:10:34,681
button case and the Brotherhood of

4008
03:10:32,551 --> 03:10:36,960
railroad Trainmen case and the Goldfarb

4009
03:10:34,681 --> 03:10:39,301
case and try to understand mr. Houston

4010

03:10:36,960 --> 03:10:42,030
back the problems that we're facing in

4011
03:10:39,301 --> 03:10:45,150
the arena that lawyers as delivers of

4012
03:10:42,030 --> 03:10:47,311
legal services are in that we're in a

4013
03:10:45,150 --> 03:10:48,960
very viable vulnerable area and that's

4014
03:10:47,311 --> 03:10:50,190
exactly what senator Tony's talking

4015
03:10:48,960 --> 03:10:51,660
about in his delivery of legal services

4016
03:10:50,190 --> 03:10:53,341
committee of the House of

4017
03:10:51,660 --> 03:10:54,811
Representatives in Washington the

4018
03:10:53,341 --> 03:10:56,790
judiciary and that's what we're trying

4019
03:10:54,811 --> 03:10:59,101
to meet we're trying to deliver legal

4020
03:10:56,790 --> 03:11:01,261
services but not do it so that we make a

4021
03:10:59,101 --> 03:11:02,971
choice necessarily or mandatory we've

4022
03:11:01,261 --> 03:11:04,500
allowed it flexible mr. speaker with the

4023
03:11:02,971 --> 03:11:06,900
gentleman yield yes sir mr. president

4024
03:11:04,500 --> 03:11:08,790
Jim when you express represented powers

4025
03:11:06,900 --> 03:11:12,290
would you get a copy of the Grant

4026
03:11:08,790 --> 03:11:12,290
amendment I'd like to go over that we

4027
03:11:16,190 --> 03:11:22,140
yes sir okay you're saying they're an

4028
03:11:19,950 --> 03:11:24,330
insured operating under the requirements

4029
03:11:22,140 --> 03:11:26,730
of section 2 shall not contract itself

4030
03:11:24,330 --> 03:11:28,440
to practice law in any manner nor shall

4031
03:11:26,730 --> 03:11:30,750
it control or attempt to control

4032
03:11:28,440 --> 03:11:33,601
relations existing between the insured

4033
03:11:30,750 --> 03:11:35,550
and his her or her attorney now why

4034
03:11:33,601 --> 03:11:38,190
can't you put a period after attorney

4035
03:11:35,550 --> 03:11:42,720
there and leave out that but Clause in

4036
03:11:38,190 --> 03:11:45,570
there if you will do that if then let me

4037

03:11:42,720 --> 03:11:48,090
go further but the injured shall confine

4038
03:11:45,570 --> 03:11:51,420
its activities to contracting as an

4039
03:11:48,090 --> 03:11:54,540
agent on behalf of its insurance for

4040
03:11:51,420 --> 03:11:56,521
legal services to be rendered only by

4041
03:11:54,540 --> 03:11:58,940
and through attorneys with whom it

4042
03:11:56,521 --> 03:12:01,410
contracts now why should the insurance

4043
03:11:58,940 --> 03:12:03,630
company be put in a position of

4044
03:12:01,410 --> 03:12:07,400
contracting with any attorney their

4045
03:12:03,630 --> 03:12:07,400
contracting with their injured

4046
03:12:19,479 --> 03:12:21,539
you