

# SENATE JOURNAL

SEVENTY-EIGHTH LEGISLATURE — FIRST CALLED SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**TENTH DAY**

(Friday, July 18, 2003)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Hinojosa.

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

The Reverend Albert Laforet, Saint Mary's Cathedral, Austin, offered the invocation as follows:

Creator God, You who are source of all life, goodness, and truth, be pleased with us this day as we look to You for guidance. Please bless all the Members of this body in their work for the people of Texas. Give all those who work for Your people Your wisdom and strength. May all of Your abundant blessings come upon all the people of Texas. Amen.

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

The motion prevailed without objection.

## LEAVE OF ABSENCE

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

## PHYSICIAN OF THE DAY

Senator Zaffirini was recognized and presented Dr. Leonides Cigarroa, Jr., of Laredo as the Physician of the Day.

The Senate welcomed Dr. Cigarroa and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

## CONCLUSION OF MORNING CALL

The President at 10:25 a.m. announced the conclusion of morning call.

### SENATE BILL 43 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **SB 43** at this time on its second reading:

**SB 43**, Relating to motor vehicle registration fees.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 43** by adding the following new section and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. Subsection (f), Section 504.202, Transportation Code, is amended to read as follows:

(f) The fee for the first set of license plates is \$3. There is no fee [~~The fee~~] for each additional set of license plates [~~is \$15~~]. If a license plate is lost, stolen, or mutilated, on payment of a \$1 fee the department shall issue a set of replacement plates.

The floor amendment was read and was adopted without objection.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 43** as amended was passed to engrossment by a viva voce vote.

### SENATE BILL 43 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 43** be placed on its third reading and final passage.

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

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### SENATE BILL 53 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **SB 53** at this time on its second reading:

**SB 53**, Relating to the financing and development of the Trans-Texas Corridor.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 53** by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.616 to read as follows:

"Sec. 201.616. ANNUAL REPORT TO LEGISLATURE ON CERTAIN MATTERS. (a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department;

(C) the Trans-Texas Corridor;

(D) rail facilities described in Chapter 91; and

(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c);

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B), (C), (D), and (E) and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

(c) The report may be submitted in an electronic format."

The floor amendment was read and was adopted without objection.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 53** as amended was passed to engrossment by a viva voce vote.

### SENATE BILL 53 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 53** be placed on its third reading and final passage.

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

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### HOUSE BILL 9 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **HB 9** at this time on its second reading:

**HB 9**, Relating to appropriating the fees relating to the licensing and regulation of certain electricians collected by the Texas Department of Licensing and Regulation or the Texas Commission of Licensing and Regulation under House Bill No. 1487, Acts of the 78th Legislature, Regular Session, 2003.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

### **Floor Amendment No. 1**

Amend Senate Committee Report for **HB 9** by inserting the following on page 1, line 21, between the words "Regulation" and "for":

"and the full-time equivalent position limitation established for that agency in House Bill No. 1, Acts of the 78th Legislature, Regular Session, 2003, is hereby increased by 32"

The floor amendment was read and was adopted without objection.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 9** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 9 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 9** be placed on its third reading and final passage.

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

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **HOUSE BILL 11 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **HB 11** at this time on its second reading:

**HB 11**, Relating to appropriating the amounts deposited to the credit of the dry cleaning facility release fund created by House Bill No. 1366, Acts of the 78th Legislature, Regular Session, 2003, to the Texas Commission on Environmental Quality.

The motion prevailed by a viva voce vote.

### **RECORD OF VOTE**

Senator West asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time and was passed to third reading by a viva voce vote.

### **RECORD OF VOTE**

Senator West asked to be recorded as voting "Nay" on the passage of **HB 11** to third reading.

**HOUSE BILL 11 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 11** be placed on its third reading and final passage.

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

Nays: West.

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**SENATE RULE 5.14(a) SUSPENDED  
(Intent Calendar)**

On motion of Senator Bivins and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar for two days before consideration by the Senate, was suspended as it relates to **CSHB 5**.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 5 ON SECOND READING**

Senator Bivins moved to suspend the regular order of business to take up for consideration **CSHB 5** at this time on its second reading:

**CSHB 5**, Relating to returning to a fund outside the state treasury cash that was transferred from the fund to the general revenue fund and to the transfer of certain payments from the foundation school fund from August of a state fiscal year to September of the following fiscal year; making an appropriation.

The motion prevailed by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 5** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 11.15(b), Article IX, House Bill No. 1, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) An amount equal to the sum of the General Revenue Fund and general revenue dedicated account appropriations contained in this Act that are vetoed by the Governor under Section 14, Article IV, Texas Constitution, shall be segregated by the Comptroller and is hereby appropriated, as necessary, for the transfers in subsection (c). To the extent that amounts appropriated by this subsection are not necessary for

the transfers in subsection (c), the amounts are available for emergency transfers by the Governor and the Legislative Budget Board acting under Section 69, Article XVI, Texas Constitution, and under Chapter 317, Government Code.

SECTION \_\_\_\_ . Section 11.28(a), Article IX, House Bill No. 1, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended to read as follows:

(a) Notwithstanding other provisions of this Act, based upon the passage of federal legislation that provides federal funds for the purpose of state fiscal relief, such funds are appropriated~~[, after the implementation of Section 11.15, Contingency Appropriation Reduction and Contingency Appropriation,]~~ to the Comptroller of Public Accounts in the fiscal year in which the funds are received for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the Governor and Legislative Budget Board acting under Chapter 317, Government Code, and in accordance with [provided by] subsection (b) of this section.

SECTION \_\_\_\_ . Subchapter A, Chapter 22, Education Code, is amended by adding Section 22.007 to read as follows:

Sec. 22.007. RETIREMENT SAVINGS PLAN FOR CERTAIN EMPLOYEES.

(a) In this section:

(1) "Employer" has the meaning assigned by Section 821.001, Government Code.

(2) "Social security coverage" means old-age, survivors, and disability insurance benefits under Title II, Social Security Act (42 U.S.C. Section 401 et seq.), as amended.

(3) "Wages" has the meaning assigned by Section 209, Social Security Act (42 U.S.C. Section 409), as amended.

(b) An employer shall enter into a salary reduction agreement as provided by this section with each employee who:

(1) is employed by the employer in a position for which social security coverage is not provided; and

(2) is subject to the waiting period required by Section 822.001, Government Code, that precedes membership in the Teacher Retirement System of Texas.

(c) A salary reduction agreement under Subsection (b) must provide for the employer to reduce the employee's salary for the purpose of:

(1) making direct contributions to a deferred compensation plan under Chapter 609, Government Code;

(2) purchasing a qualified investment product as provided by Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes); or

(3) making direct contributions to a retirement system maintained by the employer that meets the requirements of Section 3121(b)(7)(F), Internal Revenue Code of 1986, as amended.

(d) The total amount contributed under Subsection (c) may not be less than 7.5 percent of the employee's wages for the waiting period required by Section 822.001, Government Code, that precedes membership in the Teacher Retirement System of Texas. An employer may elect to contribute any portion of the percentage amount required by this subsection.

(e) A salary reduction agreement under Subsection (b) must provide for the agreement to be terminated on the day before the first day of the first payroll period for which the employer makes a deduction for deposit with the Teacher Retirement System of Texas under Section 825.403, Government Code, unless the employee agrees in writing to continue the agreement under the same terms or under modified terms.

(f) An employer that does not enter into a salary reduction agreement with an employee as provided by this section must provide social security coverage for the employee.

(g) This section does not prohibit an employee from entering into any other salary reduction agreement.

(h) This section expires September 1, 2005.

The floor amendment was read and was adopted without objection.

Senator Staples offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSHB 5** by inserting the following appropriately numbered ARTICLE and renumbering the subsequent ARTICLES accordingly:

ARTICLE \_\_. DETERMINATION OF SCHOOL DISTRICT  
PROPERTY VALUES BY COMPTROLLER

SECTION \_\_.01. Section 403.302, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c), if after conducting the annual study for the year 2002 the comptroller determines that the local value for a school district is invalid and the local value exceeds the state value for the school district determined by the comptroller under Subsections (a) and (b), the taxable value for the school district for that year is the district's state value as established by the Comptroller. This subsection expires September 30, 2004.

SECTION \_\_.02. Section 403.302(m), Government Code, as added by S.B. No. 671, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION \_\_.03. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect November 1, 2003.

The floor amendment was read and was adopted without objection.

On motion of Senator Bivins and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 5** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of **CSHB 5** to the third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 5 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 5** be placed on its third reading and final passage.

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

Nays: Ogden.

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**SENATE BILL 51 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **SB 51** at this time on its second reading:

**SB 51**, Relating to appropriating certain surcharges collected by the Department of Public Safety of the State of Texas under the driver responsibility program and fees collected by the Texas Department of Transportation under the motor vehicle financial responsibility verification program, as those programs are created by House Bill No. 3588, Acts of the 78th Legislature, Regular Session, 2003, to the Department of Public Safety of the State of Texas.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 51** as follows:

(1) At the end of SECTION 2 of the bill (committee printing page 1, line 38) add the following:

The number of full-time equivalent positions (FTE) indicated in the Department of Public Safety's bill pattern is increased by 28 during the biennium.

(2) Strike SECTION 3 of the bill (committee printing page 1, lines 39-46) and substitute:

SECTION 3. Revenue generated under Section 502.1715, Transportation Code, as added by House Bill 3588, Acts of the 78th Legislature, Regular Session, 2003, may be used by the Department of Public Safety to make lease payments to the Master Lease Purchase Program to accomplish the driver's license reengineering project and the liability insurance feasibility study.

(3) In SECTION 1 of the bill (committee printing page 1, line 29), strike "22" and replace with "11."

(4) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 502.1715(b), Transportation Code, as added by H.B. No. 3588, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) Prior to August 31, 2005, fees collected under this subchapter shall be deposited to the credit of the state highway fund. ~~The [Subject to appropriation, the]~~ money shall be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, not to include use of biometric information; ~~and]~~

(2) establish and maintain a system to support the driver responsibility program under Chapter 708; and

(3) conduct the feasibility study authorized by Section 601.450.

The floor amendment was read and was adopted without objection.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 51** as amended was passed to engrossment by a viva voce vote.

### **SENATE BILL 51 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 51** be placed on its third reading and final passage.

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

Absent-excused: Hinojosa.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Infrastructure Development and Security might meet and consider the following bill and resolution today: **SB 52, SCR 3.**

### **SENATE RULES SUSPENDED**

#### **(Posting Rules)**

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today: **SB 22, HB 82.**

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolution**

**SR 81** by Barrientos, In memory of Edward Elliott, Jr., of Austin.

**Congratulatory Resolutions**

**SR 57** by West, Celebrating the dedication of the Dalton L. James Administration Building in DeSoto.

**SR 82** by Barrientos, Commending Louise Naven for her service to the state.

**ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 11:35 a.m. adjourned until 1:00 p.m. Monday, July 21, 2003.

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**APPENDIX**

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**COMMITTEE REPORT**

The following committee report was received by the Secretary of the Senate:

July 18, 2003

STATE AFFAIRS — **HB 16**