

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FORTY-EIGHTH DAY

(Thursday, April 30, 2009)

The Senate met at 11:10 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.

The Reverend Dr. John D. Duncan, First Baptist Church, Georgetown, offered the invocation as follows:

Dear Lord, thank You, Lord, for the day, for life, for Your blessing. We thank You today for our great state, its rich history and heritage, its people and prospects for a bright future. Today, Lord, we bless Your name, for You are almighty. Thank You, Lord, that You satisfy the thirsty and fill the hungry with good things. We thank You for good and simple things: beautiful bluebonnets on roadsides; spring showers in a season of drought; spring alive with chattering birds and budding trees; and simple things like laughter, friendship, peace, love, and hope that come from Your hand. Now, Lord, in these challenging times, we thank You for these our leaders in this great state. We pray for the economy, families sick with the illness of swine flu, and for the people in this room who face life's struggles. Lord, grant these leaders the experience of Your wisdom, the strength to meet the needs of the citizens of this state, the hope to press on and endure in times of challenge, and, yes, Lord, cause Your face to shine on them each and every one, magnificently, brightly. In Jesus' name. 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-AUTHORS OF SENATE BILL 18

On motion of Senator Estes, Senators Averitt, Davis, Duncan, Fraser, Gallegos, Lucio, Nelson, and Wentworth will be shown as Co-authors of **SB 18**.

CO-AUTHOR OF SENATE BILL 112

On motion of Senator Ellis, Senator Zaffirini will be shown as Co-author of **SB 112**.

CO-AUTHOR OF SENATE BILL 182

On motion of Senator Patrick, Senator Hegar will be shown as Co-author of **SB 182**.

CO-AUTHOR OF SENATE BILL 358

On motion of Senator Patrick, Senator Nelson will be shown as Co-author of **SB 358**.

CO-AUTHOR OF SENATE BILL 485

On motion of Senator Deuell, Senator Lucio will be shown as Co-author of **SB 485**.

CO-AUTHOR OF SENATE BILL 552

On motion of Senator Hegar, Senator Zaffirini will be shown as Co-author of **SB 552**.

CO-AUTHORS OF SENATE BILL 815

On motion of Senator Watson, Senators Deuell, Lucio, and Van de Putte will be shown as Co-authors of **SB 815**.

CO-AUTHOR OF SENATE BILL 1098

On motion of Senator Carona, Senator Patrick will be shown as Co-author of **SB 1098**.

CO-AUTHOR OF SENATE BILL 1257

On motion of Senator Averitt, Senator Nelson will be shown as Co-author of **SB 1257**.

CO-AUTHORS OF SENATE BILL 1443

On motion of Senator Zaffirini, Senators Hinojosa, Jackson, Shapiro, and Williams will be shown as Co-authors of **SB 1443**.

CO-AUTHOR OF SENATE BILL 1560

On motion of Senator Duncan, Senator West will be shown as Co-author of **SB 1560**.

CO-AUTHOR OF SENATE BILL 1586

On motion of Senator Harris, Senator Lucio will be shown as Co-author of **SB 1586**.

CO-AUTHOR OF SENATE BILL 1648

On motion of Senator Van de Putte, Senator Shapleigh will be shown as Co-author of **SB 1648**.

CO-AUTHOR OF SENATE BILL 2256

On motion of Senator Zaffirini, Senator Davis will be shown as Co-author of **SB 2256**.

PHYSICIAN OF THE DAY

Senator Nichols was recognized and presented Dr. Thomas Cherry of Chandler as the Physician of the Day.

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

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read: **SB 522, SB 715, SB 741**.

SENATE RESOLUTION 745

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to welcome the Texas Association of Fairs and Events delegation to Austin for the Official Texas Fair and Event Day at the Capitol; and

WHEREAS, The Texas Association of Fairs and Events has been serving the fair and special events industry in Texas for more than 83 years, and it is celebrating this year with an Official Fair and Event Day at the Capitol on Thursday, April 30; and

WHEREAS, For more than 100 years, fairs have annually showcased Texas' finest agricultural products and technology and have provided entertainment and educational and recreational opportunities; and

WHEREAS, Fairs are held throughout Texas each year to advance and promote the education of Texas youths and to affirm life values; they help to develop responsible and informed citizens and foster productive competition through an unparalleled forum of exhibits in arts, livestock, horticulture, and agriculture; and

WHEREAS, Fairs in Texas contribute millions of dollars annually to Texas youth through scholarships, premiums, and auction proceeds; and

WHEREAS, There are also more than 200 events held in Texas that promote and develop the tourism industry and commerce and provide the public with an environment rich in entertainment choices, occupational opportunities, and recreational pursuits; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby welcome and extend best wishes to the members of the Texas Association of Fairs and Events delegation; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the Texas Association of Fairs and Events delegation as a memento of this special occasion.

SR 745 was read and was adopted without objection.

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate Steve Poynor, President, Texas Association of Fairs and Events; Rusty Fitzgerald, First Vice-president; Joe Bruce Hancock, Director/General Manager, Houston Livestock Show and Rodeo; and Washington County Commissioner Donald Ahrens; accompanied by other members of their delegation.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 30, 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:

HCR 153, In memory of Manuel Benavidez, Jr.

HCR 190, In memory of volunteer firefighter Joe Pat Jordan of Pine Forest.

HCR 191, Honoring the memory of William S. "Pete" Long of Hopkins County.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE CONCURRENT RESOLUTION 153

The President laid before the Senate the following resolution:

HCR 153, In memory of Manuel Benavidez, Jr.

ZAFFIRINI

The resolution was read.

On motion of Senator Zaffirini, the resolution was considered immediately and was adopted by a rising vote of the Senate.

In honor of the memory of Manuel Benavidez, Jr., the text of the resolution is printed at the end of today's *Senate Journal*.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate family members of Manuel Benavidez, Jr.: his wife, Rosario V. Benavidez; his daughters, Rose and Sofia Benavidez; and his sons, Manuel, Ande, and Ben Benavidez.

The Senate welcomed its guests and extended its sympathy.

FORMER MEMBERS DAY

Senator Whitmire was recognized and introduced to the Senate former Lieutenant Governors, Deans of the Senate, and Senators.

Former Lieutenant Governors

The Honorable Ben Barnes–DeLeon
Lieutenant Governor–1969 to 1973

The Honorable Bill Ratliff–Mount Pleasant
Lieutenant Governor–2000 to 2003

Former Deans of the Senate

The Honorable Chet Brooks–Pasadena
State Senator–1967 to 1993
Dean of the Senate–1981 to 1993

The Honorable O. H. "Ike" Harris–Dallas
State Senator–1967 to 1995
Dean of the Senate–1993 to 1995

The Honorable W. E. "Pete" Snelson–Midland
State Senator–1965 to 1983
Dean of the Senate–1981 to 1983

The Honorable Carlos Truan–Corpus Christi
State Senator–1977 to 2003
Dean of the Senate–1995 to 2003

Former Senators

The Honorable Don Adams–Jasper
State Senator–1973 to 1977

The Honorable Ken Armbrister–Victoria
State Senator–1987 to 2007

The Honorable Gonzalo Barrientos–Austin
State Senator–1985 to 2007

The Honorable Joe Bernal–San Antonio
State Senator–1967 to 1973

The Honorable J. E. "Buster" Brown–Lake Jackson
State Senator–1981 to 2002

The Honorable David Cain–Dallas
State Senator–1995 to 2003

The Honorable Steven A. Carriker–Roby
State Senator–1988 to 1995

The Honorable Ron Clower–Garland
State Senator–1973 to 1981

The Honorable Ray Farabee–Wichita Falls
State Senator–1975 to 1988

The Honorable Michael Galloway—The Woodlands
State Senator—1995 to 1999

The Honorable Bob Gammage—Houston
State Senator—1973 to 1976

The Honorable Bill Haley—Center
State Senator—1989 to 1995

The Honorable Kent Hance—Lubbock
State Senator—1975 to 1979

The Honorable Don Henderson—Houston
State Senator—1983 to 1997

The Honorable Jack Hightower—Vernon
State Senator—1965 to 1974

The Honorable Kyle Janek—Houston
State Senator—2002 to 2008

The Honorable Don Kennard—Fort Worth
State Senator—1963 to 1973

The Honorable Glenn Kothmann—San Antonio
State Senator—1971 to 1987

The Honorable Bill Meier—Eules
State Senator—1973 to 1983

The Honorable Carl A. Parker—Port Arthur
State Senator—1977 to 1995

The Honorable Johnnie B. Rogers—Austin
State Senator—1953 to 1957

The Honorable A. R. "Babe" Schwartz—Galveston
State Senator—1960 to 1981

The Honorable Dan Shelley—Crosby
State Senator—1993 to 1995

The Honorable David Sibley—Waco
State Senator—1991 to 2002

The Honorable Bill Sims—Paint Rock
State Senator—1983 to 1997

The Honorable Jack Strong—Longview
State Senator—1963 to 1971

The Honorable Hector Uribe—Brownsville
State Senator—1981 to 1991

The Honorable Jim Wallace—Houston
State Senator—1971 to 1974

The Honorable Craig Washington—Houston
State Senator—1983 to 1989

Former Secretary of the Senate

Charles Schnabel, the youngest elected Secretary of the Senate and second longest serving Secretary of the Senate—1955 to 1977

The Senate welcomed its guests.

IN MEMORIAM

Senator Williams was recognized to read the following name:

The Honorable William N. "Bill" Patman of Ganado—Jackson County
State Senator—1961 to 1981

ACKNOWLEDGEMENTS

Senator Whitmire was again recognized and introduced to the Senate each of the former Deans of the Senate who addressed the Senate briefly.

Senator Whitmire then introduced to the Senate the spouses of the former Lieutenant Governors, Deans of the Senate, and Senators.

The Senate welcomed its guests.

AT EASE

The President at 11:45 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 12:03 p.m. called the Senate to order as In Legislative Session.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate seventh-grade students from Harold Wendell Lang, Sr., Middle School in Dallas, accompanied by their teacher and sponsors.

The Senate welcomed its guests.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

CONCLUSION OF MORNING CALL

The President at 12:04 p.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE
SENATE BILL 1560 ON SECOND READING**

The President laid before the Senate **CSSB 1560** by Senator Duncan on its second reading. The bill had been read second time, amended, an amendment offered, and further consideration postponed:

CSSB 1560, Relating to the national research university fund and the allocation of amounts appropriated from the fund, the abolition of the higher education fund, and the institutional groupings established by the Texas Higher Education Coordinating Board.

Question — Shall Floor Amendment No. 2 to **CSSB 1560** be adopted?

Floor Amendment No. 2

Amend **CSSB 1560** (Senate committee printing) in SECTION 3 of the bill as follows:

(1) In added Section 62.075, Education Code (page 1, line 63), immediately following "Sec. 62.075", insert ".":

(2) In added Section 62.075(a)(3), Education Code (page 2, lines 14-16), strike Paragraph (B) and substitute the following:

(B) the institution awarded at least 100 doctor of philosophy degrees during each of the two academic years preceding the state fiscal biennium or, in the academic year preceding the state fiscal biennium, awarded a number of doctor of philosophy degrees that exceeds by at least 20 percent the number of doctor of philosophy degrees awarded by the institution in the third most recent academic year preceding that academic year;

On motion of Senator Duncan, Floor Amendment No. 2 was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Watson, Whitmire, Williams.

Nays: Davis, Ellis, Harris, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Wentworth, West, Zaffirini.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1560** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS of the bill accordingly:

SECTION __. Section 61.059, Education Code, is amended by adding Subsection (o) to read as follows:

(o) In addition to the other funding recommendations required by this section, biennially the board shall determine the amount that the board considers appropriate for purposes of providing funding under Section 61.0596 in the following state fiscal biennium to carry out the purposes of that section and shall make recommendations to the governor and the Legislative Budget Board for funding those programs in that biennium. To the extent the board considers appropriate, the board may include in the formulas established under this section the funding to be provided under Section 61.0596.

SECTION __. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0596 to read as follows:

Sec. 61.0596. UNIVERSITY FUNDING FOR EXCELLENCE IN SPECIFIC PROGRAMS AND FIELDS; INCENTIVE GRANTS. (a) The board shall administer this section to encourage and assist general academic teaching institutions, other than public state colleges, that are not research universities or emerging research

universities according to the institutional groupings under the board's higher education accountability system to develop and maintain specific programs or fields of study of the highest national rank or recognition for that type of program or field.

(b) To assist the institution in achieving the highest national rank or recognition for the applicable degree program and from money available for the purpose, the board shall award incentive grants to general academic teaching institutions described by Subsection (a) that the board considers to have demonstrated the greatest commitment to success in developing or improving, consistent with the mission of the institution, the quality of an existing degree program designated by the institution. An institution must use a grant under this subsection for faculty recruitment or other faculty support with respect to the designated degree program for which the grant is awarded, including establishment of endowed faculty positions or enhancement of faculty compensation as considered appropriate by the institution.

(c) An institution may designate only one degree program at a time for consideration for new funding under Subsection (b). The institution may change its designation with the consent of the board. If the board determines that an institution has met all the applicable benchmarks for the institution's designated program, the institution may designate another degree program for consideration for new funding under Subsection (b).

(d) The board shall establish a series of benchmarks applicable to each degree program designated by an institution under this section. The institution becomes eligible for funding under Subsection (b) for each benchmark the board determines that the institution has met. The board shall establish the amount of funding for each benchmark met in a manner that provides an effective incentive to assist the institution to continue its efforts to meet the remaining benchmarks for its designated program.

(e) Unless the board determines that a different number of benchmarks is appropriate, the board shall establish three benchmarks for each designated degree program. The board shall identify one or more persons who have relevant expertise and do not reside in this state to assist the board in establishing the benchmarks and associated funding levels for each type of degree program designated by an institution under this section.

(f) An institution that designates a degree program to receive funding under Subsection (b) shall reimburse the board for the costs incurred by the board in administering this section with respect to the institution's designated program.

(g) In addition to supporting the programs designated by institutions for consideration to receive incentive grants under Subsection (b), from money available for the purpose, the board shall provide additional money as the board determines appropriate to assist the institutions described by Subsection (a) in maintaining the excellence of programs or fields of study that have achieved the highest national ranking or recognition for that type of program or field.

(h) The legislature may not appropriate money for grants or other financial assistance to general academic teaching institutions under this section before the board certifies that one or more institutions have met at least one of the benchmarks established by the board for the institutions' designated degree programs under Subsection (d).

(2) Strike SECTION 6 of the bill (page 3, lines 40-48) and substitute the following appropriately numbered SECTION:

SECTION __. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2010, but only if the constitutional amendment proposed by the 81st Legislature, Regular Session, 2009, establishing the national research university fund to enable emerging research universities in this state to achieve national prominence as major research universities and transferring the balance of the higher education fund to the national research university fund is approved by the voters. If that constitutional amendment is not approved by the voters, except as provided by Subsection (b) of this section, this Act does not take effect.

(b) This section takes effect September 1, 2009. The sections of this Act adding Sections 61.059(o) and 61.0596, Education Code, take effect September 1, 2009, but only if a specific appropriation for the implementation of those provisions of the Education Code is provided in a general appropriations act of the 81st Legislature.

The amendment to **CSSB 1560** 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 except as follows:

Nays: Hinojosa, Zaffirini.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1560** (Senate committee printing) in SECTION 3 of the bill as follows:

(1) In added Section 62.075(a)(3), Education Code (page 2, line 10), strike "four" and substitute "five".

(2) In added Section 62.075(a)(3)(E), Education Code (page 2, line 33), strike "or".

(3) In added Section 62.075(a)(3)(F), Education Code (page 2, line 40), strike "." and substitute "; or"

(4) In added Section 62.075(a)(3), Education Code, add Subsection (G) to read as follows:

(G) the institution is located in a population center with a local and regional economic infrastructure capable of facilitating the long-term success of a national research institution, as determined according to standards prescribed by the coordinating board, including but not limited to the size and growth rate of the population center.

The amendment to **CSSB 1560** was read.

On motion of Senator Duncan, Floor Amendment No. 4 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Averitt, Davis, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Hegar, Huffman, Jackson, Nichols, Ogden, Patrick, Seliger, Shapiro, Watson, Whitmire, Williams.

Nays: Carona, Ellis, Harris, Hinojosa, Lucio, Nelson, Shapleigh, Uresti, Van de Putte, Wentworth, West, Zaffirini.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1560** (Senate committee printing) in SECTION 3 of the bill by striking added Section 62.076, Education Code (page 2, lines 45-48), and substituting the following:

Sec. 62.076. INELIGIBILITY OF CERTAIN INSTITUTIONS RECEIVING PERMANENT UNIVERSITY FUND SUPPORT AND MAINTENANCE. The University of Texas at Austin and Texas A&M University are ineligible to receive money under this subchapter.

The amendment to **CSSB 1560** 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.

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

CSSB 1560 as amended was passed to engrossment 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, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Shapleigh, Van de Putte.

**COMMITTEE SUBSTITUTE
SENATE BILL 1560 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 1560** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Shapleigh, Van de Putte, 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 1560**, 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 1560** 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, Patrick, Seliger, Shapiro, Uresti, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Shapleigh, Van de Putte.

(Senator Eltife in Chair)

SENATE BILL 1098 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **SB 1098** at this time on its second reading:

SB 1098, Relating to the issuance of "Choose Life" license plates and the creation of the Choose Life account in the general revenue fund.

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

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, West, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Shapleigh, Van de Putte, Watson, Wentworth, Whitmire.

The bill was read second time and was passed to engrossment by the following vote: Yeas 22, Nays 9. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 2153 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2153** at this time on its second reading:

CSSB 2153, Relating to the booting of vehicles by private entities in parking facilities; providing penalties.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 2153** (Senate committee printing) as follows:

(1) On page 1, line 36, between "EXEMPTION." and "This", insert "(a)".

(2) On page 1, line 42, insert a new subsection (b) to read as follows: "(b) This chapter does not apply to a commercial office building owner or manager who installs or removes a boot in the building's parking facility."

The amendment to **CSSB 2153** 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 Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 2153 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 2153 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2153** 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 2153**, 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 2153** 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 1586 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1586** at this time on its second reading:

SB 1586, Relating to the establishment of a shared database for deer breeder reporting requirements.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1586** by adding the following section:

SECTION 4. 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 sufficient funds are not available in the General Revenue-Dedicated Game, Fish and Water Account to implement the provisions of this bill."

The amendment to **SB 1586** 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 Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1586 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 1586 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1586** 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 1586**, 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 1586** 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 1767 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 1767** at this time on its second reading:

CSSB 1767, Relating to practices and procedures in child abuse and neglect cases.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1767** as follows:

(1) In SECTION 1 of the bill, in Section 107.0041, Family Code (committee printing page 1, line 23), between "for" and "court" strike "the" and insert "that";

(2) In SECTION 2 of the bill, in Section 263.401, Family Code (committee printing page 1, line 29), between "(a)" and ";" insert "or (b)";

(3) In SECTION 2 of the bill, in Section 263.401, Family Code (committee printing page 1, line 30), between "trial" and ";" insert "or a mistrial, the court may retain the suit on the court's docket";

(4) In SECTION 2 of the bill, in Section 263.401, Family Code (committee printing page 1, lines 30-31), strike "the suit may not be dismissed under Subsection (a)";

(5) In SECTION 2 of the bill, in Section 263.401, Family Code (committee printing page 1, line 34), between "trial" and "is" insert "or mistrial";

(6) In SECTION 2 of the bill, in Section 263.401, Family Code (committee printing page 1, line 42), between "trial" and "under" insert "or mistrial".

The amendment to **CSSB 1767** 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 Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1767 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 1767 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 1767** 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 1767**, 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 1767** 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 1589 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1589** at this time on its second reading:

CSSB 1589, Relating to the reporting and handling of unclaimed property.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1589** (committee printing), as follows:

(1) On page 1, lines 40-42, of SECTION 2 of the bill, strike "any person, who, from the records of the holder of the property, appears to be the owner of the property or a person entitled to the property" and substitute "the known owner"

(2) On page 1, lines 53-55, of SECTION 2 of the bill, strike Section 74.1011(b)(2) and renumber subsequent subsections accordingly.

(3) On page 3, strike SECTION 11 of the bill and substitute with "This Act takes effect September 1, 2009."

The amendment to **CSSB 1589** 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 Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1589 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 1589 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 **CSSB 1589** 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 1589**, 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 1589** 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 1879 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 1879** at this time on its second reading:

CSSB 1879, Relating to the licensing and regulation of genetic counselors; providing penalties.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1879 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 1879** 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 1879**, 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 1879** 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 2285 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **SB 2285** at this time on its second reading:

SB 2285, Relating to financial assistance by the Texas Water Development Board for the connection of residences in economically distressed areas to public water supply and sanitary sewer systems.

The motion prevailed.

Senator Ogden 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 **SB 2285** (Senate committee report) in SECTION 1 of the bill, in added Section 17.9225, Water Code (page 2, between lines 3 and 4), by inserting the following new Subsection (c) as follows:

(c) Assistance under this section shall only be provided to residents who demonstrate an inability to pay for the improvements described in subsection (b) of this section in accordance with board rules. The board shall adopt rules to implement the provisions of this section.

The amendment to **SB 2285** 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: Ogden.

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

SB 2285 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: Ogden.

SENATE BILL 2285 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 **SB 2285** 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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, 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 2285**, 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 2285** 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: Ogden.

SENATE BILL 801 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 801** at this time on its second reading:

SB 801, Relating to the appraisal for ad valorem tax purposes of land used for wildlife management.

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 801 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 801** 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 801**, 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 801** 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 1895 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1895** at this time on its second reading:

CSSB 1895, Relating to the terms of members of the governing board of junior college districts.

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

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

Absent: Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 1895 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1895** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent: Williams.

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 1895**, 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 1895** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Williams.

COMMITTEE SUBSTITUTE SENATE BILL 1358 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSSB 1358** at this time on its second reading:

CSSB 1358, Relating to optional annuity increases for certain retirees and beneficiaries of the Texas Municipal Retirement System.

The motion prevailed.

Senators Van de Putte and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1358** (Senate committee printing) in SECTION 2 of the bill, in amended Section 854.203, Government Code, by striking proposed Subsections (b)(2) and (b-1) (page 1, lines 45-61) and substituting the following:

(2) as the sum of the prior and current service annuities on the effective date of the increase multiplied by the integer percentage increase specified in the ordinance adopted by the governing body.

(b-1) An increase under Subsection (b)(2) applies to all annuities for which the effective date is at least 12 months before the effective date of the increase.

The amendment to **CSSB 1358** 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: Van de Putte, Zaffirini.

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

CSSB 1358 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: Van de Putte, Zaffirini.

**COMMITTEE SUBSTITUTE
SENATE BILL 1358 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 **CSSB 1358** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Van de Putte, 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 **CSSB 1358**, 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 1358** 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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Watson, Wentworth, West, Whitmire, Williams.

Nays: Van de Putte, Zaffirini.

**COMMITTEE SUBSTITUTE
SENATE BILL 681 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 681** at this time on its second reading:

CSSB 681, Relating to the ability of electric utilities to provide electric service during a major power outage.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 681** (Senate committee printing), in SECTION 1 of the bill, in proposed Sec. 38.073(a), Utilities Code, as follows:

- (1) On page 1, line 19, after "exempt wholesale generator," insert "or";
- (2) On page 1, line 20, strike ", or retail electric provider";
- (3) On page 1, line 21, between "owned utility," and "electric" insert "or"; and
- (4) On page 1, line 22, strike ", or retail electric provider".

The amendment to **CSSB 681** 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 Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 681** (Senate committee printing) as follows:

- (1) On page 1, line 57, strike "and."
- (2) On page 1, line 60, strike "section." and insert "section; and".
- (3) On page 1, between lines 60 and 61, insert the following:

"(4) the potential for distributed generation, including renewable power with battery backup and combined heat and power systems, to strengthen reliability of electric service during a natural disaster or other emergency."

The amendment to **CSSB 681** 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 Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 681 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 681 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 **CSSB 681** 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 681**, 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 681** 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 2110 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 2110** at this time on its second reading:

CSSB 2110, Relating to the compulsory inspection of motor vehicles; providing penalties.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 2110 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 2110** 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 2110**, 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 2110** 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 1370 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **SB 1370** at this time on its second reading:

SB 1370, Relating to authorizing certain counties and municipalities to regulate land development; providing a penalty.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Fraser, Huffman, Ogden, Patrick, Shapiro.

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: Duncan, Fraser, Huffman, Ogden, Patrick, Shapiro.

SENATE BILL 1370 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 **SB 1370** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Fraser, Ogden, Patrick, Shapiro, 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 1370**, 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 1370** 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 25, Nays 6.

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

Nays: Duncan, Fraser, Huffman, Ogden, Patrick, Shapiro.

SENATE BILL 2067 ON SECOND READING

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2067** at this time on its second reading:

SB 2067, Relating to access to precinct conventions by the elderly and persons with physical disabilities.

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 2067 ON THIRD READING

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2067** 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 2067**, 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 2067** 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 1521 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1521** at this time on its second reading:

CSSB 1521, Relating to the regulation of certain boarding houses and assisted living facilities; providing penalties.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1521** in SECTION 1 of the bill, in added Section 254.001(2), Health and Safety Code (Senate committee printing, page 1, lines 24 and 25), by striking "Aging and Disability" and substituting "State Health".

The amendment to **CSSB 1521** 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 Ogden offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1521** 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 **CSSB 1521** 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 Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1521 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 1521 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 **CSSB 1521** 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 1521**, 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 1521** 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 1415 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 1415** at this time on its second reading:

CSSB 1415, Relating to certain corrective actions by the Texas Board of Nursing, including a pilot program on deferred disciplinary action; providing corrective actions.

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 1415 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 1415** 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 1415**, 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 1415** 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 2038 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2038** at this time on its second reading:

CSSB 2038, Relating to the construction of nonsubstantive codifications and revisions of statutes.

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

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

Absent: Williams.

COMMITTEE SUBSTITUTE
SENATE BILL 2038 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 2038** be placed on its third reading and final passage.

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

Nays: Wentworth.

Absent: Williams.

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 2038**, 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 2038** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent: Williams.

COMMITTEE SUBSTITUTE
SENATE BILL 751 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 751** at this time on its second reading:

CSSB 751, Relating to the use of restraints in state schools.

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 751 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 751** 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 751**, 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 751** 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 693 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 **CSSB 693** at this time on its second reading:

CSSB 693, Relating to proof of identification to purchase an alcoholic beverage.

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 693 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 **CSSB 693** 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 693**, 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 693** 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 590 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 590** at this time on its second reading:

CSSB 590, Relating to a requirement that the board of directors of an appraisal district develop a plan for reappraising property after a natural disaster.

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 590 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 590** 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 590**, 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 590** 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 2048 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2048** at this time on its second reading:

SB 2048, Relating to the establishment of a centralized sex offender registration authority in certain counties in this state.

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 2048 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2048** 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 2048**, 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 2048** 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 2357 ON SECOND READING

Senator Gallegos moved to suspend the regular order of business to take up for consideration **SB 2357** at this time on its second reading:

SB 2357, Relating to the curriculum that must be provided by a disciplinary alternative education program.

The motion prevailed.

Senator Ogden 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: Ogden.

SENATE BILL 2357 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2357** 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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, 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 2357**, 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 2357** 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: Ogden.

SENATE JOINT RESOLUTION 50 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **SJR 50** at this time on its second reading:

SJR 50, Proposing a constitutional amendment relating to the issuance of additional general obligation bonds by the Texas Water Development Board.

The resolution was read second time.

Senator Averitt offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **SJR 50**, in SECTION 1 of the resolution, in added Section 49-d-11, Article III, Texas Constitution (committee printing page 1, between lines 32 and 33), by adding Subsections (e) and (f) to read as follows:

(e) Except as provided by Subsection (f) of this section, no bonds shall be issued under the authority of this section for the purpose of augmenting the state participation account of the Texas Water Development Fund II or the water infrastructure fund unless the legislature by general law dedicates portions of the state's revenues in support of debt service on bonds issued for such purpose. Portions of the state's revenue dedicated as provided by this subsection may be used as provided by this section and Section 49-d-8 of this article without further appropriation.

(f) Subsection (e) of this section does not apply to bonds issued under authority of this section that at the time of their issuance are not state debt payable from the general revenue fund within the meaning of Section 49-j of this article.

The amendment to **SJR 50** 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: Ogden.

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

SJR 50 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: Ogden.

SENATE JOINT RESOLUTION 50 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 50** 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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, 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 **SJR 50**, 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 **SJR 50** 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 resolution was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

COMMITTEE SUBSTITUTE SENATE BILL 275 ON SECOND READING

Senator Nichols moved to suspend the regular order of business to take up for consideration **CSSB 275** at this time on its second reading:

CSSB 275, Relating to the application of new requirements for commercial underground injection control wells to be adopted by the Texas Commission on Environmental Quality.

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 275 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 275** 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 275**, 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 275** 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 1202 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1202** at this time on its second reading:

CSSB 1202, Relating to the collection and allocation of local sales and use taxes.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1202** (Senate committee printing) as follows:

(1) In the recital to SECTION 2 of the bill (page 1, line 42), strike "Subsection (c-1)" and substitute "Subsections (c-1), (c-2), and (c-3)".

(2) In SECTION 2 of the bill, after added Section 321.203(c-1), Tax Code (page 1, between lines 59 and 60), insert the following:

(c-2) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) that is a place of business of the retailer;

(B) in relation to which the retailer has an economic development agreement with:

(i) the municipality in which the warehouse is located that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; or

(ii) the county in which the warehouse is located that was entered into under Chapter 381, Local Government Code, before January 1, 2009; and

(C) in relation to which the municipality provides information relating to the economic development agreement as required by Subsection (c-3) by the deadline prescribed by that subsection, or, if appropriate, the county complies with Section 323.203(c-3) by the deadline prescribed by that section; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Subsection (c-3) or Section 323.203(c-3) as being served by the warehouse on January 1, 2009.

(c-3) Not later than September 1, 2009, a municipality that has entered into an economic development agreement described by Subsection (c-2) shall send to the comptroller information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that, on January 1, 2009, was served by that warehouse. The comptroller shall prescribe the manner in which the information must be provided. The provision of information to the comptroller under this subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure. This subsection and Subsection (c-2) expire September 1, 2014.

(3) In the recital to SECTION 3 of the bill (page 2, line 8), strike "Subsection (c-1)" and substitute "Subsections (c-1), (c-2), and (c-3)".

(4) In SECTION 3 of the bill, after added Section 323.203(c-1), Tax Code (page 2, between lines 25 and 26), insert the following:

(c-2) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) that is a place of business of the retailer;

(B) in relation to which the retailer has an economic development agreement with:

(i) the county in which the warehouse is located that was entered into under Chapter 381, Local Government Code, before January 1, 2009; or

(ii) the municipality in which the warehouse is located that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; and

(C) in relation to which the county provides information relating to the economic development agreement as required by Subsection (c-3) by the deadline prescribed by that subsection, or, if appropriate, the municipality complies with Section 321.203(c-3) by the deadline prescribed by that section; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Subsection (c-3) or Section 321.203(c-3) as being served by the warehouse on January 1, 2009.

(c-3) Not later than September 1, 2009, a county that has entered into an economic development agreement described by Subsection (c-2) shall send to the comptroller information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that, on January 1, 2009, was served by that warehouse. The comptroller shall prescribe the manner in which the information must be provided. The provision of information to the comptroller under this subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure. This subsection and Subsection (c-2) expire September 1, 2014.

(5) Strike SECTION 5 of the bill (page 2, line 42) and substitute the following:

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Sections 321.203(c-3) and 323.203(c-3), Tax Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Sections 321.203(c-3) and 323.203(c-3), Tax Code, as added by this Act, take effect August 31, 2009.

The amendment to **CSSB 1202** 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 Deuell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1202 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 1202 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1202** 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 1202**, 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 1202** 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 2506 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2506** at this time on its second reading:

CSSB 2506, 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.

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 2506 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 2506** 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 2506**, 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 2506** 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 750 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 750** at this time on its second reading:

SB 750, Relating to the administration of psychoactive medications to persons receiving services in a residential care facility.

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 750 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 750** 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 750**, 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 750** 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 2162 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2162** at this time on its second reading:

SB 2162, Relating to the appointment of counsel for the purposes of community supervision revocation or appellate proceedings.

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 2162 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2162** 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 2162**, 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 2162** 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 1713 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 1713** at this time on its second reading:

CSSB 1713, Relating to covenants not to compete by physicians.

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 1713 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 1713** 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 1713**, 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 1713** 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 2273 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2273** at this time on its second reading:

CSSB 2273, Relating to certain reporting duties of the attorney general and the Department of Aging and Disability Service.

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 2273 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 **CSSB 2273** 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 2273**, 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 2273** 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 341 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 341** at this time on its second reading:

SB 341, Relating to changing the name of the Railroad Commission of Texas to the Texas Energy Commission.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1476 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1476** at this time on its second reading:

CSSB 1476, Relating to the authority of a community health center to contract with or employ an optometrist or therapeutic optometrist.

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 1476 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 1476** 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 1476**, 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 1476** 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 61 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **SB 61** at this time on its second reading:

SB 61, Relating to the offense of failing to secure a child passenger in a motor vehicle and to fines for the offense.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Estes, Fraser, Harris, Jackson, Nelson, Ogden, Seliger.

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, Estes, Fraser, Harris, Jackson, Nelson, Ogden, Seliger.

SENATE BILL 2517 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2517** at this time on its second reading:

SB 2517, Relating to the dissolution of the Ballinger Memorial Hospital District and the North Runnels County Hospital District and the creation of the Runnels County Hospital District; granting the authority to impose a tax and issue bonds; granting the power of eminent domain.

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 2517 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 **SB 2517** 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 2517**, 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 2517** 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 455 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 455** at this time on its second reading:

CSSB 455, Relating to the regulation of the practice of dental assistants, including the delegation of certain dental acts.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 455** as follows:

(1) In SECTION 2 of the bill, in proposed Section 265.0001(2)(C), Occupations Code (page 1, line 42), strike "and".

(2) In SECTION 2 of the bill, in proposed Section 265.0001(2)(D), Occupations Code, between "tissue" and the period (page 1, line 43), insert the following:
"; and

(E) in the opinion of the treating dentist, may be performed by a properly trained dental assistant".

(3) In SECTION 4 of the bill, in amended Section 265.003, Occupations Code (page 2, line 4), strike "~~(a)~~" and substitute "(a)".

(4) In SECTION 4 of the bill, in amended Section 265.003(1)(C), Occupations Code (page 2, line 14), after fluoride add "varnish".

(5) In SECTION 4 of the bill, in amended Section 265.003(2)(B), Occupations Code (page 2, lines 21 and 22), strike "if the treating dentist delegates the procedure orally or in writing before the dental assistant performs the procedure".

(6) In SECTION 4 of the bill, strike deleted Section 265.003(b), Occupations Code (page 2, lines 23 through 30), and substitute the following:

(a-1) A treating dentist who delegates the provision of interim treatment of a minor emergency dental condition to a dental assistant under Subsection (a)(2)(B) shall:

(1) delegate the procedure orally or in writing before the dental assistant performs the procedure;

(2) retain responsibility for the procedure; and

(3) schedule a follow-up appointment with the patient within a reasonable time.

(b) A dental assistant who applies [may apply] a pit and fissure sealant under Subsection (a) may cleanse the occlusal and smooth surfaces of the teeth immediately before and for the sole purpose of preparing the tooth area for the placement of the pit and fissure sealant or orthodontic bonding resin. A procedure performed by a dental assistant under this subsection may not be billed as a prophylaxis [only if:

~~[(1) the assistant is certified to apply a pit and fissure sealant under Section 265.004; and~~

~~[(2) the dentist described by Subsection (a):~~

~~[(A) is a Medicaid provider; or~~

~~[(B) practices in an area determined to be underserved by the Texas Department of Health].~~

The amendment to **CSSB 455** 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 Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 455 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 455 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 455** 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 455**, 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 455** 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 1779 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 1779** at this time on its second reading:

CSSB 1779, Relating to the establishment of the official citrus producers' pest and disease management corporation; providing penalties.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1779 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 1779** 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 1779**, 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 1779** 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 1615 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1615** at this time on its second reading:

SB 1615, Relating to the authorization of airport authorities and the issuance of bonds and the exercise of eminent domain by the authorities.

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.

(President Pro Tempore Duncan in Chair)

COMMITTEE SUBSTITUTE

SENATE BILL 2082 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2082** at this time on its second reading:

CSSB 2082, Relating to determining a student's eligibility for a school district's special education program on the basis of the student's visual impairment.

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 2082 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2082** 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 2082**, 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 2082** 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 312 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 312** at this time on its second reading:

CSSB 312, Relating to the regulation and certification of medical examiners and the conduct of autopsy and inquest investigations by justices of the peace and medical examiners; providing penalties.

The motion prevailed.

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

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 312** by striking SECTION 7 of the bill and renumber the subsequent sections appropriately (Senate committee printing page 2, line 59 through page 3, line 9).

The amendment to **CSSB 312** 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 Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 312 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: Harris.

SENATE BILL 61 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 61** be placed on its third reading and final passage:

SB 61, Relating to the offense of failing to secure a child passenger in a motor vehicle and to fines for the offense.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Estes, Jackson, Nelson, Seliger, 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 61**, 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 61** 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 23, Nays 8.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Estes, Fraser, Harris, Jackson, Nelson, Ogden, Seliger.

**COMMITTEE SUBSTITUTE
SENATE BILL 14 ON SECOND READING**

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSSB 14** at this time on its second reading:

CSSB 14, Relating to the operation of the Texas Windstorm Insurance Association and the Texas FAIR Plan Association; making an appropriation.

On motion of Senator Lucio and by unanimous consent, the exchange between Senators Lucio and Fraser regarding **CSSB 14** was ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Lucio: Thank you, Senator. And I do want to say a lot of time and effort went into this compromise that you proposed here today, and I appreciate you, Senator, for bringing the coastal Senators to the table in the creation of this new version of Senate Bill 14. One of the positive changes that has been made to the bill, to do with all of the surcharges that coastal policyholders have to pay, in the original bill coastal policyholders had to pay surcharges that range between 50 and 103 percent, correct?

Senator Fraser: I'm sorry.

Senator Lucio: I mean, in the original bill, coastal policyholders had to pay surcharges that range between 50 and 100, 103 percent, and I'm just asking you, is that correct? I think it is.

Senator Fraser: No, the original surcharge in the bill was 20 percent.

Senator Lucio: Twenty?

Senator Fraser: Twenty percent.

Senator Lucio: Okay. I'm talking about the original bill. Now, this meant that someone with a hundred thousand, and correct me if I'm wrong, someone with a \$100,000 policy would have had their premiums increased from \$860 to over \$1,400.

Senator Fraser: That's not correct.

Senator Lucio: Okay. Well, I want to remind the Members that wind insurance is something that people have to buy on top of their regular homeowners' insurance and flood insurance.

Senator Fraser: And, Senator, I, all the things that you're talking about, we've gone through four or five different versions of the bill—

Senator Lucio: I understand.

Senator Fraser: And unfortunately, the only one—(inaudible, overlapping conversation)

Senator Lucio: I'm leading up to some questions, and—

Senator Fraser: Okay.

Senator Lucio: And if the percentages are off a little bit, I apologize for that. But the surcharges in the original bill, in my opinion, would have left people along the coast completely unable to buy wind insurance.

Senator Fraser: Yeah, and I—

Senator Lucio: What I'm trying to tell you is that up to this point, you know, you improved the bill. I appreciate how hard you've worked on this, Senator Fraser, and with all the parties on these punitive surcharges that were removed. Now, we do have a few continuing concerns that need to be addressed, and I want to talk to you briefly, and the first is actuarially sound rates. I believe, I still have some concerns, excuse me, about the language in the current amendment to the bill. Senator Fraser, is it, instead of automatic rate increases, this bill authorizes TWIA to move to using actuarially sound rates, correct?

Senator Fraser: Yes, it does.

Senator Lucio: Okay. Does TWIA currently believe that rates are actuarially sound?

Senator Fraser: No, they do not.

Senator Lucio: They don't. What would they like to raise their rates by?

Senator Fraser: The original concept, as you know, they said were about 30 percent too low, but that was because we were anticipating spending a couple hundred million a year on reinsurance. I think the decision has been made, at least in the current proposal, is to recommend not buying reinsurance, and if that's the case, they believe that with 15 percent rate increase, they would be at actuarial soundness, and—

Senator Lucio: But they really would like to raise their rates by 30 percent, correct?

Senator Fraser: No, that's not, the, Jim Oliver said in the meeting that he thought that actual soundness number would probably be about 15 percent.

Senator Lucio: Okay. They, that's a change from the original—

Senator Fraser: It is a change from the original.

Senator Lucio: The original 30 percent—

Senator Fraser: Yes.

Senator Lucio: That they—(inaudible, overlapping conversation)

Senator Fraser: And I'm getting nodding of the people that were in—

Senator Lucio: Sure—

Senator Fraser: In the meeting.

Senator Lucio: Sure. Absolutely. And I was in and out of those meetings mostly and, but at times out in our—

Senator Fraser: But we were taking care of it.

Senator Lucio: Appreciate Senator Williams being there, quite frankly, Senator Jackson, Senator Huffman, and Senator Hinojosa at times when he wasn't in conference. So, does TDI believe that TWIA rates are actuarially sound?

Senator Fraser: No, they do not, today.

Senator Lucio: I thought they did. Okay. So, at one point, so this part of the bill by taking out the TDI's role in the process—

Senator Fraser: I'm sorry. Did you actually just say it's TDI?

Senator Lucio: TDI.

Senator Fraser: I cannot speak for TDI, you know, the, I'm sorry, I don't know how to answer that question.

Senator Lucio: Okay. So, this part of the bill by taking out TDI's role in the process basically authorizes, without saying it, it basically authorizes that 30 percent or 15 percent that you're setting, increase on TWIA's policyholders over the course of three years, correct?

Senator Fraser: No, that does not do that at all.

Senator Lucio: Well, the new language in the bill—

Senator Fraser: Says we will move toward actuarial soundness.

Senator Lucio: The new language in the bill opens up the door to automatic rate increases, even though it doesn't explicitly say so, right?

Senator Fraser: I would not in any way recommend that that's what it does. It says that we are allowing the rates to move toward actuarial soundness over the next three-year period, but it does in no way create an automatic rate increase.

Senator Lucio: Tell you what, you would agree that, that we need checks and balances and make sure that TWIA is probably regulated by an outside party, I would hope. I have an amendment that would allow TWIA to move to actuarially sound rates that are approved by TDI, and we'll talk about that, obviously. I just—

Senator Fraser: And you do know that would be a departure from current rates. You've been supporting the system as it is right now. And the system as we have it right now, is that TDI sets it, and then if it goes over a certain amount, then the, I'm sorry, the windstorm fund sets it, and then if it's over 5 percent then, that the department of insurance has the ability to veto that rate—

Senator Lucio: (Inaudible, not speaking into the microphone)

Senator Fraser: And that is current law.

Senator Lucio: So then, there's no reason really to object to the fact being explicitly in the bill for the, if that's the case. You wouldn't mind that being in the bill then.

Senator Fraser: It's current law.

Senator Lucio: Okay. Well, I just don't see it in the current, I want to make sure it's in the bill, to make sure that—

Senator Fraser: It is in the bill.

Senator Lucio: Okay. Well, then we want to make it sure it's explicitly in the bill. Okay, that's fine. In the bill, and I'll be through in a minute here, in the bill, that the transition to actuarially sound rates is done within three years, correct?

Senator Fraser: Yes, that is what the bill says.

Senator Lucio: First, the transition, in my opinion, is kind of short. I feel we need at least five years to make that change, you wouldn't agree with that?

Senator Fraser: I would not.

Senator Lucio: Okay. About on the removal of a board member, the commissioner may remove a board member, but he should provide some sort of explanation for removal, in our opinion. I think the language says to the effect that, for no apparent reason. Is that right? Again—

Senator Fraser: I, and I think we're still following the policies, that is current law.

Senator Lucio: We do want to hold—(inaudible, overlapping conversation)

Senator Fraser: We're not changing that. There is a change in the makeup of the board where you have two non-coastal people that were on the board, but the way the board is chosen, I believe we're doing it the same way that we've been doing it.

Senator Lucio: Well, you know, we want to hold the board accountable. I'm sure we all agree with that. But we also need to make sure the commissioner is acting in a transparent, appropriate manner, as well. I, again, I have an amendment that would authorize the commissioner to remove a board member but provide a justification for doing so. And lastly, I think you and I spoke about this, and it's important on any measure we work and that is to establish legislative intent. And one of the issues that all of us spoke about, I know Senator Jackson made a comment to this, and also Senator Williams, about pre-1988 buildings, is it your intent that this bill does not place any new surcharges on pre-1988 buildings or other structures in the waiver program?

Senator Fraser: That was the last issue we talked about on the last day, and it is the intention to treat it exactly as it is treated in current law today, and there would be no new surcharges other than the way it's treated today.

Senator Lucio: I guess Section 2210.259 of the bill achieves on page 30 of the amendment that you gave me yesterday, right? I think we're on the right, about 50 percent of all the policies along the coast are written for pre-1988 structure, that's why I bring this up. And the previous version of Senate Bill 14 calls for an annual 30 percent, and I appreciate you—

Senator Fraser: That—(inaudible, overlapping conversation)

Senator Lucio: Changing that. Lastly, on board meetings, and we spoke about this, I'm pleased that the board meetings will be open to the public. I'd like to make sure that these meetings are accessible to the people along the coast, however, so. TWIA explained that they need one annual meeting in Austin, but the other three can be done along the coast. I have an amendment, again, that specifies that all but one board meeting must be in a tier one county. The audio recording of these bills must be posted on the association's Website, so, I hope that we can agree with that. Are there any other issues you feel, Senator, that you might have to make legislative intent to make sure that it's clear?

Senator Fraser: I think the issues you all have brought up have been the issues we discussed that were, that the issues that were at hand, and you know, I can't think of any that we discussed that you haven't addressed, you, or Senator Hinojosa, but there's obviously other Members that possibly may bring something.

Senator Lucio: Thank you very much, Senator.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Hinojosa, Huffman, Lucio.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 14** by striking all below the enacting clause and substituting the following:

"SECTION 1. Section 2210.001, Insurance Code, is amended to read as follows:

Sec. 2210.001. **PURPOSE.** The primary purpose of the Texas Windstorm Insurance Association is the provision of an [An] adequate market for windstorm and[.] hail[., and fire] insurance in the seacoast territory of this state. The legislature finds that the provision of adequate windstorm and hail insurance is necessary to the economic welfare of this state, and without that insurance, the orderly growth and development of this state would be severely impeded. This chapter provides a method by which adequate windstorm and[.] hail[., and fire] insurance may be obtained in certain designated portions of the seacoast territory of this state. The association is intended to serve as a residual insurer of last resort for windstorm and hail insurance in the seacoast territory. The association shall:

(1) function in such a manner as to not be a direct competitor in the private market; and

(2) provide windstorm and hail insurance coverage to those who are unable to obtain that coverage in the private market.

SECTION 2. Section 2210.002, Insurance Code, is amended to read as follows:

Sec. 2210.002. **SHORT TITLE; SUNSET PROVISION.** (a) This chapter may be cited as the Texas Windstorm Insurance Association Act.

(b) The association is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The association shall be reviewed during the period in which state agencies abolished in 2015 are reviewed. The association shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the association under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the association shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2015.

SECTION 3. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.0025 to read as follows:

Sec. 2210.0025. BIENNIAL REPORT TO LEGISLATURE. On or before December 31 of each even-numbered year, the board of directors shall submit to the commissioner, the appropriate committees of each house of the legislature, and the Sunset Advisory Commission a written report relating to the operations of the association during the preceding biennium. The report must include:

(1) any proposed changes in the laws relating to regulation of the association and a statement of the reasons for the changes; and

(2) any information regarding association operations or procedures that is requested by the department to be addressed in the report.

SECTION 4. Section 2210.003, Insurance Code, is amended by adding Subdivision (3-a) and amending Subdivision (6) to read as follows:

(3-a) "Catastrophe reserve trust fund" means the trust fund established under Subchapter J.

(6) "Insurance" means Texas [fire and explosion insurance and Texas] windstorm and hail insurance.

SECTION 5. Section 2210.004(a), Insurance Code, is amended to read as follows:

(a) Except as provided by Subsection (h), for purposes of this chapter and subject to this section, "insurable property" means immovable property at a fixed location in a catastrophe area or corporeal movable property located in that immovable property, as designated in the plan of operation, that is determined by the association according to the criteria specified in the plan of operation to be in an insurable condition against windstorm and hail ~~[or fire and explosion, as appropriate]~~, as determined by normal underwriting standards. The term includes property described by Section 2210.209.

SECTION 6. Section 2210.005, Insurance Code, is amended to read as follows:

~~Sec. 2210.005. DESIGNATION AS CATASTROPHE AREA [OR INADEQUATE FIRE INSURANCE AREA]; REVOCATION OF DESIGNATION.~~

(a) After at least 10 days' notice and a hearing, the commissioner may designate an area of the seacoast territory of this state as a catastrophe area if the commissioner determines, unless such a determination results in an adverse impact to the exposure of the association, that windstorm and hail insurance is not reasonably available to a substantial number of the owners of insurable property located in that territory because the territory is subject to unusually frequent and severe damage resulting from windstorms or hailstorms.

~~(b) [After at least 10 days' notice and a hearing, the commissioner may designate an area of this state as an inadequate fire insurance area if the commissioner determines that fire and explosion insurance is not reasonably available to a substantial number of owners of insurable property located in that area.]~~

~~(c)~~ (e) The commissioner shall revoke a designation made under Subsection (a) ~~[or (b)]~~ if the commissioner determines, after at least 10 days' notice and a hearing, that the applicable insurance coverage is no longer reasonably unavailable to a substantial number of owners of insurable property within the designated territory.

(c) ~~(b)~~ If the association determines that windstorm and hail insurance ~~[or fire and explosion insurance]~~ is no longer reasonably unavailable to a substantial number of owners of insurable property in a territory designated as a catastrophe area ~~[or~~

~~inadequate fire insurance area, as applicable~~], the association may request in writing that the commissioner revoke the designation. After at least 10 days' notice and a hearing, but not later than the 30th day after the date of the hearing, the commissioner shall:

- (1) approve the request and revoke the designation; or
- (2) reject the request.

SECTION 7. Section 2210.008, Insurance Code, is amended to read as follows:

Sec. 2210.008. DEPARTMENT ORDERS; GENERAL RULEMAKING AUTHORITY. (a) ~~The [After notice and hearing as provided by Subsection (b), the]~~ commissioner may issue any orders that the commissioner considers necessary to implement this chapter~~[, including orders regarding maximum rates, competitive rates, and policy forms].~~

(b) ~~The commissioner may adopt rules in the manner prescribed by Subchapter A, Chapter 36, as reasonable and necessary to implement this chapter. [Before the commissioner adopts an order, the department shall post notice of the hearing on the order at the secretary of state's office in Austin and shall hold a hearing to consider the proposed order. Any person may appear at the hearing and testify for or against the adoption of the order.]~~

SECTION 8. Subchapter A, Chapter 2210, Insurance Code, is amended by adding Section 2210.009 to read as follows:

Sec. 2210.009. LIST OF PRIVATE INSURERS; INCENTIVE PLAN. (a) The department shall maintain a list of all insurers that engage in the business of property and casualty insurance in the voluntary market in the seacoast territory.

(b) The department shall develop incentive programs in the manner described by Section 2210.053(b) to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of the association as a means to obtain insurance.

SECTION 9. Section 2210.052, Insurance Code, is amended by amending Subsections (a) and (d) and adding Subsection (e) to read as follows:

(a) Each member of the association shall participate in insured losses and operating expenses of the association, in excess of premium and other revenue ~~[the writings, expenses, profits, and losses]~~ of the association, in the proportion that the net direct premiums of that member during the preceding calendar year bears to the aggregate net direct premiums by all members of the association, as determined using the information provided under Subsection (b).

(d) Notwithstanding Subsection (a), a member, in accordance with the plan of operation, is entitled to receive credit for similar insurance voluntarily written in areas ~~[an area]~~ designated by the commissioner. The member's participation in the insured losses and operating expenses of the association in excess of premium and other revenue ~~[writings]~~ of the association shall be reduced in accordance with the plan of operation.

(e) Notwithstanding Subsections (a)-(d), an insurer that becomes a member of the association and that has not previously been a member of the association is not subject to participation in any insured losses and operating expenses of the association

in excess of premium and other revenue of the association until the second anniversary of the date on which the insurer first becomes a member of the association.

SECTION 10. Section 2210.056(b), Insurance Code, is amended to read as follows:

(b) The association's assets may not be used for or diverted to any purpose other than to:

(1) satisfy, in whole or in part, the liability of the association on claims made on policies written by the association;

(2) make investments authorized under applicable law;

(3) pay reasonable and necessary administrative expenses incurred in connection with the operation of the association and the processing of claims against the association; ~~or~~

(4) satisfy, in whole or in part, the obligations of the association incurred in connection with Subchapters B-1, J, and M, including reinsurance, public securities, and financial instruments; or

(5) make remittance under the laws of this state to be used by this state to:

(A) pay claims made on policies written by the association;

(B) purchase reinsurance covering losses under those policies; or

(C) prepare for or mitigate the effects of catastrophic natural events.

SECTION 11. Section 2210.060(c), Insurance Code, is amended to read as follows:

(c) Subsection (a) does not authorize the association to indemnify a member of the association for participating in the assessments made by ~~writings, expenses, profits, and losses of~~ the association in the manner provided by this chapter.

SECTION 12. Chapter 2210, Insurance Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PAYMENT OF LOSSES

Sec. 2210.071. PAYMENT OF EXCESS LOSSES; AUTHORIZATION TO REINSURE OR BORROW. (a) If an occurrence or series of occurrences in a catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, the excess losses and operating expenses shall be paid as provided by this subchapter.

(b) The association shall pay losses in excess of premium and other revenue of the association from available reserves of the association and available amounts in the catastrophe reserve trust fund.

(c) The association may borrow from, or enter into other financing arrangements with, any market sources at prevailing interest rates as authorized by this subchapter and as necessary to pay insured losses.

(d) The association may pay losses in excess of premium and other revenue of the association with:

(1) reinsurance proceeds, as provided by this subchapter, from reinsurance purchased by the association as authorized under Section 2210.453;

(2) the proceeds of Class 1 or Class 2 public securities authorized under Section 2210.073, 2210.074, 2210.076, or 2210.077; and

(3) proceeds from financial instruments, including loans or other financing arrangements described by Subsection (c), as authorized under this subchapter.

(e) With respect to assessments to members of the association, the proportion of the losses allocable to each insurer under this subchapter shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

Sec. 2210.072. PAYMENT FROM TRUST FUND; ASSESSMENT; REINSURANCE. (a) For each occurrence, losses shall be paid from the catastrophe reserve trust fund and any available reinsurance. Losses in excess of the catastrophe reserve trust fund and any available reinsurance shall be paid as provided by this section.

(b) For each occurrence, the association shall assess the members of the association an amount not greater than \$400 million. The proportion of the assessment allocable to each insurer shall be determined in the manner used to determine each member's participation in the association under Section 2210.052.

(c) Assessments against members of the association under this section may not exceed \$400 million during a calendar year.

(d) The amount of an assessment under this section must be:

(1) provided to each member of the association not later than the fifth day after the date the assessment is determined by the board of directors under Subsection (b); and

(2) paid by each member not later than the 30th day after the date on which the insurer receives notice of the amount of its assessment.

(e) A member may not recoup an assessment paid under this section through a premium surcharge.

(f) The association may purchase reinsurance in addition to using some or all of the trust fund if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by policyholders, other revenue of the association, and the catastrophe reserve trust fund.

Sec. 2210.073. PAYMENT FROM CLASS 1 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Section 2210.072 shall be paid as provided by this section.

(b) The losses may be paid with:

(1) proceeds from Class I public securities authorized to be issued in accordance with Subchapter M before or on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (f);

(3) proceeds from financial instruments described by Subsection (e); or

(4) a combination of reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued if the board of directors determines, before the date of any occurrence, that the amount available from premium and other revenue, in combination with the amounts available from the

catastrophe reserve trust fund, any reinsurance, and any financial instruments may be insufficient to pay insured losses. The public securities shall be issued as necessary in a principal amount not to exceed \$600 million per occurrence.

(d) Any public securities proceeds received under this section from Class 1 public securities authorized to in accordance with Subchapter M before the date of any occurrence that results in insured losses under Subsection (a):

(1) must be used before the proceeds of any public securities that the association authorizes to be issued under Section 2210.075 on or after any catastrophic event; and

(2) may not be used to fund losses of any catastrophic event occurring before the date on which public securities described by this section are authorized to be issued.

(e) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing arrangements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(f) The association may purchase reinsurance in lieu of, or in addition to, using Class 1 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(g) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.612.

Sec. 2210.074. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072 and 2210.073 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$1 billion per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financial arrangements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section without the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds of financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.075. PAYMENT FROM ASSOCIATION ASSESSMENT.

(a) Losses not paid under Sections 2210.072-2210.074 shall be paid as provided by this section.

(b) The association shall assess the members of the association \$300 million per occurrence for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessment under this subsection. The proportion of the losses allocable to each insurer under this section shall be determined in the manner used to determine each insurer's participation in the association for the year under Section 2210.052.

(c) The association may not assess members of the association under this section more than twice in any calendar year.

(d) A member of the association may recoup an assessment paid under this section through a premium surcharge collected for one year on each policy of property or casualty insurance written by the member. A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(e) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the premium surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.076. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE; FINANCIAL INSTRUMENTS. (a) Losses not paid under Sections 2210.072-2210.075 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (e);

(3) proceeds from financial instruments described by Subsection (d); or

(4) a combination of the reinsurance, public securities, and financial instruments described by Subdivisions (1)-(3).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$500 million per occurrence.

(d) Under the authority of Section 2210.071(c), the association may borrow from, or enter into other financing agreements with, any market source, under which the market source makes interest-bearing loans to the association to enable the association to pay losses under this section in lieu of, or in addition to, the issuance of public securities.

(e) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities or proceeds from financial instruments authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(f) If the losses are paid with public securities or proceeds from financial instruments described by this section, the public securities or proceeds from financial instruments shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.077. PAYMENT FROM CLASS 2 PUBLIC SECURITIES; REINSURANCE. (a) Losses not paid under Sections 2210.072-2210.076 shall be paid as provided by this section.

(b) The losses may be paid from:

(1) proceeds from Class 2 public securities authorized to be issued in accordance with Subchapter M on or after the date of any occurrence that results in insured losses under Subsection (a);

(2) available reinsurance described by Subsection (d); or

(3) a combination of the reinsurance and public securities described by Subdivisions (1) and (2).

(c) Public securities described by Subsection (b)(1) may be issued as necessary in a principal amount not to exceed \$2.8 billion per occurrence.

(d) The association may purchase reinsurance in lieu of, or in addition to, using Class 2 public securities authorized under this section if, after a cost-benefit analysis or other appropriate examination, the board of directors determines that the use of reinsurance is a fiscally appropriate alternative to other sources of funding or is economically beneficial to this state. If the association purchases reinsurance under this section, the cost of the reinsurance shall be paid from premium paid by the policyholders of the association, other revenue of the association, and the catastrophe reserve trust fund.

(e) If the losses are paid with public securities described by this section, the public securities shall be repaid by premium surcharges in the manner prescribed by Section 2210.613.

Sec. 2210.078. PAYMENT FROM ADDITIONAL ASSOCIATION ASSESSMENTS. (a) Losses not paid under Sections 2210.072-2210.077 and any available reinsurance shall be paid as provided by this section.

(b) The board of directors shall assess the members of the association for the payment of losses described by this section. The association shall notify each member of the association of the amount of the member's assessments under this subsection, with the proportion of the assessment allocable to each insurer determined in the manner used to determine each member's participation in the association under Section 2210.052.

(c) A member of the association may not recoup an assessment paid under this section through a premium surcharge.

(d) A member of the association may credit an amount paid in accordance with this section in a calendar year against the insurer's premium tax under Chapter 221. The tax credit authorized under this subsection shall be allowed at a rate not to exceed 20 percent per year for five or more successive years beginning the calendar year that the assessments under this section are paid. The balance of payments made by the insurer and not claimed as a premium tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in an annual statement under Section 862.001.

Sec. 2210.079. NOTIFICATION REGARDING TAX CREDITS. (a) The association shall immediately notify the department if an occurrence or series of occurrences in a catastrophe area results in insured losses that result in a tax credit under Section 2210.078(d) in a calendar year.

(b) On receipt of notice under Subsection (a), the department shall immediately notify the governor and the appropriate committees of each house of the legislature of the amount of insured losses eligible for tax credits under Section 2210.078(d).

SECTION 13. The heading to Subchapter C, Chapter 2210, Insurance Code, is amended to read as follows:

SUBCHAPTER C. ASSOCIATION BOARD OF DIRECTORS; GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

SECTION 14. Section 2210.102, Insurance Code, is amended to read as follows:

Sec. 2210.102. COMPOSITION. (a) The board of directors is composed of [the following] nine members appointed by the commissioner in accordance with this section.

(b) Four members must be[+ [(1) five] representatives of different insurers who are members of the association.

(c) Three members must be[+, elected by the members as provided by the plan of operation;

[(2) two] public representatives:

(1) at least one of whom [who are nominated by the office of public insurance counsel and who], as of the date of the appointment, does not[+

[(A)] reside in or own property in a first tier coastal county; and

(2) at least one of whom, as of the date of the appointment, resides in or owns property in a first tier coastal county and is a policyholder of the association.

(d) Two members must be [a catastrophe area; and

[(B)] are policyholders of the association; and

~~[(3) two]~~ property and casualty agents who are licensed under this code and are not captive agents. One of the agents, but not more than one, as of the date of the appointment, must maintain the agent's principal office in a first tier coastal county.

(e) All members must ~~each of whom must~~

~~[(A)] have demonstrated experience in insurance, general business, or actuarial principles sufficient to make the success of the association probable[;~~

~~[(B) maintain the agent's principal office, as of the date of the appointment, in a catastrophe area; and~~

~~[(C) hold a license under Chapter 4051 as a general property and casualty agent or a personal lines property and casualty agent].~~

(f) Insurers who are members of the association shall nominate, from among those members, persons to fill any vacancy in the four board of director seats reserved for insurers. The board of directors shall solicit nominations from the members and submit the nominations to the commissioner. The nominee slate submitted to the commissioner under this subsection must include at least three more names than the number of vacancies. The commissioner shall appoint replacement insurer members from the nominee slate.

(g) The commissioner shall appoint one person to serve as a nonvoting member of the board to advise the board regarding issues relating to the inspection process. The commissioner may give preference in an appointment under this subsection to a person who is a qualified inspector under Section 2210.254. The nonvoting member appointed under this section must:

(1) be an engineer licensed by, and in good standing with, the Texas Board of Professional Engineers;

(2) reside in a first tier coastal county; and

(3) be knowledgeable of, and have professional expertise in, wind-related design and construction practices in coastal areas that are subject to high winds and hurricanes.

(h) ~~[(h)]~~ The persons appointed under Subsection (c) ~~[Subsections (a)(2) and (3)]~~ must be from different counties.

SECTION 15. Section 2210.103, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A member of the board of directors may be removed by the commissioner without cause. The commissioner shall appoint a replacement in the manner provided by Section 2210.102 for a member who leaves or is removed from the board of directors.

SECTION 16. Section 2210.104, Insurance Code, is amended to read as follows:

Sec. 2210.104. OFFICERS. The board of directors shall elect from the board's membership an executive committee consisting of a presiding officer, assistant presiding officer, and secretary-treasurer. ~~[At least one of the officers must be a member appointed under Section 2210.102(a)(2) or (3).]~~

SECTION 17. Section 2210.105, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Except for an emergency meeting, a meeting of the board of directors shall be held at a location as determined by the board of directors.

SECTION 18. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.1051 to read as follows:

Sec. 2210.1051. MEETINGS OF BOARD OF DIRECTORS. (a) Notwithstanding Chapter 551, Government Code, or any other law, members of the board of directors may meet by telephone conference call, videoconference, or other similar telecommunication method. The board may use telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with this subsection and Subsection (b). This subsection applies without regard to the subject matter discussed or considered by the members of the board at the meeting.

(b) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings of the board of directors;

(2) may not be held unless notice of the meeting specifies the location of the meeting;

(3) must be audible to the public at the location specified in the notice under Subdivision (2); and

(4) must provide two-way audio communication between all members of the board attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted so that a quorum of the board is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

SECTION 19. Subchapter C, Chapter 2210, Insurance Code, is amended by adding Section 2210.107 to read as follows:

Sec. 2210.107. PRIMARY BOARD OBJECTIVES. The primary objectives of the board of directors are to ensure that the association:

(1) operates in accordance with this chapter and commissioner rules;

(2) complies with sound insurance principles; and

(3) meets all standards imposed under this chapter.

SECTION 20. Section 2210.151, Insurance Code, is amended to read as follows:

Sec. 2210.151. ADOPTION OF PLAN OF OPERATION. With the advice of the board of directors, the commissioner by rule shall adopt the plan of operation to provide[=

~~(1) Texas windstorm and hail insurance in a catastrophe area[=and~~

~~(2) Texas fire and explosion insurance in an inadequate fire insurance area].~~

SECTION 21. Section 2210.152(a), Insurance Code, is amended to read as follows:

(a) The plan of operation must:

(1) provide for the efficient, economical, fair, and nondiscriminatory administration of the association; and

(2) include:

(A) a plan for the equitable assessment of the members of the association to defray losses and expenses;

(B) underwriting standards;

(C) procedures for accepting and ceding reinsurance;

(D) procedures for obtaining and repaying amounts pursuant to financial instruments authorized under Subchapter B-1;

(E) procedures for determining the amount of insurance to be provided to specific risks;

(F) ~~(E)~~ time limits and procedures for processing applications for insurance; and

(G) ~~(F)~~ other provisions as considered necessary by the department to implement the purposes of this chapter.

SECTION 22. Section 2210.202, Insurance Code, is amended to read as follows:

Sec. 2210.202. APPLICATION FOR COVERAGE. (a) A person who has an insurable interest in insurable property may apply to the association for insurance coverage provided under the plan of operation and an inspection of the property, subject to any rules~~—including any inspection fee,~~ established by the board of directors and approved by the commissioner. The association shall make insurance available to each applicant in the catastrophe area whose property is insurable property but who, after diligent efforts, is unable to obtain property insurance through the voluntary market, as evidenced by one declination from an insurer authorized to engage in the business of, and writing, property insurance providing windstorm and hail coverage in the first tier coastal counties. For purposes of this section, "declination" has the meaning assigned by the plan of operation and shall include a refusal to offer coverage for the perils of windstorm and hail and the inability to obtain substantially equivalent insurance coverage for the perils of windstorm and hail. Notwithstanding Section 2210.203(c), evidence of one declination is also required with an application for renewal of an association policy.

(b) A ~~general~~ property and casualty agent ~~[or a personal lines property and casualty agent]~~ must submit an application for the insurance coverage on behalf of the applicant on forms prescribed by the association. The application must contain a statement as to whether the applicant has submitted or will submit the premium in full from personal funds or, if not, to whom a balance is or will be due. Each application for initial or renewal coverage must also contain a statement that the agent possesses proof of the declination described by Subsection (a) and proof of flood insurance coverage or unavailability of that coverage as described by Section 2210.203(a-1).

SECTION 23. Section 2210.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), if all or any part of the property for which an application for new or renewal insurance coverage is made is located in Zone V or another similar zone with an additional hazard associated with storm waves, as defined by the National Flood Insurance Program, and if flood insurance under that federal program is available, the association may not issue a new or renewal insurance policy unless evidence that the property is covered by a flood insurance policy is submitted to the association.

SECTION 24. Section 2210.204, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If an insured requests cancellation of the insurance coverage, the association shall refund the unearned premium, less any minimum retained premium set forth in the plan of operation, payable to the insured and the holder of an unpaid balance. The property and casualty agent who submitted the application shall refund the agent's commission on any unearned premium in the same manner.

(e) For cancellation of insurance coverage under this section, the minimum retained premium in the plan of operation must be for a period of not less than 180 days, except for events specified in the plan of operation that reflect a significant change in the exposure or the policyholder concerning the insured property, including:

- (1) the purchase of similar coverage in the voluntary market;
- (2) sale of the property to an unrelated party;
- (3) death of the policyholder; or
- (4) total loss of the property.

SECTION 25. Subchapter E, Chapter 2210, Insurance Code, is amended by adding Section 2210.2041 to read as follows:

Sec. 2210.2041. NONREFUNDABLE SURCHARGE. A nonrefundable surcharge established under this chapter is not refundable under this code for any reason or purpose.

SECTION 26. Section 2210.251, Insurance Code, is amended to read as follows:

Sec. 2210.251. INSPECTION REQUIREMENTS. (a) Except as provided by this section, to be considered insurable property eligible for windstorm and hail insurance coverage from the association, a structure that is constructed, altered, remodeled, enlarged, or repaired or to which additions are made on or after January 1, 1988, must be inspected [~~or approved~~] by the association [~~department~~] for compliance with the plan of operation.

(b) After January 1, 2004, for geographic areas specified by the commissioner, the commissioner by rule shall adopt the 2003 International Residential Code for one- and two-family dwellings published by the International Code Council. For those geographic areas, the commissioner by rule may adopt a subsequent edition of that code and may adopt any supplements published by the International Code Council and amendments to that code.

(c) After January 1, 2004, a person must submit a notice of a windstorm inspection to the association [~~unit responsible for certification of windstorm inspections at the department~~] before beginning to construct, alter, remodel, enlarge, or repair a structure.

(d) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area that was governed at the time of the construction, alteration, remodeling, enlargement, repair, or addition by a building code recognized by the association is insurable property eligible for windstorm and hail insurance coverage from the association without compliance with the inspection [~~or approval~~] requirements of this section or the plan of operation.

(e) A structure constructed, altered, remodeled, enlarged, or repaired or to which additions were made before January 1, 1988, that is located in an area not governed by a building code recognized by the association is insurable property eligible for

windstorm and hail insurance coverage from the association without compliance with the inspection ~~[or approval]~~ requirements of this section or the plan of operation if the structure was previously insured by an insurer authorized to engage in the business of insurance in this state and the structure is in essentially the same condition as when previously insured, except for normal wear and tear, and is without any structural change other than a change made according to code. For purposes of this subsection, evidence of previous insurance coverage must reflect coverage for the perils of windstorm and hail for the property within the 12-month period immediately preceding the date of the application for coverage through the association and includes:

- (1) a copy of a previous insurance policy;
- (2) copies of canceled checks or agent's records that show payments for previous policies; and
- (3) a copy of the title to the structure or mortgage company records that show previous policies.

(f) Notwithstanding any other provision of this section, a residential structure insured by the association as of June 1, 2009, may continue coverage through the association subject to the inspection requirements imposed under Section 2210.258.

(g) The association ~~[department]~~ shall issue a certificate of compliance for each structure that qualifies for coverage. The certificate is evidence of insurability of the structure by the association.

~~[(g) The department may enter into agreements and contracts as necessary to implement this section.]~~

(h) The association ~~[department]~~ may charge a reasonable fee to cover the cost of making building requirements and inspection standards available to the public.

(i) The association shall charge a reasonable fee for each inspection of each structure in an amount set by the board of directors. The association may use fees collected under this section for operating expenses or for the purchase of reinsurance.

(j) Without limitation of the department's authority to otherwise enforce this chapter, the department shall monitor the association's compliance with this subchapter.

(k) Except as otherwise provided by this subchapter, the association may not consider any request that a structure be certified as insurable property if, within six months after the final inspection of a structure, the association has not received:

(1) fully completed documentation verifying that the structure has been constructed, altered, remodeled, enlarged, or repaired, or any addition to the structure has been made, in compliance with the plan of operation; and

(2) full payment of all inspection fees owed to the association, including any fees related to prior association inspections.

(l) If a structure is rejected for coverage under Subsection (k), a person may make a new request for certification and the structure may be reinspected for compliance with the plan of operation. A request for certification brought under this subsection must meet the requirements of Subsection (k).

SECTION 27. Sections 2210.254(a), (c), and (d), Insurance Code, are amended to read as follows:

- (a) For purposes of this chapter, a "qualified inspector" includes:

(1) a person determined by the association [~~department~~] to be qualified because of training or experience to perform building inspections;

(2) a licensed professional engineer who meets the requirements specified by the association [~~commissioner rule~~] for appointment to conduct windstorm inspections; and

(3) an inspector who:

(A) is certified by the International Code Council, the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, or the Southern Building Code Congress International, Inc.;

(B) has certifications as a buildings inspector and coastal construction inspector; and

(C) complies with other requirements specified by the association [~~commissioner rule~~].

(c) Before performing building inspections, a qualified inspector must be approved and appointed or employed by the association [~~department~~].

(d) The association [~~department~~] may charge a reasonable fee for the filing of applications by and determining the qualifications of persons for appointment as qualified inspectors.

SECTION 28. Section 2210.255, Insurance Code, is amended to read as follows:

Sec. 2210.255. APPOINTMENT OF LICENSED ENGINEER AS INSPECTOR. (a) On request of an engineer licensed by the Texas Board of Professional Engineers, the association may [~~commissioner shall~~] appoint the engineer as an inspector under this subchapter on receipt of information satisfactory to the association [~~not later than the 10th day after the date the engineer delivers to the commissioner information demonstrating~~] that the engineer is qualified to perform windstorm inspections under this subchapter.

(b) The association shall consult with the commissioner regarding [~~shall adopt rules establishing~~] the information to be considered in appointing engineers under this section.

SECTION 29. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Section 2210.2565 to read as follows:

Sec. 2210.2565. PROCEDURES REGARDING APPOINTMENT OF INSPECTORS. The association shall develop procedures for the appointment and oversight of qualified inspectors appointed under Sections 2210.254 and 2210.255, including procedures relating to the suspension or revocation of an appointment made by the association.

SECTION 30. Subchapter F, Chapter 2210, Insurance Code, is amended by adding Sections 2210.258 and 2210.259 to read as follows:

Sec. 2210.258. MANDATORY COMPLIANCE WITH BUILDING CODES; ELIGIBILITY. (a) Notwithstanding any other provision of this chapter, to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation.

(b) The association may not insure a structure described by Subsection (a) until:

(1) the structure has been inspected for compliance with the plan of operation in accordance with Section 2210.251(a); and

(2) a certificate of compliance has been issued for the structure in accordance with Section 2210.251(g).

Sec. 2210.259. SURCHARGE FOR CERTAIN NONCOMPLIANT STRUCTURES. (a) A noncompliant residential structure insured by the association as of June 1, 2009 under Section 2210.251(f) and that had been approved for insurability under the approval process regulations in effect on June 1, 2009 is subject to an annual premium surcharge in an amount not less than 15 percent of the premium for insurance coverage obtained through the association. The surcharge under this subsection applies to each policy issued or renewed by the association on or after the effective date of S.B. No. 14, Acts of the 81st Legislature, Regular Session, 2009, and is due on the issuance or renewal of the policy.

(b) A premium surcharge collected under this section shall be deposited in the catastrophe reserve trust fund. A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

SECTION 31. Sections 2210.351(c) and (d), Insurance Code, are amended to read as follows:

(c) Except as provided by Subsection (d), as [As] soon as reasonably possible after the filing has been made, the commissioner in writing shall approve[, modify,] or disapprove the filing. A filing is considered approved unless [modified or] disapproved on or before the 30th day after the date of the filing. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(d) The association may use a rate filed by the association without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate in effect on the date on which the filing is made;

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made; and

(4) the commissioner has not disapproved the filing in writing, advising of the reasons for the disapproval and the criteria the association is required to meet to obtain approval. [If at any time the commissioner determines that a filing approved under Subsection (c) no longer meets the requirements of this chapter, the commissioner may, after a hearing held on at least 20 days' notice to the association that specifies the matters to be considered at the hearing, issue an order withdrawing approval of the filing. The order must specify in what respects the commissioner determines that the filing no longer meets the requirements of this chapter. An order issued under this subsection may not take effect before the 30th day after the date of issuance of the order.]

SECTION 32. Section 2210.352, Insurance Code, is amended to read as follows:

Sec. 2210.352. MANUAL RATE FILINGS: ANNUAL FILING. (a) Not later than August 15 of each year, the association shall file with the department ~~[for approval by the commissioner]~~ a proposed manual rate for all types and classes of risks written by the association~~[- Chapter 40 does not apply to:~~

~~[(1) a filing made under this subsection; or~~

~~[(2) a department action with respect to the filing].~~

(a-1) The association may use a rate filed by the association under this section without prior commissioner approval if:

(1) the filing is made not later than the 30th day before the date of any use or delivery for use of the rate;

(2) the filed rate does not exceed 105 percent of the rate used by the association in effect on the date on which the filing is made; and

(3) the filed rate does not reflect a rate change for an individual rating class that is 10 percent higher than the rate in effect for that rating class on the date on which the filing is made.

(b) Except as provided by Subsection (a-1), before ~~[Before]~~ approving or~~;~~ disapproving~~[- or modifying]~~ a filing under this section, the commissioner shall provide all interested persons a reasonable opportunity to:

(1) review the filing;

(2) obtain copies of the filing on payment of any legally required copying cost; and

(3) submit to the commissioner written comments or information related to the filing.

(c) Except as provided by Subsection (a-1), ~~[The commissioner shall schedule an open meeting not later than the 45th day after the date the department receives a filing at which interested persons may present written or oral comments relating to the filing.~~

~~[(d) An open meeting under Subsection (c) is subject to Chapter 551, Government Code, but is not a contested case hearing under Chapter 2001, Government Code.~~

~~[(e) The department shall file with the secretary of state for publication in the Texas Register notice that a filing has been made under Subsection (a) not later than the seventh day after the date the department receives the filing. The notice must include information relating to:~~

~~[(1) the availability of the filing for public inspection at the department during regular business hours and the procedures for obtaining copies of the filing;~~

~~[(2) procedures for making written comments related to the filing; and~~

~~[(3) the time, place, and date of the open meeting scheduled under Subsection (c) at which interested persons may present written or oral comments relating to the filing.~~

~~[(f) After the conclusion of the open meeting,]~~ the commissioner shall approve or~~;~~ disapprove~~[- or modify]~~ the filing in writing not later than October ~~[November]~~ 15 of the year in which the filing was made. If the filing is not approved or~~;~~ disapproved~~[- or modified]~~ on or before that date, the filing is considered approved.

(d) Except as provided by Subsection (a-1), if [(g) If] the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

SECTION 33. Section 2210.353, Insurance Code, is amended to read as follows:

Sec. 2210.353. MANUAL RATE FILINGS: AMENDED ANNUAL FILING.

(a) Not later than the 30th day after the date the association receives the commissioner's written disapproval under Section 2210.352(c) [2210.352(f)], the association may file with the commissioner an amended annual filing that conforms to all criteria stated in that written disapproval.

(b) Not later than the 30th day after the date an amended filing made under Subsection (a) is received, the commissioner shall approve [~~the amended filing with or without modifications~~] or disapprove the amended filing. If the filing is not [~~modified or~~] disapproved on or before the 30th day after the date of receipt, the filing is considered approved [~~without modification~~]. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria the association is required to meet to obtain approval.

(c) Before approving or disapproving an amended annual filing under this section, the commissioner shall, in the manner provided by Section 2210.352(b), provide all interested persons a reasonable opportunity to:

- (1) review the amended annual filing;
- (2) obtain copies of the amended annual filing on payment of any legally required copying cost; and
- (3) submit to the commissioner written comments or information related to the amended annual filing.

~~[(d) The commissioner may, in the manner provided by Sections 2210.352(e) and (d), hold a hearing regarding an amended filing not later than the 20th day after the date the department receives the amended filing.]~~

~~[(e) Not later than the 10th day after the date the hearing is concluded, the commissioner shall approve or disapprove the amended filing.]~~

~~[(f) The requirements imposed under Subsection (a) and under Sections 2210.352(e), (f), and (g) apply to a hearing conducted under this section and the commissioner's decision resulting from that hearing.]~~

SECTION 34. Sections 2210.354(a), (c), and (d), Insurance Code, are amended to read as follows:

(a) In conjunction with the review of a filing under Section 2210.352, other than a filing made under Subsection (a-1) of that section, [or 2210.353:

~~[(1)]~~ the commissioner may request the association to provide additional supporting information relating to the filing [~~and~~

~~[(2) any interested person may file a written request with the commissioner for additional supporting information relating to the filing].~~

(c) The commissioner shall submit to the association all requests for additional supporting information made under this section for the commissioner's use not later than the 21st day after the date of receipt of the filing [and the use of any interested person].

(d) Unless a different period is requested by the association and approved by the commissioner, the association shall provide the information to the commissioner not later than the fifth day after the date the written request for additional supporting information is delivered to the association. ~~[The department shall notify an interested person who has requested additional information of the availability of the information not later than one business day after the date the commissioner receives the information from the association.]~~

SECTION 35. Section 2210.355, Insurance Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) In adopting rates under this chapter, the following must be considered:

(1) the past and prospective loss experience within and outside this state of hazards for which insurance is made available through the plan of operation, if any;

(2) recognized catastrophe models;

(3) expenses of operation, including acquisition costs;

(4) ~~(3)~~ a reasonable margin for profit and contingencies; and

(5) ~~(4)~~ all other relevant factors, within and outside this state.

(h) The association may establish rating territories and may vary rates among the territories.

SECTION 36. Section 2210.361(b), Insurance Code, is amended to read as follows:

(b) After notice and hearing, the commissioner may accept~~[-, modify,]~~ or reject a recommendation made by the association under this section. ~~[Chapter 40 does not apply to an action taken under this section.]~~

SECTION 37. Subchapter H, Chapter 2210, Insurance Code, is amended by adding Section 2210.364 to read as follows:

Sec. 2210.364. MIGRATION TO ACTUARIALY SOUND RATES. Not later than September 1, 2009, the association shall begin implementing rates that are actuarially sound as determined by the association. Not later than August 31, 2012, all rates used by the association for an initial policy or renewal policy issued by the association shall be actuarially sound as determined by the association.

SECTION 38. Sections 2210.452(a), (c), and (d), Insurance Code, are amended to read as follows:

(a) The commissioner shall adopt rules under which the association makes ~~[members relinquish their net equity on an annual basis as provided by those rules by making]~~ payments to the catastrophe reserve trust fund. The trust fund may be used only to fund~~[-~~

~~[(1) the obligations of the trust fund under Subchapter B-1 [Section 2210.058(a); and~~

~~[(2) the mitigation and preparedness plan established under Section 2210.454 to reduce the potential for payments by association members that give rise to tax credits in the event of loss].~~

(c) At the end of each calendar year or policy year, the association shall use ~~[pay]~~ the net gain from operations ~~[equity]~~ of the association ~~[a member]~~, including all premium and other revenue of the association in excess of incurred losses and

operating expenses, to make payments to the trust fund, to procure ~~[or a]~~ reinsurance, or to make payments to the trust fund and to procure reinsurance ~~[program approved by the commissioner].~~

(d) The commissioner by rule shall establish the procedure relating to the disbursement of money from the trust fund to policyholders in the event of an occurrence or series of occurrences within a catastrophe area that results in a disbursement under Subchapter B-1 ~~[Section 2210.058(a)].~~

SECTION 39. Section 2210.453, Insurance Code, is amended to read as follows:

Sec. 2210.453. REINSURANCE ~~[PROGRAM]~~. (a) The association may ~~[shall]~~:

(1) make payments into the trust fund; and ~~[or]~~
 (2) purchase ~~[establish a]~~ reinsurance ~~[program approved by the department].~~

(b) The ~~[With the approval of the department, the]~~ association may purchase ~~[establish a]~~ reinsurance ~~[program]~~ that operates in addition to or in concert with the trust fund, public securities, financial instruments, and assessments authorized by this chapter.

SECTION 40. Section 2210.454(b), Insurance Code, is amended to read as follows:

(b) Each state fiscal year, the department may fund the mitigation and preparedness plan using available funds ~~[the investment income of the trust fund in an amount not less than \$1 million and not more than 10 percent of the investment income of the prior fiscal year. From that amount and as part of that plan, the department may use in each fiscal year \$1 million for the windstorm inspection program established under Section 2210.251].~~

SECTION 41. Section 2210.552, Insurance Code, is amended to read as follows:

Sec. 2210.552. CLAIM DISPUTES; VENUE. (a) Except as provided by Sections 2210.007 and 2210.106, a person insured under this chapter who is aggrieved by an act, ruling, or decision of the association relating to the payment of, the amount of, or the denial of a claim may:

(1) bring an action for policy benefits against the association~~[-including an action under Chapter 541];~~ or

(2) appeal ~~[the act, ruling, or decision]~~ under Section 2210.551.

(b) The remedies provided by Subsection (a) and Section 2210.551 are exclusive. A person may not proceed under both Section 2210.551 and this section for the same act, ruling, or decision.

(c) Venue ~~[Except as provided by Subsection (d), venue]~~ in an action brought under this section~~[-including an action under Chapter 541,]~~ against the association is in the county in which the insured property is located or in a district court in Travis County.

~~[(d) Venue in an action, including an action under Chapter 541, brought under this section in which the claimant joins the department as a party to the action is only in a district court in Travis County.]~~

SECTION 42. Chapter 2210, Insurance Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. PUBLIC SECURITIES PROGRAM

Sec. 2210.601. PURPOSE. The legislature finds that authorizing the issuance of public securities to provide a method to raise funds to provide windstorm and hail insurance through the association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

Sec. 2210.602. DEFINITIONS. In this subchapter:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Class 1 public securities" means public securities authorized to be issued before or on or after the occurrence of a catastrophic event by Section 2210.073.

(3) "Class 2 public securities" means public securities authorized to be issued on or after the occurrence of a catastrophic event by Section 2210.074, 2210.076, or 2210.077.

(4) "Credit agreement" has the meaning assigned by Chapter 1371, Government Code.

(5) "Insurer" means each property and casualty insurer authorized to engage in the business of property and casualty insurance in this state and an affiliate of such an insurer, as described by Section 823.003, including an affiliate that is not authorized to engage in the business of property and casualty insurance in this state. The term specifically includes a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange.

(6) "Public security" means a debt instrument or other public security issued by the Texas Public Finance Authority.

(7) "Public security administrative expenses" means expenses incurred to administer public securities issued under this subchapter, including fees for paying agents, trustees, and attorneys, and for other professional services necessary to ensure compliance with applicable state or federal law.

(8) "Public security obligations" means the principal of a public security and any premium and interest on a public security issued under this subchapter, together with any amount owed under a related credit agreement.

(9) "Public security obligation revenue fund" means the dedicated trust fund established by the association outside the state treasury under this subchapter.

(10) "Public security resolution" means the resolution or order authorizing public securities to be issued under this subchapter.

Sec. 2210.603. APPLICABILITY OF OTHER LAWS. The board shall issue the public securities as described by Section 2210.604 in accordance with and subject to the requirements of Chapter 1232, Government Code, and other provisions of Title 9, Government Code, that apply to issuance of a public security by a state agency. In the event of a conflict, this subchapter controls.

Sec. 2210.604. ISSUANCE OF PUBLIC SECURITIES AUTHORIZED. (a) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue Class 1 or Class 2 public securities.

(b) The association shall specify in the association's request to the board the maximum principal amount of the public securities and the maximum term of the public securities.

(c) The principal amount determined by the association under Subsection (b) may be increased to include an amount sufficient to:

(1) pay the costs related to issuance of the public securities;

(2) provide a public security reserve fund; and

(3) capitalize interest for the period determined necessary by the association, not to exceed two years.

Sec. 2210.605. TERMS OF ISSUANCE. (a) The board shall determine the method of sale, type and form of public security, maximum interest rates, and other terms of the public securities that, in the board's judgment, best achieve the goals of the association and effect the borrowing at the lowest practicable cost. The board may enter into a credit agreement in connection with the public securities.

(b) Public securities must be issued in the name of the association.

Sec. 2210.606. ADDITIONAL COVENANTS. The board may make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to their payment, and provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities, and the administration of those funds and accounts, as provided in the proceedings authorizing the public securities.

Sec. 2210.607. PUBLIC SECURITY PROCEEDS. The proceeds of public securities issued by the board under this subchapter may be deposited with a trustee selected by the association in consultation with the commissioner or held by the comptroller in a dedicated trust fund outside the state treasury in the custody of the comptroller.

Sec. 2210.608. USE OF PUBLIC SECURITY PROCEEDS. (a) Public security proceeds, including investment income, shall be held in trust for the exclusive use and benefit of the association. The association may use the proceeds to:

(1) pay incurred claims and operating expenses of the association;

(2) purchase reinsurance for the association;

(3) pay the costs of issuing the public securities, and public security administrative expenses, if any;

(4) provide a public security reserve; and

(5) pay capitalized interest and principal on the public securities for the period determined necessary by the association.

(b) Any excess public security proceeds remaining after the purposes for which the public securities were issued are satisfied may be used to purchase or redeem outstanding public securities. If there are no outstanding public security obligations or public security administrative expenses, the excess proceeds shall be transferred to the catastrophe reserve trust fund.

Sec. 2210.609. REPAYMENT OF ASSOCIATION'S PUBLIC SECURITY OBLIGATIONS. (a) The association shall pay all public security obligations from available funds collected by the association and deposited into the public security obligation revenue fund. If the association determines that it is unable to pay the public security obligations and public security administrative expenses, if any, with available funds, the association shall pay those obligations and expenses in accordance with Sections 2210.612 and 2210.613, as applicable.

(b) The board shall notify the association of the amount of the public security obligations and the estimated amount of public security administrative expenses, if any, each year in a period sufficient, as determined by the association, to permit the association to determine the availability of funds and assess a premium surcharge if necessary.

(c) The association shall deposit all revenue collected under Sections 2210.612 and 2210.613 in the public security obligation revenue fund. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay public security obligations and public security administrative expenses, if any, shall be transferred to the appropriate funds in the manner and at the time specified in the proceedings authorizing the public securities to ensure timely payment of obligations and expenses.

(d) The association shall provide for the payment of the public security obligations and the public security administrative expenses by irrevocably pledging revenues received from premiums, premium surcharges, and amounts on deposit in the public security obligation revenue fund, together with any public security reserve fund, as provided in the proceedings authorizing the public securities and related credit agreements.

(e) An amount owed by the board under a credit agreement shall be payable from and secured by a pledge of revenues received by the association or amounts from the obligation trust fund to the extent provided in the proceedings authorizing the credit agreement.

Sec. 2210.610. PUBLIC SECURITY PAYMENTS. (a) Revenues received from the premium surcharges under Section 2210.612 or 2210.613 may be applied only as provided by this subchapter.

(b) The association may pay public security obligations with other legally available funds.

(c) Public security obligations are payable only from sources provided for payment in this subchapter.

Sec. 2210.611. EXCESS REVENUE COLLECTIONS AND INVESTMENT EARNINGS. Revenue collected in any year from a premium surcharge under Section 2210.612 or 2210.613 that exceeds the amount of the public security obligations and public security administrative expenses payable in that year and interest earned on the public security obligation fund may, in the discretion of the association, be:

(1) used to pay public security obligations payable in the subsequent year, offsetting the amount of the premium surcharge that would otherwise be required to be levied for the year under this subchapter;

(2) used to redeem or purchase outstanding public securities; or

(3) deposited in the catastrophe reserve trust fund.

Sec. 2210.612. CLASS 1 PREMIUM SURCHARGE; REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS. (a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a surcharge in addition to any premiums to pay:

(1) public security obligations and public security administrative expenses, if any, on Class 1 public securities; and

(2) principal and interest on any financial instruments entered into by the association under Section 2210.073.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service not already covered by available funds and all related expenses on the public securities or financial instruments, as applicable. The premium surcharge shall be assessed on all policyholders who reside or have operations in, or whose insured property is located in a catastrophe area.

(d) The percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other policies.

(e) The association shall collect the premium surcharge from its policyholders. Each insurer and the Texas FAIR Plan Association shall collect the premium surcharge from their affected policyholders and shall remit the premium surcharge to the association as required by commissioner rule.

(f) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in the area described by Subsection (c) for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance.

(g) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.613. CLASS 2 PREMIUM SURCHARGE; REPAYMENT OF AMOUNTS OWED UNDER FINANCIAL INSTRUMENTS. (a) Each insurer, the association, and the Texas FAIR Plan Association shall collect from their policyholders a premium surcharge to pay:

(1) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.074;

(2) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.076;

(3) public security obligations and public security administrative expenses, if any, on Class 2 public securities issued under Section 2210.077;

(4) principal and interest on financial instruments entered into by the association under Section 2210.074; or

(5) principal and interest on financial instruments entered into by the association under Section 2210.076.

(b) The association shall determine the premium surcharge at least annually.

(c) On approval by the commissioner, each insurer, the association, and the Texas FAIR Plan Association shall assess a premium surcharge to its policyholders as provided by this section. The premium surcharge must be set in an amount sufficient to pay all debt service and all related expenses on the public securities or financial instruments, as applicable.

(d) Each insurer, the association, and the Texas FAIR Plan Association shall collect the premium surcharge under this section from their policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in this state, and shall remit the premium surcharge to the association as required by commissioner rule.

(e) A premium surcharge under this section shall apply to all policies that provide coverage on any premises, locations, operations, or property located in this state for all property and casualty lines of insurance, other than federal flood insurance, workers' compensation insurance, accident and health insurance, and medical malpractice insurance. The premium surcharge does not apply to premiums charged for any premises, locations, operations, or property located outside this state.

(f) Seventy percent of a premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) must be assessed on policyholders who have a property or casualty policy that provides coverage for premises, locations, operations, or property located in a catastrophe area.

(g) With respect to the premium surcharge assessed under Subsection (a)(1), (2), (4), or (5) in accordance with Subsection (f), the percent of premium assessed as surcharges to all policies issued or renewed by the association must be at least twice the percent of premium assessed as surcharges to all other new or renewal policies.

(h) A premium surcharge under this section is a separate nonrefundable charge in addition to the premiums collected and is not subject to premium tax or commissions. Failure to pay the surcharge by a policyholder constitutes failure to pay premium for purposes of policy cancellation.

Sec. 2210.614. REFINANCING PUBLIC SECURITIES. The association may request the board to refinance any public securities issued in accordance with Subchapter B-1, whether Class 1 or Class 2 public securities, with the refinanced public securities payable from the same sources as the original public securities.

Sec. 2210.615. SOURCE OF PAYMENT; STATE DEBT NOT CREATED. (a) A public security or credit agreement is payable solely from revenue as provided by this subchapter.

(b) A public security issued under this subchapter, and any related credit agreement, is not a debt of this state or any state agency or political subdivision of this state, and does not constitute a pledge of the faith and credit of this state or any state agency or political subdivision of this state.

(c) Each public security, and any related credit agreement, issued under this subchapter must state on the security's face that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the public security except as provided by this subchapter; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the public security.

Sec. 2210.616. STATE NOT TO IMPAIR PUBLIC SECURITY OBLIGATIONS. If public securities under this subchapter are outstanding, the state may not:

(1) take action to limit or restrict the rights of the association to fulfill its responsibility to pay public security obligations; or

(2) in any way impair the rights and remedies of the public security owners until the public securities are fully discharged.

Sec. 2210.617. ENFORCEMENT BY MANDAMUS. A writ of mandamus and any other legal and equitable remedies are available to a party at interest to require the association or another party to fulfill an agreement and to perform functions and duties under:

(1) this subchapter;

(2) the Texas Constitution; or

(3) a relevant public security resolution.

Sec. 2210.618. EXEMPTION FROM TAXATION. A public security issued under this subchapter, any transaction relating to the public security, and profits made from the sale of the public security are exempt from taxation by this state or by a municipality or other political subdivision of this state.

Sec. 2210.619. NO PERSONAL LIABILITY. The members of the association, members of the association board of directors, association employees, the board, the employees of the Texas Public Finance Authority, the commissioner, and department employees are not personally liable as a result of exercising the rights and responsibilities granted under this subchapter.

Sec. 2210.620. AUTHORIZED INVESTMENTS. Public securities issued under this subchapter are authorized investments under:

(1) Subchapter B, Chapter 424;

(2) Subchapter C, Chapter 425; and

(3) Sections 425.203-425.213.

SECTION 43. Section 941.003, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) A Lloyd's plan is subject to Chapter 2210, as provided by that chapter.

SECTION 44. Section 942.003, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An exchange is subject to Chapter 2210, as provided by that chapter.

SECTION 45. The following laws are repealed:

(1) Sections 2210.003(5) and (12), Insurance Code;

(2) Sections 2210.058 and 2210.059, Insurance Code;

(3) Sections 2210.205 and 2210.206, Insurance Code;

(4) Sections 2210.256 and 2210.257, Insurance Code;

(5) Sections 2210.356, 2210.359, 2210.360, and 2210.363, Insurance Code;

and

(6) Subchapter G, Chapter 2210, Insurance Code.

SECTION 46. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 2210.102, Insurance Code, as that section existed before amendment by this Act, is abolished effective December 31, 2009.

(b) The commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act, not later than December 31, 2009.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on December 31, 2009. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 2210.102, Insurance Code, as amended by this Act.

SECTION 47. (a) The commissioner of insurance shall adopt rules as required by Chapter 2210, Insurance Code, as amended by this Act, as soon as possible after the effective date of this Act, but not later than the 30th day after the effective date of this Act.

(b) The Texas Windstorm Insurance Association, through the board of directors of that association, shall propose to the commissioner of insurance amendments to the association's plan of operation as required by Chapter 2210, Insurance Code, as amended by this Act, not later than March 1, 2010.

SECTION 48. Sections 2210.202 and 2210.203, Insurance Code, as amended by this Act, apply to an application for insurance coverage submitted to the Texas Windstorm Insurance Association on or after the effective date of this Act.

SECTION 49. Section 2210.251, Insurance Code, as amended by this Act, applies to an inspection conducted by the Texas Windstorm Insurance Association on or after September 1, 2009. Except as otherwise specifically provided by that section, a structure that has been inspected and is the subject of a certificate of compliance issued by the Texas Department of Insurance under Section 2210.251(g), Insurance Code, as that section existed immediately before September 1, 2009, is not required to obtain an inspection certificate from the Texas Windstorm Insurance Association to remain eligible for insurance coverage through that association unless the structure is altered, remodeled, enlarged, or repaired on or after September 1, 2009.

SECTION 50. The changes in law made by this Act in amending Sections 2210.251, 2210.254, and 2210.255, Insurance Code, adding Section 2210.2565, Insurance Code, and repealing Section 2210.256, Insurance Code, take effect September 1, 2009.

SECTION 51. Section 2210.552, Insurance Code, as amended by this Act, applies to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it exists immediately before that date, and that law is continued in effect for that purpose.

SECTION 52. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009."

The amendment to **CSSB 14** was read.

Senator Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 14** as follows:

On page 19, line 17, strike "without cause" and substitute "with cause stated in writing and posted on the association's website";

The amendment to Floor Amendment No. 1 to **CSSB 14** 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 Lucio offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSSB 14** as follows:

On page 20, line 20, after "meeting" and before ";" insert the following: , which shall be located in a tier one county. A recording of these meetings shall be posted on the association's website

The amendment to Floor Amendment No. 1 to **CSSB 14** 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 Hinojosa offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 4

Amend Floor Amendment No. 1 to **CSSB 14** in SECTION 37 of the bill, in added Section 2210.364, Insurance Code (page 36, line 25), by striking "August 31, 2012," and substituting "August 31, 2014,".

The amendment to Floor Amendment No. 1 to **CSSB 14** was read and failed of adoption by the following vote: Yeas 12, Nays 18.

Yeas: Ellis, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Patrick, Uresti, Whitmire, Williams, Zaffirini.

Nays: Averitt, Carona, Davis, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West.

Absent: Watson.

(President in Chair)

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 14**, the amendment as amended was adopted by the following vote: Yeas 27, Nays 4.

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

Nays: Hinojosa, Huffman, Lucio, Zaffirini.

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

CSSB 14 as amended was passed to engrossment by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 14 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 **CSSB 14** 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, Hegar, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams.

Nays: Hinojosa, Huffman, 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 **CSSB 14**, 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 14** 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 27, Nays 4.

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

Nays: Hinojosa, Huffman, Lucio, Zaffirini.

SENATE BILL 1382 ON SECOND READING

Senator Carona moved to suspend the regular order of business to take up for consideration **SB 1382** at this time on its second reading:

SB 1382, Relating to the coordination of the planning, construction, operation, and maintenance of a statewide passenger rail system by the Texas Department of Transportation.

The motion prevailed.

Senator Ogden 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: Ogden.

SENATE BILL 1382 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 **SB 1382** 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, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, 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 1382**, 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 1382** 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: Ogden.

**COMMITTEE SUBSTITUTE
SENATE BILL 182 ON SECOND READING**

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSSB 182** at this time on its second reading:

CSSB 182, Relating to informed consent to an abortion.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Shapleigh, Van de Putte, Watson, Wentworth, Whitmire.

Absent: Harris, West.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 182** (Senate committee report) by striking everything below the caption and replacing it with the following:

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

SECTION 1. Section 171.002, Health and Safety Code, is amended to read as follows:

Sec. 171.002. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Abortion" [~~,"abortion"~~] means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus.

(2) "Medical emergency" means a condition exists that, in a physician's good faith clinical judgment, complicates the medical condition of the pregnant woman and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function.

SECTION 2. Sections 171.012(a), (b), (c), and (d), Health and Safety Code, are amended to read as follows:

(a) Consent [~~Except in the case of a medical emergency, consent~~] to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion or the referring physician informs the pregnant woman on whom the abortion is to be performed of:

(A) the name of the physician who will perform the abortion;

(B) the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:

(i) the risks of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy and of infertility; and

(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;

(C) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(D) the medical risks associated with carrying the child to term;

(2) the physician who is to perform the abortion or the physician's agent informs the pregnant woman that:

(A) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(B) the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the abortion; and

(C) public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest; ~~and~~

(3) the physician who is to perform the abortion or the physician's agent:

(A) provides ~~(D)~~ the pregnant woman with ~~has the right to review~~ the printed materials described by Section 171.014; and

(B) informs her[;] that those materials:

(i) have been provided by the ~~[Texas]~~ Department of State Health Services;

(ii) ~~and~~ are accessible on an Internet website sponsored by the department;

(iii) ~~[, and that the materials]~~ describe the unborn child and list agencies that offer alternatives to abortion;

(iv) include a list of agencies that offer obstetric ultrasound services at no cost to the pregnant woman;

(C) informs her that she is not required to review those materials;

(D) provides the pregnant woman with an election form that states as

follows:

ULTRASOUND ELECTION

TEXAS LAW REQUIRES YOU BE OFFERED AN ULTRASOUND PRIOR TO RECEIVING AN ABORTION.

I ELECT TO ___ RECEIVE ___ NOT RECEIVE AN ULTRASOUND.

I ELECT TO ___ SEE ___ NOT SEE THE ULTRASOUND.

I ELECT TO ___ HEAR ___ NOT HEAR THE ULTRASOUND.

I ELECT TO ___ RECEIVE ___ NOT RECEIVE A VERBAL EXPLANATION OF THE ULTRASOUND RESULTS.

I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT COERCION.

SIGNATURE _____

DATE _____

(4) the pregnant woman is offered an obstetric ultrasound before the abortion by the physician who is to perform the abortion or the physician's agent;

(A) the pregnant woman may view the ultrasound unless she has elected not to under Section 171.012(a)(3)(d);

(B) the pregnant woman may hear the heart auscultation in a quality consistent with current medical practice and physician may provide, in a manner understandable to a layperson, a simultaneous verbal explanation of the heart auscultation unless she has elected not to under Section 171.012(a)(3)(d);

(C) the pregnant woman may receive in a manner understandable to a layperson, a simultaneous verbal explanation of the results of the ultrasound images, including a medical description of the dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs unless she has elected not to under Section 171.012(a)(3)(d);

(5) ~~(3)~~ the pregnant woman certifies in a signed, written statement ~~[writing]~~ before the abortion is performed that:

(A) the information and the printed materials described by Subdivisions (1), ~~and~~ (2), and (3) have ~~has~~ been provided and explained to her ~~[and that she has been informed of her opportunity to review the information described by Section 171.014]; and~~

(B) she has been offered and has had the opportunity to review the ultrasound images, and hear the heart auscultation, required by Subdivision (4);

(6) ~~(4)~~ before the abortion is performed, the physician who is to perform the abortion receives a copy of the signed, written certification required by Subdivision (5); and

(7) the pregnant woman is provided the name of each person who provides or explains the information required under this subsection ~~(3)~~.

(b) The information required to be provided under Subsections (a)(1) and (2) may not be provided by audio or video recording and must be provided:

(1) orally by telephone or in person; and

(2) at least 24 hours before the abortion is to be performed.

(c) When providing the information under Subsection (a)(3) ~~(a)(2)(D)~~, the physician or the physician's agent must provide the pregnant woman with the address of the Internet website on which the printed materials described by Section 171.014 may be viewed as required by Section 171.014(e).

(d) The physician and the pregnant woman are not subject to a penalty under this chapter solely because the pregnant woman chooses not to view the printed materials or the ultrasound images as described by this section.

SECTION 3. Subchapter B, Chapter 171, Health and Safety Code, is amended by adding Sections 171.0121 to read as follows:

Sec. 171.0121. EXCEPTION FOR MEDICAL EMERGENCY. A physician may perform an abortion without obtaining informed consent under this subchapter in a medical emergency. A physician who performs an abortion in a medical emergency shall:

(1) include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency; and

(2) not later than the seventh day after the date the abortion is performed, certify to the Department of State Health Services the specific medical condition that constituted the emergency.

SECTION 4. Section 171.013(a), Health and Safety Code, is amended to read as follows:

(a) ~~The~~ ~~[If the woman chooses to view the materials described by Section 171.014, the]~~ physician or the physician's agent shall furnish copies of the materials described by Section 171.014 to the pregnant woman ~~[her]~~ at least 24 hours before the abortion is to be performed and shall direct the pregnant woman to the Internet website required to be published under Section 171.014(e). ~~The~~ ~~[A]~~ physician or the physician's agent may furnish the materials to the pregnant woman by mail if the materials are mailed, restricted delivery to addressee, at least 72 hours before the abortion is to be performed.

SECTION 5. Section 171.015, Health and Safety Code, is amended to read as follows:

Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE AGENCIES. The informational materials must include ~~[either]~~:

(1) geographically indexed materials designed to inform the pregnant woman of public and private agencies and services that:

(A) are available to assist a woman through pregnancy, childbirth, and the child's dependency, including:

(i) a comprehensive list of adoption agencies;

(ii) a description of the services the adoption agencies offer; ~~[and]~~

(iii) a description of the manner, including telephone numbers, in which an adoption agency may be contacted; and

(iv) a comprehensive list of agencies and organizations that offer obstetric ultrasound services at no cost to the pregnant woman;

(B) do not provide abortions or abortion-related services or make referrals to abortion providers; and

(C) are not affiliated with organizations that provide abortions or abortion-related services or make referrals to abortion providers; and ~~[or]~~

(2) a toll-free, 24-hour telephone number that may be called to obtain an oral list and description of agencies described by Subdivision (1) that are located near the caller and of the services the agencies offer.

SECTION 6. Section 164.055(a), Occupations Code, is amended to read as follows:

(a) The board may take an appropriate disciplinary action against a physician who violates Section 170.002 or Chapter 171, Health and Safety Code. The board may refuse to admit to examination or refuse to issue a license or renewal license to a person who violates that section or chapter.

SECTION 7. The purpose of this Act is to protect the health and safety of women.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment to **CSSB 182** was read.

Senator Shapleigh offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 182** in SECTION 2 of the bill as follows:

(1) In Section 171.012(a)(1)(B)(i), Health and Safety Code (page 2, line 2) insert "and" after the semicolon.

(2) In Section 171.012(a)(1)(B)(ii), Health and Safety Code (page 2, line 4) strike "and" and substitute "[~~and~~]".

(3) Strike Section 171.012(a)(1)(B)(iii), Health and Safety Code (page 2, lines 5-8) and substitute the following:

~~[(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;]~~

The amendment to Floor Amendment No. 1 to **CSSB 182** was read.

Senator Shapleigh withdrew Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 182**, the amendment was adopted by the following vote: Yeas 20, Nays 9.

Yeas: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Hegar, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Shapleigh, Van de Putte, Watson, Wentworth, Whitmire.

Absent: Harris, West.

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

CSSB 182 as amended was passed to engrossment by the following vote: Yeas 20, Nays 9. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

April 30, 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:

HCR 174, Requesting the Texas Department of Transportation to designate the overpass at the intersection of Highway 20 and Highway 338 in Odessa as the Buddy West Memorial Overpass.

SB 43, Relating to tuition and fee exemptions at public institutions of higher education for students who have been in foster care or certain other residential care.
(Amended)

SB 83, Relating to a right to vacate and avoid residential lease liability following the occurrence of certain sex offenses or domestic violence; providing a penalty.

SB 778, Relating to the licensing and regulation of identity recovery service contract providers and the inclusion of identity recovery service agreements in certain service contracts and vehicle protection products; providing penalties.
(Committee Substitute)

SB 803, Relating to meetings of the Coastal Coordination Council.

SB 862, Relating to practices and professions regulated by the Texas Real Estate Commission.

SB 1040, Relating to the board of directors of the Canadian River Municipal Water Authority.

SB 1149, Relating to authorizing the Texas Board of Criminal Justice to sell certain real property for municipal airport expansion.

SB 1260, Relating to the abolishment of the Lower Concho River Water and Soil Conservation Authority.

SB 1966, Relating to debt cancellation agreements offered in connection with motor vehicle retail installment contracts.
(Committee Substitute)

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 670 (146 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PERMISSION TO INTRODUCE BILL

Senator Shapiro moved to suspend Senate Rule 7.07(b) and Section 5, Article III, of the Texas Constitution to permit the introduction of the following bill: **SB 2571**.

Senator Shapiro withdrew the motion to suspend.

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

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

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

On motion of Senator Uresti and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Administration might meet tomorrow.

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

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

SENATE BILLS ON FIRST READING

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

SB 2569 by Lucio

Relating to the governing body of the Willacy County Navigation District.
To Committee on International Relations and Trade.

SB 2570 by Lucio

Relating to the board of directors of the Kenedy County Groundwater Conservation District.

To Committee on International Relations and Trade.

HOUSE BILL 1079 REREFERRED

Senator Estes submitted a Motion In Writing requesting that **HB 1079** be withdrawn from the Committee on Economic Development and rereferred to the Committee on Agriculture and Rural Affairs.

The Motion In Writing prevailed without objection.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 803 by Hinojosa, In memory of William Dean Peisen of the Rio Grande Valley.

Congratulatory Resolutions

SCR 68 by Duncan, Recognizing the Twentieth Century Club in Lubbock on the occasion of its 100th anniversary.

SCR 69 by Duncan, Recognizing Ballet Lubbock on the occasion of its 40th anniversary.

SR 762 by Van de Putte, Congratulating the recipients of the 2009 H-E-B Excellence in Education Awards.

SR 798 by Fraser, Recognizing the Texas Department of Licensing and Regulation on the occasion of its 100th anniversary.

SR 802 by Gallegos, Commending the residents of the Greater Channel Area for observing the National Day of Prayer.

SR 804 by Hinojosa, Recognizing E. A. Tanner on the occasion of his retirement from the McAllen Independent School District.

SR 805 by West, Recognizing Jewel Walder on the occasion of her 100th birthday.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 5:45 p.m. adjourned, in memory of the Honorable William N. "Bill" Patman and Manuel Benavidez, Jr., until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

April 30, 2009

STATE AFFAIRS — **SB 10**

CRIMINAL JUSTICE — **CSSB 2304**

FINANCE — **CSSB 2212**

TRANSPORTATION AND HOMELAND SECURITY — **SB 2568**

ECONOMIC DEVELOPMENT — **CSSB 1429**

JURISPRUDENCE — **HB 608, HB 1465, HB 1804, HB 2058**

INTERGOVERNMENTAL RELATIONS — **SB 2485, SB 2524**

NATURAL RESOURCES — **CSSB 725, CSSB 795, CSSB 2089, CSSB 2440, CSSB 2534, CSSB 1714, CSSB 2170**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1318, CSSB 1570**

BUSINESS AND COMMERCE — **CSSB 541**

HIGHER EDUCATION — **CSSB 1600, CSSB 2182, CSSB 2351**

JURISPRUDENCE — **CSSB 1892, CSSB 2224, CSSB 2554**

BILLS ENGROSSED

April 29, 2009

SB 3, SB 9, SB 256, SB 324, SB 1002, SB 1329, SB 1411, SB 1929, SB 2236

BILLS AND RESOLUTIONS ENROLLED

April 29, 2009

SB 522, SB 715, SB 741, SR 738, SR 763, SR 764, SR 765, SR 766, SR 767, SR 768, SR 769, SR 770, SR 771, SR 772, SR 773, SR 774, SR 775, SR 776, SR 777, SR 778, SR 779, SR 780, SR 781, SR 782, SR 783, SR 784, SR 785, SR 786, SR 787, SR 788, SR 789, SR 790, SR 791, SR 792, SR 793, SR 794, SR 795, SR 796, SR 797

SENT TO GOVERNOR

April 30, 2009

SB 522, SB 715, SB 741

In Memory
of
Manuel Benavidez, Jr.
House Concurrent Resolution 153

WHEREAS, The life of an admired South Texas leader drew to a close on March 28, 2009, with the passing of Manuel Benavidez, Jr., at the age of 57; and

WHEREAS, A founding member of the board of trustees of South Texas College, Mr. Benavidez was appointed by Governor Ann Richards in 1993 and was twice reelected to represent District 1; through the years, he served the board as chair, vice chair, and secretary, and he further benefited South Texas College as a member of the facilities committee and the education and workforce innovation committee; thanks in part to his dedicated efforts, the institution has grown to serve more than 22,000 students at five campuses; and

WHEREAS, Mr. Benavidez also made notable contributions to area high school students through the creation of the Dual Enrollment Medical Science Academy, which offers juniors and seniors an opportunity to earn an associate's degree in biology tuition-free; a tremendous success, the program has produced many graduates, with the May 2008 class receiving more than \$750,000 in scholarships; and

WHEREAS, Mr. Benavidez's distinguished career included service as director of transportation for the Rio Grande City Consolidated Independent School District; he further shared his time with a number of professional associations, holding leadership roles with the Association of Texas Professional Educators, the South Texas Association for Pupil Transportation, and the Texas Association for Pupil Transportation; on the national level, he served as representative of the western region for the Association of Community College Trustees and was twice elected chair of its diversity committee; and

WHEREAS, Honored for his outstanding work, Mr. Benavidez was recognized by ACCT with its Lifetime Membership Award and its Western Region Equity Award; moreover, South Texas College named the Starr County Campus rural technology center in Mr. Benavidez's honor in acknowledgement of the instrumental role he played in the creation of that state-of-the-art facility; and

WHEREAS, The family, friends, and many admirers of Manuel Benavidez may take solace in the fact that his was truly a life well lived; he was an inspiring and tireless advocate for educational opportunities for all, and the positive contributions he made to South Texas will resonate for many years to come; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby pay tribute to the life of Manuel Benavidez, Jr., and extend deepest sympathy to all those who mourn his passing; and, be it further

RESOLVED, That an official copy of this resolution be prepared for his family and that when the Texas House of Representatives and Senate adjourn this day, they do so in memory of Manuel Benavidez, Jr.

ZAFFIRINI