

FIFTIETH DAY

MONDAY, APRIL 18, 2005

PROCEEDINGS

The Senate met at 1:30 p.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, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Lucio, Van de Putte.

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

Sister Grace M. Walle, F.M.I., Saint Mary's University School of Law, San Antonio, offered the invocation as follows:

God of wisdom, guide and direct the words, actions, and decisions of these Senators today. We give You thanks for the dedication of all in public service, especially the Legislature, who work diligently for laws that provide for the common good of the people of Texas. We pray for our children during April, which is Child Abuse Prevention Month. May all civic and religious leaders, parents, educators, and mentors display justice in our courts, integrity in government, guidance in our schools, love in homes, and peace in our world. We pray for our family and friends who may be sick or suffering, and remember Senator Leticia Van de Putte's father-in-law. Continue to give Your guidance and renew the energy of the 79th Texas Legislature as they begin the week and work toward sine die. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Thursday, April 14, 2005, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVES OF ABSENCE

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

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

CO-AUTHOR OF SENATE BILL 549

On motion of Senator Ellis, Senator Hinojosa will be shown as Co-author of **SB 549**.

CO-AUTHOR OF SENATE BILL 604

On motion of Senator Ellis, Senator Shapleigh will be shown as Co-author of **SB 604**.

CO-AUTHOR OF SENATE BILL 1845

On motion of Senator Deuell, Senator Lindsay will be shown as Co-author of **SB 1845**.

CO-SPONSOR OF HOUSE BILL 762

On motion of Senator Ellis, Senator Van de Putte will be shown as Co-sponsor of **HB 762**.

PHYSICIAN OF THE DAY

Senator Duncan was recognized and presented Dr. Tony Hedges of Littlefield as the Physician of the Day.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
April 18, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 22, Relating to the disposition of state agency surplus or salvage property.

HB 27, Relating to the penalties for intoxication assault and intoxication manslaughter and to the sentencing of defendants convicted of those offenses.

HB 201, Relating to the eligibility of a spouse for spousal maintenance in a suit for dissolution of a marriage.

HB 202, Relating to certain marital property agreements.

HB 203, Relating to consideration of taxes in the division of property in the dissolution of a marriage.

- HB 365**, Relating to the date of the election of directors for the Coastal Bend Groundwater Conservation District.
- HB 422**, Relating to park and recreation districts.
- HB 667**, Relating to security fees in certain civil and criminal cases.
- HB 706**, Relating to the adoption of the Interstate Compact for Juveniles.
- HB 731**, Relating to an electronic requisition system for counties.
- HB 754**, Relating to transportation of loose materials.
- HB 769**, Relating to the deadline for evaluating and ranking competitive sealed proposals for certain construction services submitted to a navigation district or port authority.
- HB 828**, Relating to the authority of the Texas Commission on Environmental Quality over the issuance of certain district bonds.
- HB 836**, Relating to certain requirements concerning the filling of a prescription.
- HB 860**, Relating to charitable contributions by state employees to certain General Land Office programs.
- HB 894**, Relating to produce samples at municipally owned farmers' markets.
- HB 912**, Relating to the maximum cost of certain awards presented to state agency employees for professional achievement or outstanding service.
- HB 950**, Relating to fees for filing certain documents with a county clerk.
- HB 960**, Relating to the authority of a political subdivision to regulate construction and renovation of structures owned by certain counties.
- HB 1009**, Relating to the authority of a port authority, a navigation district, or certain other persons to use electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate for port security purposes.
- HB 1107**, Relating to procedures for obtaining relief from local matching funds requirements for highway projects.
- HB 1136**, Relating to the designation of the portion of Spur 330 inside Harris County as the Veterans Memorial Highway.
- HB 1231**, Relating to the authority of counties to establish petty cash funds.
- HB 1331**, Relating to the authority of a junior college district to contract for the provision of certain services and resources under the Interagency Cooperation Act.
- HB 1438**, Relating to continuing education for peace officers.
- HB 1471**, Relating to the collection and administration of an occupation tax owed to a county.
- HB 1544**, Relating to removal of corneal tissue from a decedent.
- HB 1549**, Relating to certain warning signs required on certain premises.
- HB 1602**, Relating to high deductible health plans.

- HB 1604**, Relating to the period in which a birth certificate must be filed or a birth reported.
- HB 1645**, Relating to the designation of United States Highway 80 in this state as the World War II Veterans Memorial Highway.
- HB 1672**, Relating to disposition of costs imposed in connection with the collection and enforcement of certain tolls.
- HB 1681**, Relating to the imposition of sanctions on an inmate who refuses to cooperate in the taking of a sample or specimen to create a DNA record.
- HB 1697**, Relating to the use of gifts to fund technology workforce development grants and to the evaluation of the technology workforce development grant program.
- HB 1735**, Relating to souvenir license plates.
- HB 1751**, Relating to the procedures governing the payment of restitution by criminal defendants.
- HB 1814**, Relating to employment positions with the Texas Department of Transportation.
- HB 1817**, Relating to the regulation of the practice of engineering.
- HB 1905**, Relating to the jurisdiction of county courts at law in Bexar County.
- HB 1939**, Relating to certain disqualifications for unemployment compensation benefits for assigned employees of staff leasing services companies.
- HB 2171**, Relating to the volunteer fire department self-insurance fund.
- HB 2179**, Relating to the practice of professional surveying.
- HB 2231**, Relating to the payment of child support to an individual with actual primary possession of the child.
- HB 2377**, Relating to the use of private firms by the Texas Building and Procurement Commission in leasing space for state agencies.
- HB 2379**, Relating to the allocation of certain state office space.
- HB 2410**, Relating to the membership and terms of the board of directors of the Texas Environmental Education Partnership Fund.
- HB 2453**, Relating to the eligibility for a commercial establishment to have its name displayed on a specific information logo sign.
- HB 2457**, Relating to the entrance requirements, base pay, and longevity pay in certain municipalities for a police officer who has previous experience as a police officer.
- HB 2549**, Relating to validation of certain acts taken by the Westchase District.
- HB 2565**, Relating to prohibiting rebates regarding certain insurance coverage.
- HB 2619**, Relating to a program by the Office of Rural Community Affairs to assist rural areas with the establishment of emergency services districts.
- HB 2645**, Relating to service of expert reports in health care liability claims.

- HB 2658**, Relating to erecting an off-premise sign adjacent to and visible from certain roads.
- HB 2659**, Relating to bond requirements for privatized maintenance contracts.
- HB 2761**, Relating to the amount of homeowners insurance required in connection with certain financing arrangements.
- HB 2814**, Relating to the powers and duties of the Sweeny Hospital District.
- HB 2870**, Relating to regulation of rates and forms used to write guaranty bonds.
- HB 2871**, Relating to rates for certain insurance within certain rating territories.
- HB 2872**, Relating to the applicability of certain insurance laws to multi-peril insurance policies.
- HB 2913**, Relating to the jurisdiction of the district courts in Nueces County to receive guilty pleas in and dispose of certain misdemeanor cases.
- HB 2921**, Relating to the condemnation of certain property for railroad purposes.
- HB 2949**, Relating to the authority of the Texas Commission on Environmental Quality to issue an emergency order authorizing certain action in the event of a catastrophe.
- HB 2987**, Relating to funding advanced in connection with a lawsuit that is at a rate above the usurious interest prohibition.
- HB 3101**, Relating to the filing for record of a plat or replat of a subdivision of real property.
- HB 3240**, Relating to the exemption from ad valorem taxation of a residence homestead held in a court-ordered trust.
- HB 3475**, Relating to the statutory probate courts of El Paso County.
- HCR 24**, Designating Navasota the Blues Capital of Texas.
- HCR 30**, Designating Dublin as the official Irish Capital of Texas.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 234, SB 346, HCR 10, HCR 142.

SENATE RESOLUTION 630

Senator Staples offered the following resolution:

WHEREAS, Residents of Conroe are visiting the State Capitol on April 18, 2005, to celebrate their city's contributions to the Lone Star State and to commemorate the 100th anniversary of the city's official founding; and

WHEREAS, Located in central Montgomery County on the southern edge of the Sam Houston National Forest, Conroe was first settled by Isaac Conroe, a Houston lumberman, who established a sawmill on Stewarts Creek, two miles east of the International-Great Northern Railroad's Houston-Crockett line; in 1884, a post office was opened at the mill commissary, and the new community assumed the name Conroe's Switch, which was eventually shortened to Conroe; and

WHEREAS, Early pioneers moved to the area to farm and take advantage of the land's plentiful natural resources such as timber; the prosperous economy contributed to expansive growth in the early part of the 20th century, and the city was incorporated on December 27, 1904; and

WHEREAS, Wildcatter George W. Strake discovered oil in Conroe in 1931, which permanently changed the economic landscape of the city; today, in addition to lumber and petrochemical concerns, new technology and several manufacturing and engineering firms have contributed to the area's growth; and

WHEREAS, Residents and visitors alike are attracted to the outdoor opportunities provided by Lake Conroe and annual events such as the Montgomery County Fair; in 1999, a broad revitalization of downtown benefited the city's arts organizations, including the Crighton Players, the Montgomery Performing Arts Society, the Conroe Symphony, and the Sounds of Texas; and

WHEREAS, Citizens of Conroe celebrated the city's 100th anniversary with a centennial ceremony at the Lone Star Convention Center on November 29, 2004; with its thriving business community, attractive residential developments, and outstanding schools, this unique and vibrant city continues to be a treasured asset of the Lone Star State, and it is a pleasure to pay tribute to the community and its residents at this time; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby recognize April 18, 2005, as Conroe Day at the State Capitol and extend to the delegation here today sincere best wishes for an enjoyable and memorable visit.

SR 630 was read and was adopted without objection.

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate a delegation of officials from the City of Conroe: Mayor Tommy Metcalf, Mayor Pro Tempore Jay Ross Martin, and Councilmembers Pat George, Webb Melder, and Jerry Streater, accompanied by the centennial committee and citizens of Conroe.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Hinojosa was recognized and introduced to the Senate Major John T. Hubert of Kingsville.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Ellis, joined by Senator Lindsay, was recognized and introduced to the Senate a delegation of members of the Texas Bicycle Coalition.

The Senate welcomed its guests.

(Senator Brimer in Chair)**SENATE RESOLUTION 629**

Senator Staples offered the following resolution:

WHEREAS, Lola Burgess retired from her position as executive vice president of the Silsbee Chamber of Commerce on March 31, 2005, bringing to a close an exceptional tenure with the organization that spanned 23 years; and

WHEREAS, In her role as chamber vice president, Mrs. Burgess has been a tireless advocate of the Silsbee community, promoting area events, championing local businesses and organizations, and setting a sterling example of leadership to which all may aspire; and

WHEREAS, This notable woman has further proven herself to be one of Silsbee's invaluable assets through her important work with a number of organizations; former publicity and promotion chair for the Silsbee Independent School District School Board referendum, she has managed publicity for the Christmas in the Big Thicket Festival and Lighted Parade as well as for the Silsbee Little Theater, a group she has also served as president and as a member of its Fifth Street Band; moreover, she has greatly benefited the Better Business Bureau of Southeast Texas as a director and the Lamar Institute of Technology as a trustee; and

WHEREAS, In all of her endeavors, she enjoys the love and support of her husband, County Commissioner Bob Burgess, and her son, Dr. Rob Burgess; and

WHEREAS, Lola Burgess has made Silsbee a better place in which to live, work, and raise a family, and her outstanding efforts in behalf of the city she loves to call home will have a positive and lasting impact on area residents; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby commend Lola Burgess on her distinguished record of service as executive vice president of the Silsbee Chamber of Commerce and extend to her sincere best wishes for a happy retirement; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mrs. Burgess as an expression of high regard by the Texas Senate.

SR 629 was read and was adopted without objection.

GUESTS PRESENTED

Senator Staples was recognized and introduced to the Senate Lola Burgess, Executive Vice-president, Silsbee Chamber of Commerce, accompanied by her husband, Bob Burgess.

The Senate welcomed its guests.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

Austin, Texas
April 15, 2005

TO THE SENATE OF THE SEVENTY-NINTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be a member of the Sabine River Compact Administration for a term to expire July 12, 2010:

Robert Byron Reeves
Center, Texas

(Mr. Reeves will replace Thomas Reeh of Orange whose term expired)

To be members of the Texas Human Rights Commission for terms to expire February 1, 2011:

John Hamice James
Midland, Texas

(replacing C. Robert Keeney of Houston whose term expired)

Shara Michalka
Dallas, Texas

(replacing Mary Banks of Dallas whose term expired)

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
April 17, 2005

TO THE SENATE OF THE SEVENTY-NINTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be Adjutant General of Texas for a term to expire February 1, 2007:

Charles Gary Rodriguez, Ph.D., Brigadier General
San Antonio, Texas

(Brigadier General Rodriguez will replace Lieutenant General Wayne Marty whose term expired)

To be a member of the State Office of Risk Management for a term to expire February 1, 2009:

Kenneth N. Mitchell
El Paso, Texas

(Mr. Mitchell is replacing Gerald Lavey of Humble whose term expired)

To be members of the Sulphur River Basin Authority Board of Directors for terms to expire February 1, 2011:

Patricia A. Wommack
Lone Star, Texas

(replacing Judy Lee of Mount Pleasant whose term expired)

James Richard "Dick" Goodman
Clarksville, Texas

(Mr. Goodman is being reappointed)

Respectfully submitted,

/s/Rick Perry
Governor

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 1860 by Ellis

Relating to the creation of the Montrose Community Improvement District; providing authority to levy an assessment, impose a tax, and issue bonds. (Local Bill)
To Committee on Intergovernmental Relations.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

HB 150 to Committee on Intergovernmental Relations.

HB 307 to Committee on Jurisprudence.

HB 341 to Committee on Transportation and Homeland Security.

HB 607 to Committee on Business and Commerce.

HB 617 to Committee on State Affairs.

HB 655 to Committee on State Affairs.

HB 765 to Committee on State Affairs.

HB 835 to Committee on Jurisprudence.

HB 962 to Committee on Transportation and Homeland Security.

HB 1007 to Committee on Intergovernmental Relations.

HB 1071 to Committee on State Affairs.

HB 1130 to Committee on Business and Commerce.

HB 1271 to Committee on State Affairs.

HB 1503 to Committee on Health and Human Services.

HB 1815 to Committee on Intergovernmental Relations.

HB 2097 to Committee on Intergovernmental Relations.

HB 2129 to Committee on Natural Resources.

(President in Chair)

SENATE RESOLUTION 631

Senator Nelson offered the following resolution:

WHEREAS, Through his outstanding work as a public member of the Sunset Advisory Commission, Howard Wolf has rendered exemplary service to the people of the Lone Star State; and

WHEREAS, Appointed to the commission by Lieutenant Governor David Dewhurst in 2003, Mr. Wolf has given unstintingly of his time and talents in helping that body to carry out its critical charge; his deep engagement in the work of the commission, his comprehensive grasp of mountainous information, and his acute analytical skills have all been invaluable to the agency in its ongoing efforts to assess the effectiveness of state policies and government organizations; and

WHEREAS, When choosing a vantage point from which to consider an issue, this distinguished Texan is likely to seek a view from the "ionosphere," in order to take in the entirety of the matter; endowed with abundant energy, keen intelligence, and an engaging manner, he has won his colleagues' high regard for the informed

judgment and lively discourse he has brought to their endeavors; at the same time, his dapper presence has lifted the sartorial level in every room he has entered by at least several degrees; and

WHEREAS, A native Texan, Mr. Wolf joined the law firm of Fulbright & Jaworski in 1959 and retired as a partner in 2003; his willingness to surrender well-deserved leisure with his wife and children in order to assume this most recent post is an eloquent testament to his great civic spirit, and his exceptional devotion to this state and its people is indeed deserving of warmest commendation; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby honor Howard Wolf for his dedicated service as a member of the Sunset Advisory Commission and extend to him sincere appreciation for the commitment and ability with which he has met the responsibilities of this office; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mr. Wolf as an expression of high regard by the Texas Senate.

SR 631 was read and was adopted without objection.

GUEST PRESENTED

Senator Nelson was recognized and introduced to the Senate Howard Wolf, member of the Sunset Advisory Commission.

The Senate welcomed its guest.

(Senator Shapiro in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 286 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time **CSSB 286** on its third reading and final passage:

CSSB 286, Relating to requiring public officials to receive training in the requirements of the open meetings and public information laws.

The bill was read third time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 286** on third reading as follows:

(1) In Section 2 of the bill, in added Section 551.012, Government Code, as it exists in the Senate committee substitute before the relettering of subsections, strike the last sentence of added Subsection (d) (page 2, lines 43 - 51, Senate committee printing) and substitute: "The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator."

(2) In Section 3 of the bill, at the end of Subsection (b) as it exists in the Senate committee substitute before amendment (page 3, lines 39 and 40, Senate committee printing), strike ", and must complete subsequent training in accordance with that law".

(3) In second reading Floor Amendment No. 1 by Wentworth to the bill, strike Part 4 of that amendment.

The amendment to **CSSB 286** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 on Third Reading except as follows:

Absent-excused: Lucio, Van de Putte.

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

CSSB 286 as again amended was finally passed by the following vote: Yeas 28, Nays 1.

Nays: Brimer.

Absent-excused: Lucio, Van de Putte.

COMMITTEE SUBSTITUTE SENATE BILL 126 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 126** at this time on its second reading:

CSSB 126, Relating to the discipline of public school students.

The bill was read second time.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 126** as follows:

(1) In SECTION 1 of the bill, in the introductory clause (committee printing page 1, line 13), strike "Subsections (b) and" and substitute "Subsection".

(2) In SECTION 1 of the bill, strike Subdivisions (4)-(9) of amended Section 37.001(a), Education Code (committee printing, page 1, lines 32-60), and substitute the following:

(4) specify whether consideration is given, ~~[to self-defense]~~ as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct; or

(C) a student's disciplinary history;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007; and

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion.

(3) In SECTION 1 of the bill, strike added Section 37.001(b), Education Code (committee printing, page 1, line 61, through page 2, line 3).

(4) Strike SECTIONS 2, 3, and 4 of the bill (committee printing, page 2, line 8, through page 3, line 69) and renumber the subsequent section appropriately.

The amendment to **CSSB 126** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Lucio, Van de Putte.

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

CSSB 126 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Lucio, Van de Putte.

COMMITTEE SUBSTITUTE SENATE BILL 126 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 126** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Lucio, Van de Putte.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 126**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 126** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our

professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Lucio, Van de Putte.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 165 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 165** at this time on its second reading:

CSSB 165, Relating to the regulation of private process servers; providing penalties.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 165** as follows:

(1) In Section 1 of the bill, in added Section 191.001(2), Civil Practice and Remedies Code (Senate committee report, page 1, line 27), after the period, insert "The term does not include service of any writ that requires the actual taking of possession of a person, property, or thing or an enforcement action required of or directed to a peace officer related to the taking of possession of a person, property, or thing.".

(2) In Section 1 of the bill, strike added Section 191.051(b)(3), Civil Practice and Remedies Code (Senate committee report, page 2, lines 18 through 20), and substitute the following:

(3) returns to the issuing court, not later than the 10th business day after the date service is completed, a sworn return of service verifying the truthfulness of the return.

The amendment to **CSSB 165** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Lucio, Van de Putte.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 165**, on page 4, line 47 by striking subsection (d) and inserting a new subsection (d) to read as follows:

(d) A license holder shall wear the person's identification card in a visible manner at all times when performing the function of a private process server and shall produce the identification to any person requesting it during the performance of service of process.

The amendment was read.

On motion of Senator Wentworth, Floor Amendment No. 2 to **CSSB 165** was tabled by the following vote: Yeas 21, Nays 7.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, Williams.

Nays: Armbrister, Barrientos, Ellis, Gallegos, West, Whitmire, Zaffirini.

Absent: Hinojosa.

Absent-excused: Lucio, Van de Putte.

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

CSSB 165 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Lucio, Van de Putte.

GUEST PRESENTED

Senator Madla was recognized and introduced to the Senate the Mayor of San Antonio, Ed Garza.

The Senate welcomed its guest.

COMMITTEE SUBSTITUTE SENATE BILL 1137 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1137** at this time on its second reading:

CSSB 1137, Relating to the development of the wine industry and other businesses related to agriculture or tourism in this state.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1137** in SECTION 9 of the bill at the end of proposed Section 391.099, Transportation Code (committee printing page 5, between lines 37 and 38), by inserting the following:

(h) Notwithstanding any other law, an eligible facility may erect a directional sign required by the commission to receive a tourist-oriented directional sign.

The amendment to **CSSB 1137** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Lucio, Van de Putte.

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

CSSB 1137 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Lucio, Van de Putte.

**COMMITTEE SUBSTITUTE
SENATE BILL 1137 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1137** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Lucio, Van de Putte.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1137**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1137** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Lucio, Van de Putte.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 560 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 560** at this time on its second reading:

CSSB 560, Relating to court orders for discovery in a criminal case.

Senator Carona withdrew the motion to suspend the regular order of business.

SENATE BILL 369 ON SECOND READING

Senator Barrientos moved to suspend the regular order of business to take up for consideration **SB 369** at this time on its second reading:

SB 369, Relating to the prohibition of signs on Farm-to-Market Road 3238.

The motion prevailed.

Senator Brimer asked to be recorded as "Present-not voting" on suspension of the regular order of business.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Present-not voting: Brimer.

Absent-excused: Lucio, Van de Putte.

SENATE BILL 369 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 369** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, West, Whitmire, Williams, Zaffirini.

Nays: Wentworth.

Present-not voting: Brimer.

Absent-excused: Lucio, Van de Putte.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 369**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 369** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Brimer.

Absent-excused: Lucio, Van de Putte.

SENATE BILL 263 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 263** at this time on its second reading:

SB 263, Relating to use of certain information relating to tax audits; providing penalties.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Lucio, Van de Putte.

SENATE BILL 263 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 263** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Lucio, Van de Putte.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 263**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 263** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Lucio, Van de Putte.

SENATE BILL 114 ON SECOND READING

On motion of Senator Madla, on behalf of Senator Van de Putte, and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 114** at this time on its second reading:

SB 114, Relating to the removal of a member of a junior college district board of trustees for failure to attend board meetings.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Lucio, Van de Putte.

SENATE BILL 114 ON THIRD READING

Senator Madla, on behalf of Senator Van de Putte, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 114** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Lucio, Van de Putte.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 114**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 114** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Lucio, Van de Putte.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 626 by West, In memory of Tillie Mae Parker Baylor of Dallas.

Congratulatory Resolutions

SR 624 by Ellis, Recognizing Carl V. Reynolds for his service to the citizens of Texas.

SR 625 by Shapiro, Recognizing Russell L. and Norma French on the occasion of their 50th wedding anniversary.

SR 628 by Staples, Congratulating the firefighters of the Conroe Fire Department for having the fastest response time in Montgomery County.

SR 632 by Lindsay, Commending James Tyler McKay for achieving the rank of Eagle Scout.

SR 633 by Lindsay, Commending Christopher Fronapfel for achieving the rank of Eagle Scout.

SR 634 by Lindsay, Recognizing the Coalition of Homeowner Alliances Requiring Government Equity for the work it does in behalf of its members.

SR 636 by Harris, Recognizing the Shaken Baby Alliance of Fort Worth during Child Abuse Prevention Month.

HCR 141 (Zaffirini), Commemorating the opening of the Fidel and Andrea R. Villarreal Elementary School in Zapata County and honoring the memory of Fidel and Andrea R. Villarreal.

Official Designation Resolutions

SR 623 by Deuell, Recognizing October 23, 2005, as Texas Paralegal Day.

SR 635 by Harris, Recognizing April 20, 2005, as Barnett Shale Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:13 p.m. adjourned, in memory of Laura Canales of San Antonio, until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 18, 2005

HEALTH AND HUMAN SERVICES — **CSSB 1069, CSSB 1055, CSSB 1525**

JURISPRUDENCE — **CSSB 1190**

CRIMINAL JUSTICE — **CSSB 912**

GOVERNMENT ORGANIZATION — **CSSB 419**

JURISPRUDENCE — **CSSB 1189**

HEALTH AND HUMAN SERVICES — **CSSB 247, CSSB 1113, CSSB 1340**

JURISPRUDENCE — **CSSB 1153**

STATE AFFAIRS — **SB 601, SB 1448, SB 1532**

GOVERNMENT ORGANIZATION — **CSSB 411, CSSB 1533**

HEALTH AND HUMAN SERVICES — **CSSB 66, CSSB 330, CSSB 1188**

INTERNATIONAL RELATIONS AND TRADE — **SJR 27, CSSB 964**

TRANSPORTATION AND HOMELAND SECURITY — **SB 737, CSSB 1336, SB 1670**

EDUCATION — **CSSB 95, CSSB 30, CSSB 676, CSSB 1228, CSSB 157, SB 333, CSSB 448, SB 928, SB 929, CSSB 936, SB 1118, CSSB 1138, SB 1185, SB 1193, SB 1226 (Amended), SB 1247, CSSB 1393, SB 1583, CSSB 1446, SB 1374 (Amended)**

GOVERNMENT ORGANIZATION — **CSSB 1787, CSSB 405**

CRIMINAL JUSTICE — **CSSB 1005**

BUSINESS AND COMMERCE — CSSB 1321, SB 920, CSSB 99, SB 100, CSSB 533, CSSB 674, CSSB 788, SB 998, CSSB 1143, CSSB 1173, SB 1230, CSSB 1309, SB 1590, CSSB 1408, CSSB 1229, CSSB 1318

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — CSSB 1090, CSSB 1714, CSSB 1186, SB 579, CSSB 1481

INTERGOVERNMENTAL RELATIONS — CSSB 142, CSSB 1205, CSSB 1555, CSSB 1498

NATURAL RESOURCES — CSSB 1428, SB 1407, CSSB 1192, SB 1032, CSSB 1710, CSSB 620, CSSB 1281, SB 1680, SB 1271, SB 784, SB 1602, SB 1270, CSSB 1040, CSSB 1273, CSSB 1686, CSSB 949, CSSB 1063, CSSB 1634

SENT TO GOVERNOR

April 18, 2005

SB 234, SB 346

