

FIFTY-THIRD DAY

THURSDAY, APRIL 21, 2005

PROCEEDINGS

The Senate met at 11:00 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, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona.

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

The Reverend Dr. Mark Denison, First Baptist Church, Gainesville, offered the invocation as follows:

Our Father, we approach Your throne of grace aware of Your authority over the affairs of man. We recognize Your sovereignty in areas of governance and daily life. We offer our gratitude for the opportunity to step, however briefly, out of the complexities of this world, into the holiness of Your presence. We beseech You today, O Lord, on behalf of our world that is in turmoil, our nation that is at war, and our state that is at work, seeking to do that which will provide leadership and blessing to our 22 million citizens. We thank You for these women and men who serve faithfully in their elected positions. We pray for our Governor, Lieutenant Governor, and all these who fill these historic halls. We pray that they may truly seek the guidance that is offered freely from above. In our differences, may we celebrate our diversity. In our various views, may we discover unity. In all things, may we practice love. Now, dear God, we pray for the activities of this day. For those who represent us, we pray a special portion of wisdom, civility, and godliness. Bless these who lead our great State of Texas in all that they do this day. This I pray, with respect to those of all faiths, in the name of our precious and risen lord. 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 Carona was granted leave of absence for today on account of an illness in the family.

CO-AUTHORS OF SENATE BILL 107

On motion of Senator Estes, Senators Armbrister, Lindsay, Lucio, and Seliger will be shown as Co-authors of **SB 107**.

CO-AUTHOR OF SENATE BILL 474

On motion of Senator Barrientos, Senator Zaffirini will be shown as Co-author of **SB 474**.

CO-AUTHOR OF SENATE BILL 579

On motion of Senator Van de Putte, Senator Zaffirini will be shown as Co-author of **SB 579**.

CO-AUTHOR OF SENATE BILL 1043

On motion of Senator Janek, Senator West will be shown as Co-author of **SB 1043**.

CO-AUTHOR OF SENATE BILL 1319

On motion of Senator Staples, Senator West will be shown as Co-author of **SB 1319**.

CO-AUTHOR OF SENATE BILL 1548

On motion of Senator Van de Putte, Senator Barrientos will be shown as Co-author of **SB 1548**.

CO-AUTHOR OF SENATE BILL 1583

On motion of Senator Zaffirini, Senator Shapleigh will be shown as Co-author of **SB 1583**.

CO-AUTHORS OF SENATE BILL 1845

On motion of Senator Deuell, Senators Fraser and Zaffirini will be shown as Co-authors of **SB 1845**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 14

On motion of Senator Wentworth, Senator Deuell will be shown as Co-author of **SCR 14**.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

April 21, 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 137, Relating to "Welcome to Texas" signs.

HB 167, Relating to the use of the development project fund by a municipal development district.

HB 182, Relating to the determination through binding arbitration of certain ad valorem tax protests brought by property owners.

HB 197, Relating to the punishment for the offense of criminal mischief.

HB 409, Relating to the appeal of certain orders regarding children in the conservatorship of the Department of Family and Protective Services.

HB 467, Relating to the financing of water and sewer programs and the provision of sewer connections in disadvantaged areas in certain counties.

HB 549, Relating to prohibiting the introduction of certain items in correctional facilities.

HB 746, Relating to notice of the presumption for theft by check.

HB 809, Relating to excepting certain motor vehicles owned by an individual and used for the production of income from required rendition for ad valorem tax purposes.

HB 823, Relating to the applicability of the offense of unlawful carrying of weapons to certain persons and to the consequence of certain presumptions in the prosecution of a criminal offense.

HB 854, Relating to an action for damages alleging professional negligence by a registered professional land surveyor.

HB 878, Relating to the placement of public school students who engage in conduct that contains the elements of certain sexual offenses.

HB 941, Relating to restrictions on the use of claims history for certain water damage.

HB 1056, Relating to municipal notice provisions relating to substandard buildings.

HB 1138, Relating to the operation and regulation of charitable bingo.

HB 1239, Relating to the implementation of unified drug enforcement strategies.

HB 1324, Relating to the punishment for the offense of burglary of vehicles.

HB 1371, Relating to certain offenses that involve impersonating a peace officer or other public servant and misrepresenting the nature of certain property.

HB 1614, Relating to supervision of a primary election by the county executive committee.

HB 1642, Relating to the appointment of interpreters for judicial proceedings.

HB 1686, Relating to the compensation of presiding judges of administrative judicial regions.

HB 1913, Relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.

HB 1982, Relating to the creation and operation of a Texas Certified Retirement Community Program.

HB 2134, Relating to the administration of the state infrastructure bank.

HB 2197, Relating to the availability to the public of photographs of an inmate confined by the Texas Department of Criminal Justice.

HB 2474, Relating to the creation of an additional judicial district and the jurisdiction of the existing district courts in Bell County.

HB 2958, Relating to the creation of freight rail districts; authorizing a tax; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.

HCR 151, Honoring Jim M. Alsop of Midland for his lifelong commitment to philanthropy.

SB 148, Relating to the exception from required public disclosure of a photograph of a peace officer.

SB 239, Relating to an exemption from the fee for a birth or death record requested by a child fatality review team or the child fatality review team committee.

SB 734, Relating to municipal regulation of the discharge of firearms and certain other weapons.
(Committee Substitute/Amended)

SB 848, Relating to the approval of certain permit applications by local governments.
(Committee Substitute/Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILL SIGNED

The President announced the signing of the following enrolled bill in the presence of the Senate after the caption had been read: **SB 280**.

PHYSICIAN OF THE DAY

Senator Shapleigh was recognized and presented Dr. Hector Lopez of El Paso as the Physician of the Day.

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

SENATE RESOLUTION 662

Senator Williams offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the 1st Battalion, 9th Cavalry Regiment, Task Force 1-9, which has been serving in Iraq with the 1st Cavalry Division's 3rd Brigade Combat Team and is represented today at the State Capitol by Specialist Jonathan Page; and

WHEREAS, The 1st Battalion's mission is to deploy, fight, and win anytime the nation calls, and it has a history of excellence in achieving its goals; its accomplishments have come with a price however—124 Purple Heart Medals were awarded from the beginning of Operation Iraqi Freedom II through November of 2004; and

WHEREAS, Task Force 1-9 was deployed to Iraq in March, 2004, to disrupt and destroy insurgent cells in Baghdad; its soldiers operated in the most dangerous sections of the Iraqi capital; the actions of Specialist Jonathan Page exemplify the extraordinary bravery shown by our military personnel; and

WHEREAS, Jonathan was on patrol when his platoon was called to assist in the medical evacuation of soldiers from the 153rd Infantry and members of an Iraqi Civil Defense corps; after his platoon secured the site of the evacuation, a series of explosions erupted across the street from his position; the explosions were followed by small arms fire; and

WHEREAS, Jonathan helped treat a wounded soldier and took him to safety; he then ran to the top of an apartment building to secure the roof and returned to the street to assist in the evacuation effort; without hesitation, Jonathan placed himself in the line of fire numerous times while continuing to evacuate casualties; his valiant actions earned him the designation of Task Force 1-9 Hero of the Week; and

WHEREAS, The soldiers in Task Force 1-9 have demonstrated exceptional courage and dedication to duty in the face of daunting challenges while serving their country, and the fortitude they have shown is truly inspirational; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby pay tribute to the brave soldiers of the 1st Battalion, 9th Cavalry Regiment, Task Force 1-9, and commend Specialist Jonathan Page for his exemplary service to his country in Iraq; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of high regard from the Texas Senate.

SR 662 was read.

On motion of Senator Ogden and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Williams, the resolution was adopted without objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate Specialist Jonathan Page; his parents, Ronald and Cheree Page; his sister, Meredith Page; and his grandfather, Kirby Page.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate fourth-grade students from Gregorio Esparza Elementary School in San Antonio, accompanied by their teachers.

The Senate welcomed its guests.

SENATE RESOLUTION 654

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the members of the Leadership Fort Worth Class of 2005 who are visiting the State Capitol on April 21 and 22 to learn more about state government; and

WHEREAS, Program participants are provided many opportunities over a 10-month period to gain more insight into significant public issues and to visit with leaders who make crucial decisions on policies that affect their community; and

WHEREAS, The members of Leadership Fort Worth are a group of diligent and qualified residents who have proven leadership abilities and who are committed to building an involved citizenry; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the members of the Leadership Fort Worth Class of 2005 for their dedication to civic responsibilities and extend best wishes to them for a memorable and enjoyable visit in Austin; and, be it further

RESOLVED, That a copy of this Resolution be prepared for these outstanding citizens as an expression of esteem from the Texas Senate.

NELSON
BRIMER

SR 654 was read and was adopted without objection.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate members of the Leadership Fort Worth Class of 2005.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate seventh-grade students from Christian Academy of San Antonio, accompanied by their teachers.

The Senate welcomed its guests.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

CONCLUSION OF MORNING CALL

The President at 11:35 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE
SENATE BILL 30 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 30** at this time on its second reading:

CSSB 30, Relating to a pilot project to award incentives to students contracting to graduate in a timely manner from public institutions of higher education.

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: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 30 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 30** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 30**, 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 30** 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 30, Nays 0.

Absent-excused: Carona.

SENATE BILL 729 ON THIRD READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 729** at this time on its third reading and final passage:

SB 729, Relating to a weighted caseload study of the district courts.

The motion prevailed.

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

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Staples.

Absent-excused: Carona.

SENATE BILL 740 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 740** at this time on its second reading:

SB 740, Relating to the authority of certain political subdivisions to erect or maintain shore protection structures and the location of the line of vegetation in relation to those structures.

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:

Nays: Williams.

Absent-excused: Carona.

SENATE BILL 740 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 740** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 740**, 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 740** 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 1.

Nays: Williams.

Absent-excused: Carona.

SENATE BILL 579 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 579** at this time on its second reading:

SB 579, Relating to the eligibility of children of certain military personnel to receive Texas B-On-time loans.

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: Carona.

(Senator Armbrister in Chair)

SENATE BILL 579 ON THIRD READING

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 579** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 579**, 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 579** 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 30, Nays 0.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1320 ON SECOND READING**

Senator Staples moved to suspend the regular order of business to take up for consideration **CSSB 1320** at this time on its second reading:

CSSB 1320, Relating to the sovereign immunity and liability to be sued of a junior college district.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hinojosa, Janek, Lindsay, Madla, Nelson, Ogden, Seliger, Shapleigh, Staples, Van de Putte, West, Williams, Zaffirini.

Nays: Armbrister, Barrientos, Gallegos, Jackson, Lucio, Shapiro, Wentworth, Whitmire.

Absent-excused: Carona.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1320**, committee printing, as follows:

(1) In SECTION 2 of the bill, on page 1, between lines 40 and 41, amend new Section 130.0841, Education Code, by adding new subsection (e) to read as follows:

(e) This section does not constitute the state's waiver of immunity to suit or liability or consent to suit brought by a junior college district or the board of trustees of a junior college district.

(2) In SECTION 2 of the bill, on page 1, line 41, before "In this section," strike "(e)" and insert "(f)".

The amendment to **CSSB 1320** 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: Carona.

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

CSSB 1320 as amended was passed to engrossment by the following vote: Yeas 21, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hinojosa, Janek, Madla, Nelson, Ogden, Seliger, Staples, Van de Putte, West, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Jackson, Lindsay, Lucio, Shapiro, Shapleigh, Wentworth, Whitmire.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 302 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 302** at this time on its second reading:

CSSB 302, Relating to reports regarding participation in higher education.

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: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 302 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 302** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 302**, 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 302** 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 30, Nays 0.

Absent-excused: Carona.

PERMISSION TO INTRODUCE BILLS

Senator Whitmire moved to suspend Senate Rule 7.07(b) and Section 5, Article III, of the Texas Constitution to permit the introduction of the following bills:

SB 12, SB 1869, SB 1874.

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

Absent-excused: Carona.

COMMITTEE SUBSTITUTE SENATE BILL 442 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 442** at this time on its second reading:

CSSB 442, Relating to immunity from liability for certain civil actions and civil actions against sales agents.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 442** in SECTION 1 of the bill, in added Section 466.161, Government Code (Senate committee printing, page 1, between lines 23 and 24), by adding Subsection (d) to read as follows:

(d) The immunity provided by Subsection (a) does not apply to a cause of action for personal injury or wrongful death.

The amendment to **CSSB 442** 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: Carona.

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

CSSB 442 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: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 442 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 442** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 442**, 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 442** 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 30, Nays 0.

Absent-excused: Carona.

SENATE BILL 1032 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1032** at this time on its second reading:

SB 1032, Relating to the elimination of certain alternative fuels programs of this state.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1032** as follows:

- (1) On page 1, line 17, after ";" by inserting "and";
- (2) On page 1, line 18, strike ";" and insert ".";
- (3) On page 1, strike line 19;
- (4) On page 2, line 39, between "SECTION 5." and "this" insert the following:
"Sections 457.201(c) and 457.205, Transportation Code, are repealed.
SECTION 6."

The amendment to **SB 1032** 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: Carona.

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

SB 1032 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: Carona.

SENATE BILL 1032 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1032** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 1032**, 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 1032** 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 30, Nays 0.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1069 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 1069** at this time on its second reading:

CSSB 1069, Relating to organizing certain data collected by the Department of State Health Services.

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: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1069 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 1069** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 1069**, 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 1069** 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 30, Nays 0.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1309 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1309** at this time on its second reading:

CSSB 1309, Relating to member restrictions for commissioners of the Texas Workforce Commission.

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: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1309 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1309** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent-excused: Carona.

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 1309**, 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 1309** 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 30, Nays 0.

Absent-excused: Carona.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The Presiding Officer, Senator Armbrister in Chair, announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Lindsay.

Senator Lindsay moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The Presiding Officer asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

Inspector General, Office of Inspector General for the Health and Human Services Commission: Brian Glenn Flood, Travis County.

Members, Texas Juvenile Probation Commission: Bob Ed Culver, Jr., Hemphill County; Roberto I. Lopez, Harris County; Cheryl Lee Shannon, Dallas County.

Presiding Officer, Board of Pardons and Paroles: Rissie Owens, Walker County.

Members, Board of Pardons and Paroles: Jose L. Aliseda, Jr., Bee County; Charles Franklin Aycock, Parmer County; Jackie deNoyelles, Smith County; Linda Faye Garcia, Harris County; Juanita Maria Gonzalez, Williamson County; Elvis Hightower, Walker County.

Member, Evergreen Underground Water Conservation District Board of Directors: Darrell Travis Brownlow, Wilson County.

Members, Brazos River Authority Board of Directors: Roberto Bailon, Bell County; Mark J. Carrabba, Brazos County; Jacqueline Baly Chaumette, Fort Bend County; Wade Compton Gear, Palo Pinto County; Jere Lawrence, Nolan County; Billy Wayne Moore, Hood County.

Members, Trinity River Authority of Texas Board of Directors: Katrina Keyes, Dallas County; Andrew Martinez, Walker County; AnaLaura Saucedo, Dallas County; Kimberly Chris "K. C." Wyatt, Navarro County.

(President in Chair)

SENATE BILL 581 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 581** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 581** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the powers and duties of the Veterans' Land Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 2155, Government Code, is amended by adding Section 2155.149 to read as follows:

Sec. 2155.149. CERTAIN PURCHASES BY VETERANS' LAND BOARD.

(a) The Veterans' Land Board is delegated all purchasing functions relating to veterans homes and veterans cemeteries.

(b) The Veterans' Land Board shall acquire goods and services under Subsection (a) by any procurement method that provides the best value to the Veterans' Land Board. The Veterans' Land Board shall consider the best value standards listed in Section 2155.074.

(c) At the request of the Veterans' Land Board, the commission shall procure goods and services described by Subsection (a) for the Veterans' Land Board. The Veterans' Land Board may use the services of the commission in procuring goods and services described by Subsection (a).

SECTION 2. Section 2166.003(a), Government Code, is amended to read as follows:

(a) Unless otherwise provided, this chapter does not apply to:

- (1) a project constructed by and for the Texas Department of Transportation;
- (2) a project constructed by and for a state institution of higher education;
- (3) a pen, shed, or ancillary building constructed by and for the Department of Agriculture for the processing of livestock before export;
- (4) a project constructed by the Parks and Wildlife Department;
- (5) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the commission inventory;
- (6) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings;
- (7) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by commission rule and does not require the advance preparation of working plans or drawings;

(8) an action taken by the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality under Subchapter F or I, Chapter 361, Health and Safety Code; ~~[or]~~

(9) a repair, rehabilitation, or construction project on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation; or

(10) a project constructed by and for the Veterans' Land Board.

SECTION 3. Section 161.001(a)(7), Natural Resources Code, is amended to read as follows:

(7) "Veteran" means a person who:

(A)(i) served not less than 90 ~~[continuous]~~ days, unless sooner discharged by reason of a service-connected disability, on active duty in the Army, Navy, Air Force, Coast Guard, United States Public Health Service (as constituted under 42 U.S.C. Section 201 et seq.), or Marine Corps of the United States after September 16, 1940, and who on the date of filing an application under the program has not been dishonorably discharged from the branch of the service in which the person served;

(ii) has at least 20 years of active or reserve military service as computed when determining the person's eligibility to receive retired pay under applicable federal law;

(iii) has enlisted or received an appointment in the Texas National Guard, who has completed all initial active duty training required as a condition of the enlistment or appointment, and who on the date of filing the person's application has not been dishonorably discharged from the Texas National Guard; or

(iv) served in the armed forces of the Republic of Vietnam between February 28, 1961, and May 7, 1975, if the board adopts a rule regarding these veterans under Subsection (b);

(B) at the time of the person's enlistment, induction, commissioning, appointment, or drafting was a bona fide resident of this state or has resided in this state at least one year immediately before the date of filing an application under this chapter; and

(C) at the time of the person's application under this chapter is a bona fide resident of this state. The term includes the unmarried surviving spouse of a veteran who died or who is identified as missing in action if the deceased or missing veteran meets the requirements of this section, with the exception that the deceased or missing veteran need not have served 90 ~~[continuous]~~ days under Paragraph (A)(i) of this subdivision, and if the deceased or missing veteran was a bona fide resident of this state at the time of enlistment, induction, commissioning, appointment, or drafting.

SECTION 4. The changes in law made by Sections 1 and 2 of this Act apply only to a contract or project for which the Veterans' Land Board first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act. A contract or project for which the Veterans' Land Board, or a state agency acting on behalf of the Veterans' Land Board, first advertised or otherwise

solicited bids, offers, or qualifications before that date is governed by the law in effect when the first advertisement or solicitation was given, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2005.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 581**.

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

Absent-excused: Carona.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider **SB 190** today.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Madla and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider **SB 1370** today.

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

On motion of Senator Madla and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting today.

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 **SB 1382** today.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider **SB 1870** at 2:00 p.m. today.

PLEDGE OF ALLEGIANCE
TO THE TEXAS FLAG

At the request of Senator Armbrister, the Senate recited the pledge of allegiance to the Texas flag, in honor of San Jacinto Day, as follows:

Honor the Texas flag; I pledge allegiance to thee, Texas, one and indivisible.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider the following bills today:

SB 837, SB 1003, SB 1049, SB 1071, SB 1275, SB 1377, SB 1410, SB 1578, SB 1654, SB 1832.

SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Criminal Justice might meet today.

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 Finance might meet and consider the following bill and resolution today: **SB 849, SJR 23.**

SENATE BILL 426 REREFERRED

Senator Shapleigh submitted a Motion In Writing requesting that **SB 426** be withdrawn from the Committee on Education and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:58 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 9:30 a.m. tomorrow.

(Senator Staples in Chair)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

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

SB 12 by Zaffirini, Barrientos, Brimer, Deuell, Janek, Ogden, Shapleigh
Relating to contracting and ethics issues of state agencies; providing a civil penalty.
To Committee on Finance.

SB 1869 by Gallegos
Relating to the Harris County Board of Protective Services for Children and Adults.
To Committee on Health and Human Services.

SB 1874 by Whitmire, Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Williams, Zaffirini
Relating to the Automobile Theft Prevention Authority.
To Committee on Criminal Justice.

SB 1875 by Hinojosa
Relating to the creation of an additional county court at law in Hidalgo County. (Local Bill)
To Committee on Jurisprudence.

SB 1876 by Brimer
Relating to the powers, duties, administration, governance, and functions of the Benbrook Water and Sewer Authority. (Local Bill)
To Committee on Natural Resources.

SB 1877 by Whitmire
Relating to the creation of Harris County Municipal Utility District No. 406; providing authority to impose taxes and standby fees and issue bonds; granting the power of eminent domain. (Local Bill)
To Committee on Intergovernmental Relations.

SCR 29 by Ellis
Encouraging managers of Texas public pension funds to divest their portfolios of any stock in publicly-traded companies doing business in Sudan.
To Committee on Finance.

SCR 30 by Lucio
Urging the State of Texas to continue to pursue increased trade with Mexico and to develop a plan with Mexico to mitigate delays at border crossings.
To Committee on International Relations and Trade.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

HB 56 to Committee on State Affairs.

HB 57 to Committee on State Affairs.

HB 248 to Committee on Jurisprudence.

HB 291 to Committee on Criminal Justice.

HB 311 to Committee on Criminal Justice.

HB 348 to Committee on Intergovernmental Relations.

HB 383 to Committee on Jurisprudence.

HB 571 to Committee on Intergovernmental Relations.

HB 649 to Committee on Transportation and Homeland Security.

HB 678 to Committee on Jurisprudence.

HB 758 to Committee on State Affairs.

HB 856 to Committee on Natural Resources.

HB 942 to Committee on Natural Resources.
HB 1015 to Committee on Government Organization.
HB 1088 to Committee on Business and Commerce.
HB 1126 to Committee on Health and Human Services.
HB 1155 to Committee on Government Organization.
HB 1185 to Committee on Finance.
HB 1262 to Committee on Criminal Justice.
HB 1304 to Committee on Business and Commerce.
HB 1347 to Committee on Intergovernmental Relations.
HB 1685 to Committee on Health and Human Services.
HB 2131 to Committee on Natural Resources.
HB 2191 to Committee on State Affairs.
HB 2194 to Committee on Criminal Justice.
HB 2199 to Committee on Intergovernmental Relations.
HB 2274 to Committee on Government Organization.
HB 2382 to Committee on Intergovernmental Relations.
HB 2392 to Committee on Finance.
HB 2650 to Committee on Transportation and Homeland Security.
HB 2653 to Committee on Transportation and Homeland Security.
HB 3016 to Committee on Finance.
HB 3036 to Subcommittee on Emerging Technologies and Economic Development.
HB 3250 to Committee on Business and Commerce.
HCR 24 to Committee on Intergovernmental Relations.
HCR 37 to Committee on Health and Human Services.
HCR 63 to Committee on State Affairs.
HCR 88 to Committee on Jurisprudence.
HCR 128 to Committee on Intergovernmental Relations.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 665 by Seliger, In memory of George A. Donnelly, Jr., of Midland.
SR 669 by Barrientos, In memory of Boyd Vance of Austin.
SR 670 by Barrientos, In memory of Johnnie Martinez Lopez of Austin.

Congratulatory Resolutions

SR 660 by Carona and Deuell, Recognizing James Terry on the occasion of his retirement as Superintendent of the Mesquite Independent School District.
SR 661 by Ellis, Recognizing the High School Students United with NASA to Create Hardware project teams for their achievements.
SR 664 by Ellis, Recognizing E. Dale Wortham for his service to the Houston community.
HCR 146 (Armbrister), Honoring Pope Benedict XVI on his election to the papacy.

HCR 151 (Seliger), Honoring Jim M. Alsup of Midland for his lifelong commitment to philanthropy.

Official Designation Resolution

SR 663 by Ellis, Proclaiming May 1 through 8, 2005, Cover The Uninsured Week.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 1:08 p.m. adjourned until 9:30 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 21, 2005

EDUCATION — **CSSB 132, CSSB 151**

FINANCE — **CSSB 1538**

CRIMINAL JUSTICE — **CSSB 1195**

HEALTH AND HUMAN SERVICES — **CSSB 1000, CSSB 1035**

EDUCATION — **SB 532**

HEALTH AND HUMAN SERVICES — **CSSB 1328**

STATE AFFAIRS — **CSSB 852, CSSB 809, CSSB 1133, CSSB 1815, CSSB 1323**

CRIMINAL JUSTICE — **CSSB 1125**

INTERGOVERNMENTAL RELATIONS — **SB 362, SB 1853, SB 1851, SB 1841, SB 1769, SB 1705, SB 1539, SB 1027, SB 1026, SB 1013, SB 897, HB 1815**

SENT TO GOVERNOR

April 21, 2005

SB 280