

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — SECOND CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Monday, July 1, 2013)

In obedience to the Proclamation of the Honorable Rick Perry, Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 1st day of July, 2013, at 2:04 p.m. and was called to order by the Honorable David Dewhurst, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

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

Absent-excused: Deuell, Ellis, Nelson.

The President announced that a quorum of the Senate was present.

Patsy Spaw, Secretary of the Senate, offered the invocation as follows:

O holy Father, today we humbly come before You in great need of Your love and Your healing. We ask You to remove the hurt, the animosity, the pain, and the negativity from our hearts and from this Chamber. As we face the challenges of the session, we ask for Your strength and Your wisdom to proceed with civility and respect for one another. Remind us that we are truly a family and restore this Senate to the body we all love so much. Lord, You are our rock and our refuge, our comfort and our hope. We ask for Your blessing and favor in such a difficult time. Amen.

LEAVES OF ABSENCE

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

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

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

PROCLAMATION BY THE GOVERNOR

The following Proclamation by the Governor was read and was filed with the Secretary of the Senate:

PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article III, Section 5 and Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 83rd Legislature, to convene in the City of Austin, commencing at 2 p.m. on Monday, July 1, 2013, for the following purposes:

To consider legislation relating to the regulation of abortion procedures, providers, and facilities.

To consider legislation relating to the funding of transportation infrastructure projects.

To consider legislation relating to establishing a mandatory sentence of life with parole for a capital felony committed by a 17-year-old offender.

The Secretary of State will take notice of this action and will notify the members of the legislature of my action.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 26th day of June 2013.

(Seal)

/s/Rick Perry
Governor of Texas

Attested by:

/s/John Steen
Secretary of State

SENATE BILLS AND RESOLUTION ON FIRST READING

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

SB 1 by Hegar

Relating to the regulation of abortion procedures, providers, and facilities; providing penalties.

To Committee on Health and Human Services.

SB 2 by Huffman

Relating to the punishment for a capital felony committed by an individual younger than 18 years of age.

To Committee on Criminal Justice.

SJR 1 by Nichols

Proposing a constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund, to provide for the transfer of certain general revenue to the state highway fund and the dedication of that revenue, and to authorize the payment of the principal and interest on certain highway improvement bonds from certain general revenue transferred to the state highway fund.

To Committee on Finance.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Williams and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider **SJR 1** tomorrow.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Criminal Justice might meet and consider **SB 2** tomorrow.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Hinojosa was granted leave of absence for the remainder of the day on account of important business.

REMARKS ORDERED PRINTED

On motion of Senator Watson and by unanimous consent, the remarks between Senator Watson and the President were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator Watson, for what purpose do you rise, Sir?

Senator Watson: Parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: Thank you, Mr. President. Mr. President, as we begin this Second Called Session that does not have redistricting as part of the call, and since the Governor has signed SB 2, SB 3, and SB 4, the redistricting bills that were passed in the last special session, my parliamentary inquiry is, will we be following the Two-Thirds Rule during this session and a blocker bill be referred?

President: Senator, thank you for your question, but it's not my intent to refer a blocker bill.

Senator Watson: Parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: Have any plans been discussed with the Parliamentarian, Sergeant-at-Arms, or DPS, regarding their assistance in the enforcement of Article III, Rule 3.05, which deals with the applause, outbursts, or demonstrations, as we proceed with this session?

President: Yes.

Senator Watson: Parliamentary inquiry. Will extra DPS officers or staff be stationed in the gallery?

President: Yes.

Senator Watson: Parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: Is there a plan to remove people who attempt to speak up or demonstrate regardless of their position on any of the bills that may be heard?

President: Yes.

Senator Watson: So, that would apply regardless of the point of view of the person that is engaged in applause, outbursts, or demonstrations.

President: That is correct.

Senator Watson: Parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: Have there been any discussions regarding the access to the gallery during Senate sessions on the floor?

President: Senator Watson, both my office, Senator Eltife, and I have had conversations with the DPS on strict enforcement of decorum so that all the Members can hear the proceedings and we can move forward. It's my hope that all of our visitors to the Capitol will follow our requests for decorum. If they are unable to, then we would have to clear the gallery in order to proceed.

Senator Watson: Parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: Absent a violation of Rule 3.05, it's not the intention of the Chair to limit the number of people in the gallery, and it's to allow the gallery to remain open to all people who wish to attend as a spectator during the Senate sessions on the floor?

President: That is correct, Senator Watson. Both the Fire Marshal and the DPS have advised that, that the number of people in the gallery would be limited to the number of seats. But we have made available, we have made available, starting yesterday afternoon, the auditorium with the large screen for overflow, so people can watch, everyone who wants can watch the proceedings, both, A, in committee, B, on the floor.

Senator Watson: Thank you, Mr. President. Parliamentary inquiry.

President: State your inquiry.

Senator Watson: Has there been any discussion regarding access to WiFi in the Capitol or in the Senate Chamber?

President: Not that I'm aware of.

Senator Watson: So, it's not the, parliamentary inquiry, Mr. President.

President: State your inquiry.

Senator Watson: It's not the intention of the Chair, the President of the Senate, to limit or eliminate WiFi access or live streaming of any proceedings in the Senate Chamber?

President: That is correct.

Senator Watson: Thank you, Mr. President. Parliamentary inquiry.

President: State your inquiry.

Senator Watson: Under Rule 11.18(a), related to public hearings, it indicates that no bill may be reported to the Senate before it has been the subject of an open public hearing before a committee or subcommittee. It indicates notice must be given and then the Chair shall afford reasonable opportunity to interested parties to appear and testify at the hearing. My parliamentary inquiry is, given the heightened interest in at least one of the bills that has been referred today, when we speak of reasonable opportunity for interested parties to appear and testify, will this include a time limit on testimony?

President: Yes.

Senator Watson: And has the Chair determined what that time limit will be?

President: Senator Watson, I'm going to make a clarification because I answered in the affirmative knowing that what our past practice has been. That decision will be left up to the Chair of the committee and the Members of the committee.

Senator Watson: Thank you, Mr. President. Parliamentary inquiry.

President: State your inquiry.

Senator Watson: Has there been any determination made about a time limit on the length of the hearing?

President: I have not had a discussion with Senator Nelson, and I do not know her thoughts.

Senator Watson: Does, thank you, Mr. President. Parliamentary inquiry.

President: State your inquiry.

Senator Watson: Does, does the definition of "reasonable opportunity" include the capacity of the location of the hearing?

President: Senator Watson, I'm not quite sure where you're going with that, but—

Senator Watson: I'll be happy—

President: —what it means—

Senator Watson: —to clarify.

President: —what it means is, that a reasonable opportunity for any members of the public that so wish to have their views be known.

Senator Watson: Thank you, Mr. President. And I'll be happy to clarify. The Health and Human Services Committee, to which SB 1 has been referred, traditionally meets in the Senate Chamber, which is, as we all know, the best venue if you have a large

crowd that might be interested. And my question was related to whether the Committee will continue to meet in the Chamber throughout the special session, so as to provide a reasonable opportunity for all who want to attend to be able to watch those proceedings.

President: Senator Watson, as you know, the Health and Human Services Committee meets not only on the floor of the Senate but also from time to time in the extension. I would direct your inquiries to Senator Nelson. I have not had a chance to visit with her, but I'm going to leave those decisions to the Senator. But I know, I speak for her when I say that she has the same wish that I do and you do, that anyone who is wanting to express their views, we are going to help provide a forum for that.

Senator Watson: Thank you very much, Mr. President.

President: Thank you, Senator Watson. Senator Watson, if I may, I'm going to make a clarification that I'm glad that the Parliamentarian pointed this out to me. When I made a reference to the auditorium, it was in terms of, if there was a need to clear the gallery, so everyone who wanted could be able to watch the proceedings. At the present time, we have not opened the auditorium because there's no apparent need at this present time to do that.

Senator Watson: Thank you for that clarification, Mr. President. So, if I might, in the form of a parliamentary inquiry, otherwise, for clarification purposes, what the Chair is indicating, the President is indicating, that unless there is a violation, a determined violation of Rule 3.05 involving Senate decorum, the gallery will remain open, and if there is the necessity for invoking the penalties of Rule 3.05, including clearing the gallery, an alternative venue will be made available for those that might wish to watch. That's what you're saying?

President: That is correct, Senator Watson. I feel, and I know you do, that we want to make government as open and transparent, and we want people to be able to come here and observe what is, what is occurring, make their, their wishes, their thoughts known to the elected representatives, but in a manner so that we can proceed with our debates.

Senator Watson: Thank you, Mr. President. And then, implicit in what your clarification was, it sounded to me, but I don't want to put words in your mouth, and I want to make sure I'm clear. Implicit in what you were saying was that if there is a large enough group of people wishing to watch and witness what is going on either in a committee hearing, on the Senate floor, or part of the Senate's deliberations on a bill, and the gallery is simply not large enough to accommodate those people, we will make other arrangements such as, perhaps, the auditorium, to allow for an overflow room.

President: Senator Watson—

Senator Watson: Yes, Mr. President.

President: —Senator Watson, I'm going to ask Senator Eltife and our Administration Committee to address that so that we can provide as much access as we can for people that wish to see the proceeding.

Senator Watson: Thank you, Mr. President. I appreciate that, that's very helpful.

President: Thank you.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Paxton was granted leave of absence for the remainder of the day on account of important business.

REMARKS ORDERED PRINTED

On motion of Senator Watson and by unanimous consent, the remarks between Senator West and the President were ordered reduced to writing and printed in the *Senate Journal* as follows:

President: Senator West, for what purpose do you rise, Sir?

Senator West: Parliamentary inquiry.

President: State your inquiry.

Senator West: Mr. President, what is the official legislative time right now?

President: Looks to me to be 2:25.

Senator West: And here's the problem, and many of us look at this particular clock as the time, and the reality is this clock is about two minutes slow, at least by my clock. And so, I'm, how do we determine legislative time, official legislative time?

President: Senator West, it was my understanding, and I just confirmed it, that the Senate historically works according to the clock on the wall, uses that as a guide. Now, I think where you're going is, is that always accurate? And we will work with Senator Eltife and the Sergeant-at-Arms to make best efforts to make sure that the time on that clock is, in fact, the exact time.

Senator West: Mr. President, parliamentary inquiry.

President: State your inquiry.

Senator West: If there is, in fact, a dispute at, in terms of what the time is, is the time, is there another source, an independent source that we utilize to determine exactly what the official time is?

President: Senator West, the Senate historically has operated according to the time on the clock on the wall. And as I said just a moment ago, I'm going to ask Senator Eltife, his committee, and the Sergeant-at-Arms to make best efforts to have the clock be as accurate as we can make it.

Senator West: Okay, parliamentary inquiry.

President: State your inquiry.

Senator West: If there is a dispute, though, concerning what the time is, is there a procedure, an established procedure to go by to resolve that dispute? And if there's not, I'd recommend that we establish one.

President: Senator West, I've just shared with you, twice, what our practice has been historically from today backwards. If a dispute arises, we'll address that. In the meantime, I will talk with Senator Eltife and the Administration Committee to see if we have a resolution on that.

Senator West: Thank you very much.

President: Thank you, Senator.

CO-AUTHORS OF SENATE BILL 1

On motion of Senator Hegar, Senators Estes and Williams will be shown as Co-authors of **SB 1**.

CO-AUTHORS OF SENATE BILL 2

On motion of Senator Huffman, Senators Estes and Patrick will be shown as Co-authors of **SB 2**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 1

On motion of Senator Nichols, Senators Birdwell, Campbell, Estes, Patrick, and Williams will be shown as Co-authors of **SJR 1**.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 2:31 p.m. agreed to recess, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 11:00 a.m. Tuesday, July 9, 2013.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 1 by Rodríguez, In memory of Eric Seymour Reed.

Congratulatory Resolution

SR 2 by Van de Putte, Recognizing Kenneth I. Shine on the occasion of his retirement.

RECESS

Pursuant to a previously adopted motion, the Senate at 5:00 p.m. Monday, July 8, 2013, recessed until 11:00 a.m. Tuesday, July 9, 2013.

APPENDIX

COMMITTEE REPORTS

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

July 2, 2013

FINANCE — **SJR 1**

CRIMINAL JUSTICE — **SB 2**

RESOLUTIONS ENROLLED

July 1, 2013

SR 1, SR 2

