

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**THIRTY-FIFTH DAY**

(Wednesday, April 8, 2009)

The Senate met at 11:08 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

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

Chaplain Brett Shayler, Weatherford College Fire Academy, Weatherford, offered the invocation as follows:

Heavenly Father, we ask for wisdom and strength in all of our tasks that we seek this day. Being experienced in the ways of the world, we all strive to gain more knowledge and to understand the spirit in our lives and allow the spirit that moves between us and calls us by a secret whispering in our hearts to give all that we can of love and devotion to our fellow man. Search us and know our hearts and know our anxieties and see if there is any wicked way in us that needs to be forgiven and lead us in the way of everlasting love. Protect and show Your everlasting love for the soldiers, firefighters, law enforcement officers, emergency medical personnel, and their families and loved ones as they protect us. 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.

## **CO-AUTHOR OF SENATE BILL 16**

On motion of Senator Averitt, Senator West will be shown as Co-author of **SB 16**.

## **CO-AUTHOR OF SENATE BILL 66**

On motion of Senator Nelson, Senator Lucio will be shown as Co-author of **SB 66**.

**CO-AUTHOR OF SENATE BILL 203**

On motion of Senator Shapleigh, Senator West will be shown as Co-author of **SB 203**.

**CO-AUTHOR OF SENATE BILL 283**

On motion of Senator Nelson, Senator West will be shown as Co-author of **SB 283**.

**CO-AUTHOR OF SENATE BILL 515**

On motion of Senator Ellis, Senator Gallegos will be shown as Co-author of **SB 515**.

**CO-AUTHOR OF SENATE BILL 855**

On motion of Senator Carona, Senator Averitt will be shown as Co-author of **SB 855**.

**CO-AUTHORS OF SENATE BILL 961**

On motion of Senator Ellis, Senators Gallegos and Lucio will be shown as Co-authors of **SB 961**.

**CO-AUTHOR OF SENATE BILL 1049**

On motion of Senator Uresti, Senator Davis will be shown as Co-author of **SB 1049**.

**CO-AUTHOR OF SENATE BILL 1219**

On motion of Senator Averitt, Senator West will be shown as Co-author of **SB 1219**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 36**

On motion of Senator Duncan, Senator Carona will be shown as Co-author of **SJR 36**.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

April 8, 2009

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 375**, Relating to classifying elk and elk hybrids as livestock under the Agriculture Code.

**HB 1079**, Relating to the appellate process for the community development block grant program.

**HB 1404**, Relating to the establishment and use of a columbarium by a church.

**HB 1484**, Relating to the use of certain professional titles by interior designers.

**HB 1580**, Relating to the continuation and functions of the board of directors of the official cotton growers' boll weevil eradication foundation.

**HB 1819**, Relating to minimum habitability standards for multi-family rental buildings in certain municipalities; providing a penalty.

**HB 1918**, Relating to changing the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.

**HB 2058**, Relating to the standards for attorneys representing indigent defendants in capital cases.

**SB 297**, Relating to resident tuition rates and fees at public institutions of higher education for certain veterans and their spouses and children.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **PHYSICIAN OF THE DAY**

Senator Watson was recognized and presented Dr. Dana Sprute of Austin as the Physician of the Day.

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

### **GUESTS PRESENTED**

Senator Patrick was recognized and introduced to the Senate a delegation representing the Association of Water Board Directors - Texas.

The Senate welcomed its guests.

### **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 769**.

### **PERMISSION TO INTRODUCE BILL**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bill: **SB 2505**.

### **SENATE BILLS AND RESOLUTION ON FIRST READING**

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

**SB 2501** by West

Relating to the creation of the North Oak Cliff Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.  
To Committee on Intergovernmental Relations.

**SB 2502** by West

Relating to the creation of the Trinity River West Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.  
To Committee on Intergovernmental Relations.

**SB 2503** by Nichols

Relating to the powers and duties of the Lake View Management and Development District; providing authority to impose a tax and issue bonds; granting certain powers relating to navigation improvements; and granting powers of a road district.  
To Committee on Intergovernmental Relations.

**SB 2504** by Nichols

Relating to the creation of the Montgomery County Municipal Utility Districts Nos. 128 and 129; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.  
To Committee on Intergovernmental Relations.

**SB 2505** by Harris

Relating to safety of children who participate in rodeos.  
To Committee on State Affairs.

**SB 2506** by Duncan

Relating to the creation of the Gray County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.  
To Committee on Intergovernmental Relations.

**SB 2507** by Jackson

Relating to the creation of the Harris County Improvement District No. 16; providing authority to impose an assessment, impose a tax, and issue bonds.  
To Committee on Intergovernmental Relations.

**SB 2508** by Wentworth

Relating to the creation of the Guadalupe County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.  
To Committee on Intergovernmental Relations.

**SB 2509** by Williams

Relating to the creation of the Montgomery County Water Control and Improvement District No. 2; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.  
To Committee on Natural Resources.

**SB 2510** by Patrick

Relating to the creation of the Harris County Improvement District No. 18; providing authority to impose an assessment, impose a tax, and issue bonds.

To Committee on Intergovernmental Relations.

**SCR 54** by Estes

Memorializing Congress to cease and desist attempting to enact federal legislation impinging on the individual right of every American to keep and bear arms and urging Congress to oppose passage of the Blair Holt's Firearm Licensing and Record of Sale Act of 2009.

To Committee on Criminal Justice.

**SENATE RESOLUTION 574**

Senator Watson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Saint Edward's University on the occasion of Saint Edward's University Day at the State Capitol on April 8, 2009; and

WHEREAS, Saint Edward's University in Austin was founded in 1885 by the Congregation of Holy Cross; combining a rich Catholic heritage and a clear vision for the future, Saint Edward's is dedicated to preparing students for the challenges and opportunities that lie ahead for them in the global community; and

WHEREAS, Dr. George E. Martin became Saint Edward's 23rd president in July of 1999 and has led the university's collaborative efforts to attain national recognition; under his leadership, traditional undergraduate enrollment has grown by 60 percent, and Saint Edward's has been recognized by *U.S. News & World Report* as one of the best colleges in America for six consecutive years; and

WHEREAS, Saint Edward's University is committed to providing opportunities for students of varied cultural, religious, educational, and economic backgrounds and challenges them to become their best, explore their own path, and recognize their place in the world; and

WHEREAS, Throughout its steady growth, Saint Edward's has maintained its commitment to a low student-to-faculty ratio and has initiated programs to fulfill the needs of its diverse students, such as the College Assistance Migrant Program that has provided college education to migrant students for 37 years; and

WHEREAS, Saint Edward's University works to produce students who excel academically, attain social, physical, and spiritual achievement, and give back to their communities; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby welcome the representatives of Saint Edward's University who have joined us at the State Capitol and extend to them best wishes for a memorable visit; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a memento of the special occasion.

**SR 574** was read and was adopted without objection.

### GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate representatives of Saint Edward's University: George E. Martin, President; Brother Richard Daly, Member, Board of Trustees; Dr. Neal Wise, faculty member; and Austin Lytle, Student Government President.

The Senate welcomed its guests.

### SENATE RESOLUTION 601

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pleasure in recognizing April 8, 2009, as Texas A&I University Alumni Day at the State Capitol; and

WHEREAS, Texas A&I University, now Texas A&M University–Kingsville, was founded in 1925 as South Texas State Teachers College; its name was changed to Texas College of Arts and Industries in 1929 to reflect the expanded mission of the institution to prepare students for jobs in science, industry, and technology; and

WHEREAS, It was renamed Texas A&I University in 1967; in 1989, the school entered The Texas A&M University System, and in 1993, its name was changed to reflect membership in that system; and

WHEREAS, During World War II, the facility earned fame for its excellence in engineering, and it offered military courses as well as civilian courses in civil defense; the school also began offering extension courses, and after the war, it helped many returning veterans get their education with help from the GI Bill; and

WHEREAS, The oldest institution of higher education in South Texas, Texas A&M University–Kingsville continues its effort to bring high-quality education to the community it serves; it has long worked with the citrus growers in the Lower Rio Grande Valley and counts among its many accomplishments the development of the ruby red grapefruit; and

WHEREAS, Members of the alumni continue to work with the university and support programs and activities that will enhance the image, mission, interests, and ideas of the university; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the Texas A&I University alumni for their efforts on behalf of their alma mater and extend to them best wishes for a memorable Texas A&I University Alumni Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the Texas A&I University alumni to commemorate this special occasion.

**SR 601** was read and was adopted without objection.

### GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate a delegation of Texas A&I University alumni.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate a delegation of students from institutions of higher education in the Dallas area.

The Senate welcomed its guests.

**CONCLUSION OF MORNING CALL**

The President at 11:26 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1389 ON THIRD READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1389** at this time on its third reading and final passage:

**CSSB 1389**, Relating to the penalty for the offense of reckless driving.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate his guests.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Ogden was recognized and introduced to the Senate a group of students from the Alpha Omega Academy in Huntsville.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE  
SENATE BILL 66 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 66** at this time on its second reading:

**CSSB 66**, Relating to health care coverage for children in Title IV-D cases.

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.

**COMMITTEE SUBSTITUTE  
SENATE BILL 66 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 66** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 66**, 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 66** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 240 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 240** at this time on its second reading:

**CSSB 240**, Relating to the enforcement of deed restrictions.

**(Senator Carona in Chair)**

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.

**COMMITTEE SUBSTITUTE  
SENATE BILL 240 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 240** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 240**, 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 240** 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 31, Nays 0.

### SENATE BILL 669 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 669** at this time on its second reading:

**SB 669**, Relating to the availability of online testing for high school equivalency examinations.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 669** (Senate committee report), in SECTION 1 of the bill, in added Section 7.111(c), Education Code (page 1, lines 13 and 14), by striking "The board by rule shall provide for the administration of high school equivalency examinations through online testing." and substituting "If the national entity that develops and delivers high school equivalency examinations authorizes online testing, the board by rule shall provide for administration of the examinations online."

The amendment to **SB 669** 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 motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**SB 669** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**SENATE BILL 669 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 669** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 669**, 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 669** 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 31, Nays 0.

**SENATE BILL 794 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 794** at this time on its second reading:

**SB 794**, Relating to the composition of the board of directors of the Central Colorado River Authority.

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.

**SENATE BILL 794 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 794** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### 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 794**, 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 794** 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 31, Nays 0.

### SENATE BILL 1208 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1208** at this time on its second reading:

**SB 1208**, Relating to the creation of an appellate judicial system for the Seventh Court of Appeals District.

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.

### SENATE BILL 1208 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1208** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### 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 1208**, 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 1208** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 184 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 184** at this time on its second reading:

**CSSB 184**, Relating to "no regrets" greenhouse gas emissions reduction strategies.

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.

**COMMITTEE SUBSTITUTE  
SENATE BILL 184 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 184** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 184**, 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 184** 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 31, Nays 0.

### **SENATE BILL 1654 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 1654** at this time on its second reading:

**SB 1654**, Relating to the criteria for evaluating requests for defense economic adjustment assistance grants.

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.

### **SENATE BILL 1654 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 1654** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### **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 1654**, 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 1654** 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 31, Nays 0.

### **SENATE BILL 567 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 567** at this time on its second reading:

**SB 567**, Relating to the course levels offered by the University of Houston-Victoria.

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.

### **SENATE BILL 567 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 567** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### **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 567**, 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 567** 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 31, Nays 0.

### RECESS

On motion of Senator Whitmire, the Senate at 12:07 p.m. recessed until 12:45 p.m. today.

### AFTER RECESS

The Senate met at 1:49 p.m. and was called to order by the President.

(Senator Eltife in Chair)

### COMMITTEE SUBSTITUTE SENATE BILL 839 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 839** at this time on its second reading:

**CSSB 839**, Relating to the punishment for a capital felony committed by a juvenile whose case is transferred to criminal court.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 839** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 12.31(a)(1), Penal Code, between "life" and the underlined comma (page 1, line 23), insert "or life without parole".

(2) In SECTION 1 of the bill, in added Section 12.31(a)(2), Penal Code, between "parole" and the period (page 1, line 25), insert ", if the individual's case is not described by Subdivision (1)".

(3) In SECTION 1 of the bill, in added Section 12.31(b)(1), Penal Code, between "imprisonment" and "is" (page 1, line 33), insert "or life imprisonment without parole".

(4) In SECTION 1 of the bill, in added Section 12.31(b)(2), Penal Code, between "felony" and the period (page 1, line 37), insert ", if the case is not described by Subdivision (1)".

The amendment to **CSSB 839** 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 motion of Senator Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 839** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 839 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 839** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 839**, 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 839** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 238 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 238** at this time on its second reading:

**CSSB 238**, Relating to the availability of a property owners' association's books and records.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 238** (Senate committee printing), in SECTION 1 of the bill, as follows:

(1) Strike added Section 209.005(c), Property Code (page 1, lines 21 through 40), and substitute the following:



(c) In addition to the requirements of Subsection (a), and except as provided by this section, a property owners' association shall maintain a copy of the association's books and records, including financial records and invoices, in a building:

(1) staffed during normal business hours;

(2) in which the books and records are appropriately stored; and

(3) that is:

(A) accessible to members of the association during normal business hours; and

(B) located on property commonly owned by the association within the boundaries of the subdivision governed by the association.

(d) Books and records stored in a building described by Subsection (c) shall be made available within three business days of a request by a member of the association.

(e) If a building described by Subsection (c) does not exist on property described by Subsection (c), the property owners' association shall make the books and records available to the requesting party within a reasonable time after the property owners' association receives the request, in accordance with Subsections (f) and (g).

(f) A reasonable time for providing information requested under Subsection (a) is considered to be 10 business days after the date the property owners' association receives a request, except as otherwise provided by this section.

(g) If the property owners' association is unable to produce a requested book or record on or before the 10th business day after the date the information is requested, the property owners' association must provide to the requestor, not later than the 10th business day after the date the property owners' association receives the request, notice that:

(1) informs the requestor that the property owners' association is unable to produce the information on or before the 10th business day after the date of the request; and

(2) states a date by which the information will be available for inspection that is reasonable in light of:

(A) the nature, age, and quantity of records requested; and

(B) the staffing and other resources available to the property owners' association.

(h) A property owners' association shall make books and records requested under this section available to the requestor in one or more of the following formats, as specified by the requestor:

(1) an electronic format:

(A) delivered to an electronic mail address provided by the requestor; or

(B) delivered in a disc or other standard electronic format:

(i) to the mailing address of the requestor; or

(ii) if the requesting party does not provide a mailing address, to the address of the requestor's property in the subdivision; or

(2) a hard-copy format, with the records being made available for review by the requesting party at a location not farther than 25 miles from the boundary of the subdivision governed by the association.

(2) Redesignate added Section 209.005(d), Property Code (page 1, line 41), as Subsection (i).

(3) In added and redesignated Section 209.005(i), Property Code (page 1, line 42), strike "fails to comply with Subsection (a)," and substitute "fails to comply with this section,".

(4) Following added and redesignated Section 209.005(i), Property Code (page 1, between lines 54 and 55), insert the following:

(j) This section does not require a property owners' association to staff a building described by Subsection (c).

(k) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

The amendment to **CSSB 238** 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 motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 238** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

#### **COMMITTEE SUBSTITUTE SENATE BILL 238 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 238** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

#### **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 238**, 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 238** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1711 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1711** at this time on its second reading:

**CSSB 1711**, Relating to the use of sediment control ponds to satisfy environmental and safety requirements at surface mining operations.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1711** in SECTION 1 of the bill by striking amended Section 11.142(d), Water Code (Senate committee printing page 1, lines 16 through 22), and substituting the following:

(d) Without obtaining a permit, a person may construct or maintain a reservoir ~~[for the sole purpose of sediment control]~~ as part of a surface coal mining operation under Chapter 134, Natural Resources Code, if the water in the reservoir is used solely for:

- (1) sediment control; or
- (2) compliance with applicable laws, rules, or regulations relating to fire or dust suppression ~~[the Texas Surface Coal Mining and Reclamation Act (Article 5920-11, Vernon's Texas Civil Statutes)]~~.

The amendment to **CSSB 1711** 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 motion of Senator Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1711** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1711 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1711** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 1711**, 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 1711** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 6 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSSB 6** at this time on its second reading:

**CSSB 6**, Relating to the creation of the Healthy Texas Program.

The motion prevailed.

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

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 6** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_\_\_\_. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSSB 6** 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:

Nays: Shapleigh.

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

**CSSB 6** 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:

Nays: Davis, Shapleigh, Williams.

**COMMITTEE SUBSTITUTE  
SENATE BILL 6 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 6** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Shapleigh, Wentworth.

**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 6**, 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 6** 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 3.

Yeas: Averitt, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Davis, Shapleigh, Williams.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
April 8, 2009

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 19**, Relating to the labeling requirements for drugs dispensed by pharmacists.

**HB 328**, Relating to abolishing the office of inspector of hides and animals.

**HB 1084**, Relating to shipment of wine to ultimate consumers.

**HB 1282**, Relating to the penalty for theft of a driver's license, commercial driver's license, or personal identification certificate.

**HB 1672**, Relating to newborn screening information.

**HB 2030**, Relating to the Medicaid Drug Utilization Review Program and prescription drug use under the Medicaid program.

**HB 2064**, Relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.

**HB 2073**, Relating to plans by local governments in coastal areas for reducing public expenditures for erosion and storm damage losses to public and private property.

**HB 2374**, Relating to financing of water and wastewater connections and plumbing improvements in economically distressed areas.

**HB 2666**, Relating to the authority of the Lower Neches Valley Authority to acquire, own, operate, maintain, and improve the Devers Canal System, its water rights, and associated property.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1238 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **SB 1238** at this time on its second reading:

**SB 1238**, Relating to a study regarding the Carrizo-Wilcox aquifer.

The motion prevailed.

Senators Hegar, Watson, and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 1238** (committee printing), in SECTION 2(a)(4) of the bill, as follows:

- (1) On page 1, line 38, between "water from the aquifer" and ";" insert "within the groundwater conservation districts";
- (2) On page 1, line 38, after ";" insert "and";
- (3) Strike SECTION 2(a)(4)(B) and (C) (page 1, lines 39-42); and
- (4) On page 1, line 43, strike "(D)" and substitute "(B)".

The amendment to **SB 1238** 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:

Nays: Hegar, Watson, Zaffirini.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **SB 1238** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **SB 1238** 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. 2 except as follows:

Nays: Watson, Zaffirini.

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

**SB 1238** 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:

Nays: Hegar, Watson, Zaffirini.

**SENATE BILL 1238 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1238** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, West, Whitmire, Williams.

Nays: Hegar, Watson, Wentworth, Zaffirini.

### 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 1238**, 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 1238** 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 3.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Hegar, Watson, Zaffirini.

### SENATE BILL 241 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 241** at this time on its second reading:

**SB 241**, Relating to procedures required for the foreclosure of a property owners' association's assessment lien.

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.

### SENATE BILL 241 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 241** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.



### 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 241**, 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 241** 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 31, Nays 0.

### COMMITTEE SUBSTITUTE SENATE BILL 684 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 684** at this time on its second reading:

**CSSB 684**, Relating to the establishment of the Texas Rural Development Fund and to the establishment, operation, and funding of certain programs for rural economic development.

The motion prevailed.

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

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 684** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSSB 684** 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:

Nays: Patrick.

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

**CSSB 684** 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:

Nays: Patrick, Shapiro.

**COMMITTEE SUBSTITUTE  
SENATE BILL 684 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 684** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Patrick, Wentworth.

**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 684**, 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 684** 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 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Patrick, Shapiro.

**COMMITTEE SUBSTITUTE  
SENATE BILL 961 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 961** at this time on its second reading:

**CSSB 961**, Relating to the sale of certain annuities.

The motion prevailed.

Senator Averitt asked to be recorded as voting "Nay" 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:

Nays: Averitt.

**COMMITTEE SUBSTITUTE  
SENATE BILL 961 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 961** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Wentworth.

**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 961**, 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 961** 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 1.

Nays: Averitt.

**COMMITTEE SUBSTITUTE  
SENATE BILL 98 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 98** at this time on its second reading:

**CSSB 98**, Relating to establishing a health science center and medical school in South Texas.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 98**, in SECTION 6 of the bill (committee printing page 4, lines 55-57), by striking ", other than funds appropriated for the regional academic health center established under Section 74.611, Education Code".

The amendment to **CSSB 98** 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.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 98** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSSB 98** 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. 2.

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

**CSSB 98** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 98 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 98** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

**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 98**, 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 98** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE  
SENATE BILL 361 ON SECOND READING**

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSSB 361** at this time on its second reading:

**CSSB 361**, Relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

The motion prevailed.

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

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 361** Senate committee printed version (page 1, line 38) by inserting between the word "for" and the ":" : one of the following

The amendment to **CSSB 361** 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:

Nays: Estes.

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

**CSSB 361** 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:

Nays: Estes.

**COMMITTEE SUBSTITUTE  
SENATE BILL 361 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 361** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Wentworth.

**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 361**, 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 361** 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 1.

Nays: Estes.

**SENATE RULE 3.04 SUSPENDED  
(Posters, Placards, Banners, and Signs)**

On motion of Senator Williams and by unanimous consent, Senate Rule 3.04 as it relates to the banning of posters, placards, banners, signs, or other similar materials in the Senate Chamber was suspended to allow the use of exhibits by Senator Averitt during the deliberation of **CSSB 16**.

**COMMITTEE SUBSTITUTE  
SENATE BILL 16 ON SECOND READING**

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSSB 16** at this time on its second reading:

**CSSB 16**, Relating to the enhancement of air quality, including the capture and storage of carbon dioxide and development of a greenhouse gas registry, the development of emissions reduction technologies, and the improvement of energy efficiency in buildings, vehicles, and appliances; providing civil penalties.

The motion prevailed by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 16** by striking SECTION 4.01 of the bill (committee printing page 6, lines 54 through 64) and renumbering the subsequent SECTIONS of ARTICLE 4 accordingly.

The amendment to **CSSB 16** 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.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 16** (Senate committee report) by striking SECTIONS 4. and 4.02 (page 6, lines 54-68), and renumbering the subsequent sections appropriately.

The amendment to **CSSB 16** was read.

Senator Carona withdrew Floor Amendment No. 2.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSSB 16** (Senate committee printing) by striking SECTION 3.02 of the bill (page 6, lines 51 and 52) and substituting:

SECTION 3.02. Subsection (c), Section 382.220, Health and Safety Code, is amended to read as follows:

(c) Money that is made available for the implementation of a program under Subsection (b) may not be expended for local government fleet or vehicle acquisition or replacement, call center management, application oversight, invoice analysis, education, outreach, or advertising purposes.

The amendment to **CSSB 16** 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. 3.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSSB 16** (Senate committee printing) by striking SECTION 3.02 of the bill (page 6, lines 51 and 52), and substituting:

SECTION 3.02. Section 382.220(d), Health and Safety Code, is amended to read as follows:

(d) Fees collected under Sections 382.202 and 382.302 may be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). The fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 ~~[and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b)].~~

The amendment to **CSSB 16** was read.

Senator Carona withdrew Floor Amendment No. 4.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSSB 16** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 2001.0225, Government Code, is amended to read as follows:



Sec. 2001.0225. REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES. (a) This section applies only to a major environmental rule adopted by a state agency, the result of which is to:

(1) exceed an express requirement of [a standard set by] federal law, unless the rule is specifically required by state law;

(2) exceed an express requirement of state law, unless the rule is specifically required by federal law; or

(3) ~~[exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or~~

~~[(4)]~~ adopt a rule solely under the general powers of the agency instead of under a specific state law.

(b) Before adopting a major environmental rule subject to this section, a state agency shall conduct a regulatory analysis. A regulatory analysis of a major environmental rule conducted under this section must provide the public with transparency regarding the cost-effectiveness of the rule, including the economic costs and the economic benefits weighed by the agency in adopting the rule. The regulatory analysis does not preclude the agency from adopting the rule [that:

~~(1) identifies the problem the rule is intended to address;~~

~~(2) determines whether a new rule is necessary to address the problem; and~~

~~(3) considers the benefits and costs of the proposed rule in relationship to state agencies, local governments, the public, the regulated community, and the environment].~~

(c) When giving notice of a major environmental rule subject to this section, a state agency shall incorporate into the fiscal note required by Section 2001.024 a draft impact analysis describing the anticipated effects of the proposed rule. The draft impact analysis, at a minimum, must:

(1) identify the problem the rule is intended to address and the benefits that the agency anticipates from adoption and implementation of the rule, including reduced risks to human health, safety, or the environment;

(2) identify and describe in a quantitative and qualitative manner the costs that the agency anticipates state agencies, local governments, the public, and the regulated community, including regulated small businesses, will experience after implementation of the rule; and

(3) identify and [describe the benefits and costs anticipated from implementation of the rule in as quantitative a manner as feasible, but including a qualitative description when a quantitative description is not feasible or adequately descriptive;

~~[(4)]~~ describe reasonable alternative methods of compliance, including performance-based and market-based approaches [for achieving the purpose of the rule that were considered by the agency and provide the reasons for rejecting those alternatives in favor of the proposed rule;

~~[(5) identify the data and methodology used in performing the analysis required by this section;~~

~~[(6) provide an explanation of whether the proposed rule specifies a single method of compliance, and, if so, explain why the agency determines that a specified method of compliance is preferable to adopting a flexible regulatory approach, such as a performance-oriented, voluntary, or market-based approach;~~

~~[(7) state that there is an opportunity for public comment on the draft impact analysis under Section 2001.029 and that all comments will be addressed in the publication of the final regulatory analysis; and~~

~~[(8) provide information in such a manner that a reasonable person reading the analysis would be able to identify the impacts of the proposed rule].~~

(d) After considering public comments submitted under Section 2001.029 and determining that a proposed rule should be adopted, the agency shall prepare a final regulatory analysis under this section that complies with Section 2001.033. ~~[Additionally, the agency shall find that, compared to the alternative proposals considered and rejected, the rule will result in the best combination of effectiveness in obtaining the desired results and of economic costs not materially greater than the costs of any alternative regulatory method considered.]~~

(e) ~~[In preparing the draft impact analysis before publication for comment and the final regulatory analysis for the agency order adopting the rule, the state agency shall consider that the purpose of this requirement is to identify for the public and the regulated community the information that was considered by the agency, the information that the agency determined to be relevant and reliable, and the assumptions and facts on which the agency made its regulatory decision.]~~ In making its final regulatory decision, the agency shall assess and consider:

(1) all information submitted to it, whether quantitative or qualitative, consistent with generally accepted scientific standards;

(2) actual data where possible; and

(3) assumptions that reflect actual impacts that the regulation is likely to impose.

(f) A person who submitted public comment in accordance with Section 2001.029 may challenge the validity of a major environmental rule that is not proposed and adopted strictly in accordance with the procedural requirements of this section by filing an action for declaratory judgment under Section 2001.038 not later than the 30th day after the effective date of the rule. If a court determines that a major environmental rule was not proposed and adopted strictly in accordance with the procedural requirements of this section, the rule is invalid.

(g) In this section:

(1) "Benefit" means a reasonably identifiable, significant, direct or indirect, favorable effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(2) "Cost" means a reasonably identifiable, significant, direct or indirect, adverse effect, including a quantifiable or nonquantifiable environmental, health, or economic effect, that is expected to result from implementation of a rule.

(3) "Major environmental rule" means a rule the specific intent of which is to:

(A) protect the environment or reduce risks to human health from environmental exposure and that may adversely affect [~~in a material way~~] the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state;

(B) control or monitor emissions of:

(i) criteria pollutants that are subject to a federal air quality standard under 40 C.F.R. Part 50, including sulfur dioxide, particulate matter, carbon monoxide, ozone, nitrogen dioxide, and lead;

(ii) precursors of ozone, which include oxides of nitrogen and volatile organic compounds; and

(iii) greenhouse gases, which include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride; or

(C) change an existing agency rule or policy in a way that adds a new, substantive, or procedural requirement:

(i) that must be met by a regulated entity; and

(ii) a violation of which by a regulated entity would subject the entity to administrative, civil, or criminal penalties.

(h) The requirements of this section do not apply to state agency rules that are proposed or adopted on an emergency basis to protect the environment or to reduce risks to human health from environmental exposure.

SECTION \_\_\_\_\_. Section 2001.035(a), Government Code, is amended to read as follows:

(a) A rule is voidable unless a state agency adopts it:

(1) in substantial compliance with Sections ~~2001.023~~ [2001.0225] through 2001.034; or

(2) in strict compliance with Section 2001.0225, if applicable.

The amendment to **CSSB 16** was read.

On motion of Senator Averitt, Floor Amendment No. 5 was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro.

Senator Averitt offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **CSSB 16** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSSB 16** 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. 6.

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

**CSSB 16** as amended was passed to engrossment by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Patrick, Shapiro.

### **COMMITTEE SUBSTITUTE SENATE BILL 1392 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1392** at this time on its second reading:

**CSSB 1392**, Relating to toll collection and enforcement.

The motion prevailed.

Senators Estes and Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

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

Amend **CSSB 1392**, in SECTION 3 of the bill, immediately following proposed Section 228.0545(d), Transportation Code (committee printing, page 1, between lines 55 and 56), by inserting the following:

(e) On or before October 1 of each year, the department shall conduct a cost analysis to determine a policy on whether to mail a notice under Subsection (c) after each time a vehicle is driven or towed through a toll collection facility or only after a certain number of times a vehicle is driven or towed through a facility. The policy must ensure that the cost to the department of collecting tolls as provided by this section does not exceed the amount of the tolls and fees collected.

The amendment to **CSSB 1392** 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:

Nays: Estes, Nelson.

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

**CSSB 1392** 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:

Nays: Estes, Nelson.

**COMMITTEE SUBSTITUTE  
SENATE BILL 375 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 375** at this time on its second reading:

**CSSB 375**, Relating to the release of certain motor vehicle accident report information.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 375** as follows:

(1) In SECTION 1 of the bill, added Section 550.065(e), Transportation Code (committee printing, page 1, line 35), strike "or a governmental entity".

(2) In SECTION 1 of the bill, added Section 550.065(f), Transportation Code (committee printing, page 1, line 43), strike "or a governmental entity".

The amendment to **CSSB 375** 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.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 375** in SECTION 1 of the bill, added Section 550.065(f)(2), Transportation Code (committee printing, page 2, line 3) by striking proposed Paragraph (F) and relettering subsequent paragraphs accordingly.

The amendment to **CSSB 375** 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. 2.

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

**CSSB 375** as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 375 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 375** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

### 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 375**, 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 375** 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 31, Nays 0.

### COMMITTEE SUBSTITUTE SENATE BILL 855 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **CSSB 855** at this time on its second reading:

**CSSB 855**, Relating to local options regarding mobility improvement projects in certain counties and municipalities; providing authority to impose a tax, issue bonds, and impose penalties.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Lucio, Nichols, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Hegar, Huffman, Jackson, Nelson, Ogden, Patrick.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 855**, in SECTION 1 of the bill, in added Subsection (c), Section 446.003, Local Government Code (committee printing page 1, line 62), after "chapter.", by inserting "This subsection does not apply to a county to which Subchapter C applies.".

The amendment to **CSSB 855** 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.

Senator Carona offered the following amendment to the bill:

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

Amend **CSSB 855**, in SECTION 1 of the bill, by striking Section 446.056, Local Government Code (committee printing page 4, lines 44-55), and substituting the following:

Sec. 446.056. IMPOSITION OF ANNUAL MOTOR VEHICLE EMISSIONS FEE. (a) A county to which this chapter applies may, if approved in accordance with other provisions of this chapter, impose on the owner of a vehicle registered in the county an annual motor vehicle emissions fee in an amount not less than \$1 or more than \$15, assessed on each vehicle tested under the vehicle emissions inspection and maintenance program described by Section 382.202, Health and Safety Code. A fee imposed under this section shall be collected:

(1) directly by the county through a program the county develops to bill and collect the fee; or

(2) by each emissions inspection station conducting emissions testing under Section 382.202, Health and Safety Code, which fee the inspection station shall remit to the county.

(b) An emissions inspection station may be required to collect the motor vehicle emissions fee under Subsection (a)(2) only if:

(1) the Texas Commission on Environmental Quality, under its authority to adopt standards and specifications for motor vehicle emissions testing equipment under Section 382.205(b), Health and Safety Code, has adopted specifications necessary to enable collection of the emissions fee as part of the vehicle emissions inspection and maintenance program; or

(2) a county imposing an emissions fee under this chapter requires the emissions inspection station to assess and collect the fee separately from billing created by the motor vehicle emissions testing equipment.

(c) A county that implements an annual motor vehicle emissions fee under this chapter shall reimburse the Texas Commission on Environmental Quality for any expenses incurred by the commission that are related to the county emissions fee.

The amendment to **CSSB 855** 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. 2.

Senator Nichols offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSSB 855**, in SECTION 1 of the bill, by striking proposed Section 446.055, Local Government Code (committee printing page 3, line 54 through page 4, line 43), and substituting the following:

Sec. 446.055. IMPOSITION OF COUNTY MOTOR FUEL TAX. (a) A county to which this chapter applies may, if approved in accordance with other provisions of this chapter, impose a tax at a rate of 2, 4, 6, 8, or 10 cents per gallon on the sale of

gasoline and diesel fuel that is sold in the county by a person, including a dealer, distributor, supplier, or permissive supplier, engaged in the sale of motor fuels used to propel a motor vehicle on the public highways of the state. The tax is added to the selling price of the gasoline or diesel fuel and is part of the gasoline or diesel fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge for gasoline or diesel fuel.

(b) The tax authorized by this section is in addition to the tax imposed by Chapter 162, Tax Code, and shall be collected in conjunction with that tax when gasoline or diesel fuel is removed from a terminal using the terminal rack, other than by bulk transfer, to be sold or delivered into a county that has imposed the tax authorized by this section.

(c) The comptroller shall administer, collect, and enforce any tax imposed upon the sale of gasoline or diesel fuel approved in accordance with the provisions of this chapter. The tax shall be exclusively administered, collected, and enforced in conformance with the provisions of Chapter 162, Tax Code, governing the tax assessed on the sale of gasoline and diesel fuel. References found in Chapter 162, Tax Code, to taxes imposed under that chapter shall also include taxes imposed under this section.

(d) Words used in this section and defined by Chapter 162, Tax Code, have the meanings assigned by that chapter.

(e) The exemptions provided by Sections 162.104 and 162.204, Tax Code, apply to the tax authorized by this section.

(f) The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter and Chapter 162, Tax Code, for the administration, collection, reporting, and enforcement of this section.

(g) Before sending any money to a county under this section, the comptroller shall deduct any costs incurred by the comptroller related to the comptroller's preparations to administer, collect, and enforce a tax upon the sale of gasoline or diesel fuel approved in accordance with this chapter. Each county which approves the imposition of a tax on the sale of gasoline or diesel fuel shall be charged a pro-rata amount for the comptroller's costs in preparing to administer, collect, and enforce the tax. If only one county elects to approve the imposition of a tax on the sale of gasoline or diesel fuel within its jurisdiction, that county shall bear all of the costs incurred by the comptroller but may recover pro-rata shares of this cost from other counties which approve the imposition of the tax. The comptroller shall also deduct two percent of the amount of taxes collected under this section during the period for which a distribution is made as the state's charge for its services under this section and shall credit the money deducted to the general revenue fund. At least twice during each state fiscal year, and at other times as often as feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this section.

(h) Except as provided by Subsection (i), the tax authorized by this section takes effect on the first day of the first calendar quarter following the expiration of the first complete quarter occurring after the date of election authorizing the order imposing the tax under Section 446.054.



(i) If the comptroller determines that the time of effect required by Subsection (h) will occur before the comptroller can reasonably take the action required to begin collecting the tax, the comptroller may delay the time of effect until the first day of the first calendar quarter following the date the comptroller declares that it is ready to begin collecting the tax.

The amendment to **CSSB 855** 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. 3.

Senator Estes offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSSB 855** as follows:

Strike Section 446.105(b) on page 8 (lines 32-39) of CSSB 855 and replace with the following:

(b) Revenue from a method of local option funding imposed under this subchapter and collected within any municipality having territory located within a transit or transportation authority funded by a dedicated sales tax and governed by a subregional board under Chapter 452, Subchapter O, Transportation Code, shall be maintained in a single segregated account for local option revenues collected within the territory of the authority and which shall be maintained separate from those local option revenues collected elsewhere in the county.

(1) revenue from a method of local option funding collected within any municipality having territory located within a transit or transportation authority funded by a dedicated sales tax and governed by a subregional board under Chapter 452, Subchapter O, Transportation Code, may not be used outside of the boundaries of the territory of that authority or the county unless the governing bodies of each of those municipalities in the county with territory located within the authority and the governing body of the transit or transportation authority consent to such use.

(2) revenue from a method of local option funding collected in an area outside of the territory of a transit or transportation authority funded by a dedicated sales tax and governed by a subregional board under Chapter 452, Subchapter O, Transportation Code, may not be used within the territory of that authority or outside of the county unless the county commissioners court of the county or the governing bodies of two or more cities representing 60% or more of the population of the county outside of the territory of the authority consent to such use.

Add a new subsection "(c)" to 446.105 on page 8 (between lines 39 and 40) of CSSB 855 as follows:

(c) Prior to the final approval of the ballot for a local option election authorized under this subchapter, the governing body of any authority, county or municipality required under this section to provide their consent regarding the use of revenue from a method of local option funding shall indicate by order, resolution or other formal action whether such consent is granted. Upon final approval of the ballot, a governing body of a municipality or authority may not rescind its consent if it has been given.

The amendment to **CSSB 855** 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. 4.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSSB 855**, in SECTION 1 of the bill, as follows:

(1) In proposed Section 446.152, Local Government Code (committee printing, page 12, lines 36-38), strike proposed Subsection (c) and substitute the following:

(c) Before adopting an order calling an election under this section, the commissioners court of the county must:

(1) prepare a report or contract with a private entity for a report, specifying:

(A) the estimated cost of and completion date for the capital construction of each proposed project;

(B) the date on which a county tax or fee imposed under this chapter for the capital construction of a proposed project is expected to expire; and

(C) if applicable, the estimated annual maintenance and operation expenses for a proposed project that will become an obligation of the county on completion of the project; and

(2) hold a public hearing on the proposed projects and proposed methods of funding.

(2) In proposed Section 446.155, Local Government Code (committee printing, page 13, lines 15-19), strike proposed Subsection (a) and substitute the following:

(a) A county that imposes a tax or fee under this chapter shall establish a transportation project fund. The county shall deposit to the credit of the fund:

(1) the proceeds of each tax or fee imposed by the county under this chapter;

(2) all revenue from the sale of bonds or other obligations issued by the county under this chapter; and

(3) any other money required by law to be deposited in the fund.

(a-1) The county may also deposit to the credit of the transportation project fund money received by the county from other sources, including a concession agreement entered into with a third party relating to a project and an interlocal agreement entered into with another governmental entity relating to a project.

(a-2) Subject to constitutional restrictions, the county may use money in the transportation project fund to:

(1) reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more approved transportation projects in the county;

(2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the county under this chapter or to refund bonds, notes, or other obligations issued by the county; and

(3) pay the costs of operating or maintaining one or more projects.

(a-3) Money deposited to the credit of the transportation project fund, including money deposited under Subsection (a-1), is the property of the county that deposits the money.

The amendment to **CSSB 855** 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. 5.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **CSSB 855** (Senate committee printing), in SECTION 1 of the bill, in proposed Section 446.152, Local Government Code (page 12, between lines 38 and 39), by inserting the following:

(d) In determining the mobility improvement projects to be funded with a method of local option funding imposed under this subchapter, a county shall consider the geographic location of other state or federally funded transportation projects, advanced transportation projects, and mobility enhancement projects in order to foster geographic equity in the planning and development of the projects.

The amendment to **CSSB 855** was read.

On motion of Senator Wentworth, Floor Amendment No. 6 was tabled by the following vote: Yeas 14, Nays 13, Present-not voting 1.

Yeas: Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Patrick, Seliger, Watson, Wentworth, Williams.

Nays: Carona, Davis, Deuell, Ellis, Gallegos, Hinojosa, Lucio, Ogden, Shapleigh, Uresti, Van de Putte, West, Zaffirini.

Present-not voting: Averitt.

Absent: Duncan, Shapiro, Whitmire.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **CSSB 855**, in SECTION 1 of the bill, immediately following added Section 446.153, Local Government Code (committee printing, page 12, between lines 60 and 61), by inserting the following:

Sec. 446.1535. ELECTION DATE. An election called under Section 446.153 must be held on a uniform election date in November of an even-numbered year.

The amendment to **CSSB 855** 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. 7.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend **CSSB 855** (committee printing), on page 16, by striking line 18 and 19 and inserting the following:

(i) An election called under Section 446.203 must be held on a uniform election date in November of an even-numbered year.

The amendment to **CSSB 855** 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. 8.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend **CSSB 855** (Senate committee printing), in SECTION 1 of the bill, in proposed Subchapter D, Local Government Code (page 13, between lines 35 and 36), by inserting the following:

Sec. 446.1555. LOW-INCOME ASSISTANCE PROGRAM. (a) Notwithstanding Section 446.053, a county shall adopt guidelines and requirements to create a low-income assistance program. The guidelines at a minimum must include:

(1) a minimum and maximum amount of assistance;

(2) criteria for determining eligibility, taking into account:

(A) the individual's or family's income, which may not exceed 300 percent of the federal poverty level; and

(B) any other relevant considerations; and

(3) safeguards for preventing fraud in the program.

(b) A county shall provide an electronic means for distributing or crediting assistance funding after all program criteria have been met.

The amendment to **CSSB 855** 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. 9 except as follows:

Nays: Harris, Huffman, Ogden, Patrick.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend **CSSB 855** as follows:

On page 13 of CSSB 855, strike subdivision (4) in its entirety on lines 50 thru 51.

On page 15 of CSSB 855, strike Section Sec. 446.159 in its entirety on lines 6 thru 11.

The amendment to **CSSB 855** 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. 10 except as follows:

Nays: Patrick.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 11**

Amend **CSSB 855** (Senate committee printing) as follows:

(1) Strike proposed Section 446.156, Local Government Code (committee printing, page 13, lines 36 through 56), and substitute the following:

Sec. 446.156. APPLICABILITY OF CERTAIN METHODS OF LOCAL OPTION FUNDING; TAX AUTHORIZED. (a) Sections 446.051, 446.054, 446.055, 446.056, and 446.057 do not apply to a county to which this subchapter applies.

(b) A county to which this subchapter applies may include on a ballot proposition under this subchapter a county gasoline and diesel fuel tax as described by Section 446.157.

(2) Strike proposed Sections 446.158 and 446.159, Local Government Code (committee printing, page 14, line 45 through page 15, line 11).

URESTI  
VAN DE PUTTE

The amendment to **CSSB 855** was read and was adopted by the following vote: Yeas 21, Nays 8, Present-not voting 1.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Hegar, Huffman, Patrick, Seliger, Wentworth.

Present-not voting: Averitt.

Absent: Shapiro.

Senator Uresti offered the following amendment to the bill:

### **Floor Amendment No. 12**

Amend **CSSB 855** (Senate committee printing), in SECTION 1 of the bill, in proposed Section 446.157, Local Government Code (page 14, between lines 7 and 8), by inserting the following:

(c-1) Notwithstanding Sections 446.152 and 446.154, if an election is held under this subchapter on the issue of imposing a tax under this section, a subsequent election on the issue of imposing an increase in the rate of the tax may not be held before the fourth anniversary of the date of the previous election.

URESTI  
VAN DE PUTTE

The amendment to **CSSB 855** was read.

On motion of Senator Wentworth, Floor Amendment No. 12 was tabled by the following vote: Yeas 16, Nays 11, Present-not voting 1.

Yeas: Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Lucio, Nelson, Nichols, Seliger, Shapleigh, Watson, Wentworth, Williams.

Nays: Carona, Davis, Ellis, Gallegos, Hinojosa, Ogden, Patrick, Uresti, Van de Putte, West, Zaffirini.

Present-not voting: Averitt.

Absent: Deuell, Shapiro, Whitmire.

Senator Averitt offered the following amendment to the bill:

**Floor Amendment No. 13**

Amend **CSSB 855** (Senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 446.201(a), Local Government Code (page 15, line 15), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(2) In added Section 446.201(a), Local Government Code (page 15 between lines 26 and 27), insert:

(c) This subchapter applies to:

(1) a county with a population greater than 200,000 and less than 230,000;  
and

(2) a county adjacent to a county described by Subdivision (1) with a population greater than 70,000 and less than 100,000.

(3) At the end of added Subsection (h), Section 446.203, Local Government Code (page 16, line 17), add "This subsection does not apply in a county if the majority of the county is not in the jurisdiction of a metropolitan planning organization."

(4) In added Section 446.205(b)(1), Local Government Code (page 17, line 1), between "with" and the colon insert ", as applicable".

The amendment to **CSSB 855** 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. 13.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 14**

Amend **CSSB 855**, in SECTION 1 of the bill, in Chapter 446, Local Government Code, by adding Subchapter G to read as follows:

SUBCHAPTER G. SOUTH TEXAS REGION

Sec. 446.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than 325,000 and that is located adjacent to:

(1) an international border; and

(2) a county that has a population of more than 550,000.

Sec. 446.302. DEFINITION. In this subchapter, "mobility improvement project" includes:

(1) sidewalks; and

(2) paths, lanes, ways, and trails for bicycling or hiking and facilities related to such paths, lanes, ways, and trails.

Sec. 446.303. PROJECT SELECTION AND BALLOT COMMITTEE. The governing body of the regional mobility authority operating in a county to which this subchapter applies shall establish a project selection and ballot committee to prepare a ballot proposition and related plans and information as required under this chapter. A county's project selection and ballot committee must be established before any local option election under this subchapter may be held in the county.

Sec. 446.304. COMMITTEE MEMBERSHIP. (a) Each county project selection and ballot committee is composed of 11 members appointed by the governing body of the regional mobility authority operating in the county as follows:

- (1) two members who are elected county officials;
- (2) two members who are elected officials of the most populous municipality located in the county;
- (3) six members who are elected officials of the next six most populous municipalities located in the county; and
- (4) one member who is a member of the governing board of the transit or transportation authority with the largest service area in the county.

(b) A vacancy in a committee shall be filled by appointment by the regional mobility authority of an individual qualifying under Subsection (a) in the same manner as the vacating member.

(c) A committee member is not entitled to compensation for serving on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing the official duties of office.

(d) Appointments to a committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(e) A committee must elect a chair from among its members and may adopt rules for the conduct of its activities.

(f) At the discretion of the committee, employees of the department, the county, or a municipality, regional metropolitan planning organization, airport, or transit or transportation authority located in the county may be asked to provide staff support services to a committee.

(g) All meetings of a committee are open meetings. Notice of committee meetings must be provided in accordance with Sections 551.041, 551.0411, 551.042, 551.043, and 551.049, Government Code, as if the committee were a governmental body under that chapter.

(h) A project selection and ballot committee established under this subchapter is abolished, and all the duties of the committee expire, on the date the committee submits a final recommended ballot under Section 446.307.

Sec. 446.305. SELECTION OF PROJECTS AND METHODS OF LOCAL OPTION FUNDING. (a) A project selection and ballot committee, by majority vote of its membership, shall:

- (1) determine and propose each mobility improvement project located in the county or benefiting the county;
- (2) determine and propose one or more methods of local option funding authorized by this chapter sufficient to fund each mobility improvement project; and
- (3) determine and propose an appropriate rate for each proposed method of local option funding for the construction of each mobility improvement project and a separate proposed rate for each project's continued maintenance and operation, if applicable.

(b) In making the determinations required by Subsection (a), the project selection and ballot committee must:

- (1) consult with:
  - (A) the county;

(B) the metropolitan planning organization for the region in which the county is located;

(C) the municipalities located in the county;

(D) the regional mobility authority created under Chapter 370, Transportation Code, operating in the county;

(E) any transit or transportation authority created or operating under Subtitle K, Title 6, Transportation Code, that serves the county; and

(F) any commuter rail district operating wholly or partially in the county;

(2) give first consideration to mobility improvement projects of regional significance that complement or supplement the regional transportation system; and

(3) consider the geographic location of other state-funded or federally funded transportation projects and mobility improvement projects so as to foster geographic equity in the planning and development of regional projects.

Sec. 446.306. ADDITIONAL VEHICLE REGISTRATION FEE. (a) In addition to the methods of local option funding authorized by Subchapter B, a county project selection and ballot committee under this subchapter may propose as a method of local option funding an additional fee, not to exceed \$45, for registering a vehicle in the county.

(b) Notwithstanding any other provision of this chapter, the county commissioners court shall by order allocate money collected from the additional fee authorized by this section among county funds used by the county for deposit of money collected under Sections 502.172 and 502.1725, Transportation Code.

(c) A vehicle that may be registered under Chapter 502 or 504, Transportation Code, without payment of a registration fee may be registered in the county without payment of the additional fee.

(d) A fee authorized by this section may take effect only on January 1 of a year. The county must notify the department not later than September 1 of the year preceding the year in which the fee takes effect.

(e) A fee authorized by this section may be abolished if the county commissioners court orders an election held in the county on that issue and the abolition of the fee is approved by a majority of voters of the county voting at the election. Abolition of the fee may take effect only on January 1 of a year. The county must notify the department not later than September 1 of the year preceding the year in which the abolition takes effect.

(f) The county assessor-collector of a county imposing a fee authorized by this section shall collect the fee for a vehicle when other fees imposed under Chapter 502 or 504, Transportation Code, are collected.

(g) The department shall collect the additional fee on a vehicle that is owned by a resident of the county and that, under Chapter 502 or 504, Transportation Code, must be registered directly with the department. The department shall send all fees collected for a county under this section to the county for deposit as described by Subsection (b).

(h) The department shall adopt rules and develop forms necessary to administer registration by mail for a vehicle being registered in the county or a vehicle that is owned by a resident of the county.



Sec. 446.307. FINAL RECOMMENDED BALLOT. (a) Before an election may be held in a county under this subchapter, the county's project selection and ballot committee must submit a final recommended ballot to the county commissioners court that contains the information described by Subsection (b).

(b) The final recommended ballot must:

(1) list each proposed mobility improvement project to be funded;  
(2) designate each proposed method of local option funding and the proposed rate or amount to be used to fund capital construction of each proposed mobility improvement project or group of projects and, if applicable, designate a separate and corresponding proposed rate or amount for the maintenance and operation of each proposed project or group of projects;

(3) state the estimated date or dates on which each proposed method of local option funding is expected to expire; and

(4) if applicable, list the estimated annual maintenance and operation expenses for each proposed mobility improvement project or group of projects for which a rate or amount is proposed under Subdivision (2).

Sec. 446.308. COUNTY OPTION TO CALL ELECTION; PETITION PROCESS. (a) On receiving a proposed ballot from a project selection and ballot committee under Section 446.307, the county commissioners court, after holding at least two public hearings regarding the ballot, may by majority vote at a regularly held public meeting of the commissioners court:

(1) order an election to be held on the issue of authorizing the ballot; or

(2) reject the ballot.

(b) If the county commissioners court has not taken action under Subsection (a)(1) or (2) on a proposed ballot within three months of receiving the ballot under Section 446.307, the commissioners court must order an election to be held on the next uniform election date in November or May on the issue of authorizing the ballot.

(c) If a county commissioners court rejects a proposed ballot under Subsection (a)(2), the commissioners court must nonetheless call an election to be held on the next uniform election date in November or May on the issue of authorizing the ballot if the commissioners court receives:

(1) a resolution requesting that the election be called on the ballot as submitted by the project selection and ballot committee that has been adopted by the governing bodies of at least two municipalities that:

(A) are located partially or wholly in the county; and

(B) contain at least 60 percent of the county's total population; or

(2) a petition requesting that the election be called on the ballot as submitted by the project selection and ballot committee that is signed by a number of registered voters in the county equal to at least 10 percent of the total number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election.

(d) A county commissioners court may not amend in any way the list of mobility improvement projects or methods of local option funding contained in a proposed ballot submitted to the commissioners court by a project selection and ballot committee.

(e) Before an election may be called under this subchapter, the metropolitan planning organization for the region in which the county calling the election is located must certify by majority vote that the proposed mobility improvement projects included on the proposed ballot are consistent with the organization's current long-range transportation plan.

(f) An election called under this subchapter may only be held on a uniform election date in November or May.

(g) An election under this subchapter may be called not more than 120 days prior to election day.

Sec. 446.309. SUBSEQUENT ELECTIONS. (a) After initial mobility improvement projects and methods of local option funding are determined and an initial election is called under Sections 446.303-446.308, a regional mobility authority may establish a new project selection and ballot committee to prepare a ballot proposition for additional projects and funding, and additional elections may be called, using the procedures described by those sections.

(b) Notwithstanding Section 446.308, the commissioners court of a county may not call an election under this subchapter before the 11th month following an election previously called under this subchapter.

The amendment to **CSSB 855** 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. 14.

Senator Hinojosa offered the following amendment to the bill:

### **Floor Amendment No. 15**

Amend **CSSB 855**, in SECTION 1 of the bill, in Chapter 446, Local Government Code, by adding Subchapter H as follows:

#### SUBCHAPTER H. COASTAL BEND REGION

Sec. 446.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than 300,000 and in which the principal municipality:

(1) has a population of more than 250,000; and

(2) is located wholly or partly on a barrier island which borders the Gulf of

Mexico.

Sec. 446.352. DEFINITIONS. In this subchapter:

(1) "Mobility improvement project" includes:

(A) sidewalks; and

(B) paths, lanes, ways, and trails for bicycling or hiking and facilities

related to such paths, lanes, ways, and trails.

(2) "Transit authority" or "transportation authority" includes a county described by Section 446.351 and the county's principal municipality.

(3) "Principal municipality" means the municipality with the largest population in a county.

Sec. 446.353. CALLING OF ELECTION. (a) The commissioners court of a county to which this subchapter applies by order may call an election on the issue of imposing one or more methods of local option funding authorized by this chapter to:

(1) acquire, construct, develop, own, operate, and maintain mobility improvement projects;

(2) fund operations, maintenance, capital, and debt service expenses for mobility improvement projects; or

(3) contract with a transportation authority or transportation provider for a purpose described by Subdivision (1) or (2).

(b) A county commissioners court and the principal municipality of the county may, by orders containing identical provisions, jointly call an election on the issue described by Subsection (a). The cost of an election called under this subsection is shared by the county and the principal municipality on a pro rata basis.

(c) A county commissioners court by order shall call an election on the issue described by Subsection (a) on receipt of a resolution requesting that the election be called that has been adopted by the governing bodies of the principal municipality and the second most populous municipality located in the county.

(d) A resolution under Subsection (c) must be adopted by the governing body of each petitioning municipality by a vote of not less than two-thirds of its membership.

(e) A county commissioners court may order an election under this section on an issue described by Subsection (a) only after holding a public hearing regarding the issue.

(f) The governing body of the principal municipality of a county described by Section 446.351 may, by order adopted by a majority vote of its membership, call an election within the boundaries of the municipality on the issue described in Subsection (a), the results of which only apply within the boundaries of the municipality. The municipality may adopt the order only after holding a public hearing regarding the issue.

(g) A principal municipality ordering an election within the boundaries of the municipality under Subsection (f) has the powers and responsibilities granted to a county under Subchapter B within the boundaries of the municipality only.

(h) Before an election may be called under this section, the metropolitan planning organization for the region in which the county or municipality calling the election is located must certify by majority vote that the list of proposed mobility improvement projects included on the proposed ballot are consistent with the organization's current long-range transportation plan.

(i) An election under this subchapter:

(1) may only be held on a uniform election date in November or May; and

(2) may be called not more than 120 days prior to election day.

(j) Notwithstanding Subsections (a)-(f), if either the county commissioners court or the governing body of the principal municipality described by Subsection (f) calls for an election, the other entity may not call for an election under this subchapter until the next uniform election date.

(k) Notwithstanding Subsections (a)-(f) and (j), in the event a county commissioners court and the governing body of the principal municipality described by Subsection (f) call an election under this subchapter not more than 120 days prior to election day and not less than 110 days prior to election day:

(1) each election order is deemed invalid; and

(2) no additional election may be called under this subchapter until the next uniform election date.

Sec. 446.354. CONTENTS OF ORDER; BALLOT PROPOSITION. (a) An order calling an election under Section 446.353 must include the ballot proposition to be used in the election. The ballot proposition must:

- (1) list each proposed mobility improvement project to be funded;
- (2) designate each proposed method of local option funding and the proposed rate or amount to be used to fund capital construction of each proposed mobility improvement project or group of projects and, if applicable, designate a separate and corresponding proposed rate or amount for the maintenance and operation of each proposed project or group of projects;
- (3) state the estimated date or dates on which each proposed method of local option funding is expected to expire; and
- (4) if applicable, list the estimated annual maintenance and operation expenses for each proposed mobility improvement project or group of projects for which a rate or amount is proposed under Subdivision (2).

(b) The ballot proposition for an election ordered under Section 446.353(c) must include the name of each municipality petitioning under that subsection.

Sec. 446.355. PROJECT SELECTION ADVISORY COMMITTEE. (a) Before a county or municipality may order an election under Section 446.353 or a municipality may adopt a resolution under Section 446.353(c), the county or municipality must establish a project selection advisory committee to recommend mobility improvement projects and related methods of local option funding authorized by this chapter. The composition of an advisory committee is determined by the county or municipality that establishes the committee. A county and principal municipality acting jointly under Section 446.353(b) may establish and compose a joint committee. Municipalities adopting a resolution under Section 446.353(c) may establish and compose a joint committee.

(b) Each project selection advisory committee shall:

- (1) consult with:
  - (A) the county or municipality that establishes the committee;
  - (B) the municipalities located in the county;
  - (C) any metropolitan planning organization for the region in which the county is located;
  - (D) any regional mobility authority operating under Chapter 370, Transportation Code, that serves the county;
  - (E) any transit or transportation authority created or operating under Subtitle K, Title 6, Transportation Code, that serves the county; and
  - (F) any commuter rail district operating wholly or partially in the county;
- (2) give first consideration to mobility improvement projects of regional significance that complement or supplement the regional transportation system; and
- (3) consider the geographic location of other state-funded or federally funded transportation projects and mobility improvement projects so as to foster geographic equity in the planning and development of regional projects.

Sec. 446.356. SUBSEQUENT ELECTIONS. (a) After initial mobility improvement projects and methods of local option funding are determined and an initial election is called under Sections 446.353 and 446.354, a project selection advisory committee may recommend additional projects and funding, and additional elections may be called, using the procedures described by those sections.

(b) Notwithstanding Section 446.353, the commissioners court of a county or the governing body of a municipality may not call an election under this subchapter before the 11th month following an election previously called under this subchapter.

Sec. 446.357. TRANSIT OR TRANSPORTATION AUTHORITY SERVICES NOT AUTHORIZED. (a) A county acting under this subchapter may not directly operate or provide passenger rail services or any service expressly reserved by a transit authority created or operating under Chapter 451, Transportation Code, that serves the county.

(b) This subchapter does not authorize the creation of a transit or transportation authority.

The amendment to **CSSB 855** 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. 15.

Senator Carona offered the following amendment to the bill:

#### **Floor Amendment No. 16**

Amend **CSSB 855** by striking SECTION 4 of the bill and substituting the following appropriately numbered SECTION:

SECTION \_\_. This Act takes effect only if the constitutional amendment proposed by the 81st Legislature proposing a constitutional amendment limiting the purposes for which revenue from taxes on motor fuels and lubricants may be used is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

The amendment to **CSSB 855** 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. 16.

Senator West offered the following amendment to the bill:

#### **Floor Amendment No. 17**

Amend **CSSB 855** as follows:

On page 2, line 45, after "million" insert the following:

"or at a municipally-owned airport located in a municipality with a population of less than 1.5 million in a county with a population greater than 2 million."

The amendment to **CSSB 855** 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. 17.

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

**CSSB 855** as amended was passed to engrossment by the following vote: Yeas 22, Nays 9.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Lucio, Nichols, Seliger, Shapiro, Shapleigh, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Hegar, Huffman, Jackson, Nelson, Ogden, Patrick, Uresti, Van de Putte.

**(President in Chair)**

**SENATE BILL ON FIRST READING**

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

**SB 2515** by Williams

Relating to the administration, powers and duties, operations, and financing of The Woodlands Township.

To Committee on Intergovernmental Relations.

**SENATE BILL 1098 REREFERRED**

Senator Carona submitted a Motion In Writing requesting that **SB 1098** be withdrawn from the Committee on Transportation and Homeland Security and rereferred to the Committee on Health and Human Services.

The Motion In Writing prevailed without objection.

**SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Monday, April 6, 2009, by Senator Jackson.

Senator Jackson moved confirmation of the nominees reported Monday by the Committee on Nominations.

The President 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 31, Nays 0.

Members, Commission on Jail Standards: Irene A. Armendariz, El Paso County; Donna Sue Klaeger, Burnet County; Jerry W. Lowry, Montgomery County; Larry S. May, Nolan County; Gary Painter, Midland County; Tam Terry, Carson County.

Member, Correctional Managed Health Care Committee: James Dale Griffin, M.D., Dallas County.

Members, Crime Stoppers Advisory Council: Nelda L. Garcia, Jim Wells County; Jorge E. Gaytan, Harris County; Emerson Frederick Lane, Jr., Jefferson County.

Members, Board of Trustees, Employees Retirement System of Texas: Cydney C. Donnell, Gillespie County; Donald E. Wood, Ector County.

Members, Judicial Compensation Commission: Ramiro A. Galindo, Brazos County; Tommy Steve "Tom" Harwell, El Paso County; Harold Jenkins, Dallas County; Patrick W. Mizell, Harris County; Paul Bane Phillippi, Bastrop County; Wanda Chandler Rohm, Bexar County; Linda B. Russell, Galveston County; Michael L. Slack, Travis County; William M. Strawn, Travis County.

Members, Produce Recovery Fund Board: Ralph Diaz, Nueces County; Ly H. Nguyen, Fort Bend County; Bernie Thiel, Jr., Lubbock County; Byron Edward White, Tarrant County.

Members, Product Development and Small Business Incubator Board: Michael Arlen Davis, Jr., Travis County; Neil A. Iscoe, Travis County; David Russell Margrave, Bexar County.

Members, State Board for Educator Certification: Michael Acuff, Tarrant County; Sandra Bridges, Rockwall County; Stefani Danielle "Stef" Carter, Dallas County.

Members, State Commission on Judicial Conduct: Tom Alan Cunningham, Harris County; William C. Lawrence, Denton County; Karry Kay Matson, Williamson County; Janet P. Patterson, Travis County; Wanda Janelle Shepard, Parker County.

Members, Texas Board of Criminal Justice: Oliver John Bell, Llano County; John "Eric" Gambrell, Dallas County; Janice Harris Lord, Tarrant County; R. Terrell McCombs, Bexar County; J. David Nelson, Lubbock County; Carmen Villanueva-Hiles, Hidalgo County.

Members, Texas Board of Professional Land Surveying: Jon Edwin Hodde, Washington County; David Gregory Smyth, Uvalde County.

Members, Texas Judicial Council: Keely Appleton, Tarrant County; Richard Vernon Battle, Travis County; Fred E. Davis, Travis County, Richard "Rick" Figueroa, Fort Bend County; Allyson N. Ho, Dallas County; Henry Nuss, Nueces County.

### **NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR**

Senator Williams announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

### **SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)**

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

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

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

**SB 1997, SB 2046, SB 2288, SB 2292, SB 2480.**

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Economic Development might meet and consider **HB 873** today.

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

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

**MOTION TO ADJOURN**

On motion of President Pro Tempore Duncan and by unanimous consent, the Senate at 6:54 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. Tuesday, April 14, 2009.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 599** by Wentworth, In memory of Thomas S. Goggan III of Austin.

**HCR 138** (Hinojosa), In memory of Orange Grove educator Roxie M. Fine.

**Congratulatory Resolutions**

**SR 568** by Wentworth, Commending Neil Carman for his contributions to our state in the field of environmental protection.

**SR 600** by Hegar, Recognizing the City of Prairie View on the occasion of its 40th anniversary.

**SR 602** by Deuell, Congratulating Britney Jordan for being named a Daktronics Division II Women's Basketball First-Team All-American for 2009.

**SR 604** by Hinojosa, Recognizing the Rio Grande Valley Cook-Off at PalmFest in McAllen for being designated as a Texas State Barbecue Championship competition.

**HCR 163** (Huffman), Honoring artist George Rodrigue for his philanthropic work following Hurricanes Katrina and Rita.

**RECESS**

On motion of President Pro Tempore Duncan, the Senate at 6:55 p.m. recessed until 8:00 a.m. tomorrow.



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**APPENDIX**

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**COMMITTEE REPORTS**

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

April 8, 2009

**ECONOMIC DEVELOPMENT — CSSB 1965**

**STATE AFFAIRS — CSSB 1810, CSSB 1071**

**AGRICULTURE AND RURAL AFFAIRS — SB 1988**

**TRANSPORTATION AND HOMELAND SECURITY — SB 75, SB 896, SB 337, SB 371, SB 612, SB 897, SB 985, SB 1093, SB 1094, SB 1382, SB 1474, SB 1615, SB 1745, SB 2028, SB 2041, SB 2052, SB 2371**

**ADMINISTRATION — SCR 42, SB 909**

**HEALTH AND HUMAN SERVICES — SB 1331**

**ECONOMIC DEVELOPMENT — CSSB 1207, CSSB 1934, CSSB 1952**

**STATE AFFAIRS — CSSB 1109, CSSB 1692**

**AGRICULTURE AND RURAL AFFAIRS — CSSB 1163**

**GOVERNMENT ORGANIZATION — CSSB 1011**

**BUSINESS AND COMMERCE — SB 921, SB 716, SB 974**

**ADMINISTRATION — CSSB 1900**

**TRANSPORTATION AND HOMELAND SECURITY — CSSJR 52**

**CRIMINAL JUSTICE — SB 537, SB 552, SB 1175, SB 1273, SB 1281, SB 1303, SB 1504, SB 1557, SB 1775**

**GOVERNMENT ORGANIZATION — CSSB 1016**

**STATE AFFAIRS — CSSB 1970**

**TRANSPORTATION AND HOMELAND SECURITY — CSSB 329, CSSB 332, CSSB 366, CSSB 367, CSSB 369, CSSB 379, CSSB 419, CSSB 423, CSSB 652, CSSB 882, CSSB 936, CSSB 1077, CSSB 1095, CSSB 1165, CSSB 1367, CSSB 1508, CSSB 1669, CSSB 2095**

**BUSINESS AND COMMERCE — SB 1096, SB 1620**

**EDUCATION — SB 1490, SB 1577**

**TRANSPORTATION AND HOMELAND SECURITY — CSSB 294**

**EDUCATION — CSSB 2044**

**BILLS ENGROSSED**April 7, 2009**SB 482, SB 638, SB 872, SB 1003, SB 1410, SB 2015****BILL AND RESOLUTIONS ENROLLED**April 7, 2009**SB 769, SR 482, SR 548, SR 565, SR 576, SR 585, SR 586, SR 587, SR 588, SR 589, SR 590, SR 593, SR 594, SR 595, SR 596, SR 597****SENT TO GOVERNOR**April 8, 2009**SB 769**