

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-FIFTH DAY

(Monday, May 11, 2009)

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

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

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

The Reverend Charles McClure, United Methodist Church, Austin, offered the invocation as follows:

Gracious and holy God, we come before You today with grateful hearts. We thank You for the privilege of living in this wonderful nation and this great state. We are thankful that we live in these challenging and exciting times and that we are blessed to enjoy the many gifts You have given us. Forgive us when we take for granted things that other people can only dream about and hope for. We also thank You for these men and women who offer themselves for public service, often at great sacrifice and for no personal gain. Grant them clear minds, pure motives, and loving hearts. As they struggle with difficult decisions, may they seek to discern Your will for Your children and for all Your creation. Grant us Your mercy and forgiveness when we act wrongly, and guide our feet on the straight paths of righteousness, so that at the end of the day we may hear Your voice saying, Well done, good and faithful servant. In Your holy name we pray. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, May 8, 2009, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHORS OF SENATE BILL 541

On motion of Senator Watson, Senators Shapleigh and West will be shown as Co-authors of **SB 541**.

CO-AUTHOR OF SENATE BILL 2151

On motion of Senator Patrick, Senator Gallegos will be shown as Co-author of **SB 2151**.

CO-SPONSOR OF HOUSE BILL 492

On motion of Senator Deuell, Senator Patrick will be shown as Co-sponsor of **HB 492**.

CO-SPONSOR OF HOUSE BILL 1912

On motion of Senator Van de Putte, Senator Uresti will be shown as Co-sponsor of **HB 1912**.

CO-SPONSOR OF HOUSE BILL 2083

On motion of Senator Zaffirini, Senator Hinojosa will be shown as Co-sponsor of **HB 2083**.

CO-SPONSOR OF HOUSE BILL 2991

On motion of Senator Seliger, Senator Hegar will be shown as Co-sponsor of **HB 2991**.

PHYSICIAN OF THE DAY

Senator Averitt was recognized and presented Dr. Mike White of Cleburne as the Physician of the Day.

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

SENATE RESOLUTION 799

Senator Shapiro offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize May 11, 2009, as Texas Capitol Schoolhouse Day; and

WHEREAS, The Texas Capitol Schoolhouse event gives students, teachers, and administrators from across the state the opportunity to demonstrate how technology is used in their schools and to provide information to legislators and other state leaders on how these technologies improve the learning process; and

WHEREAS, Teachers and students set up their classrooms in the Capitol, and throughout the event, they conduct classes as they do every day in their home districts; using computers, students work in a variety of virtual learning environments; and

WHEREAS, The Carrollton-Farmers Branch, Hallsville, Klein, Manor, Childress, Bryan, Ysleta, Floydada, Coleman, Houston, Midland, Northside, and Pasadena Independent School Districts and the Texas School for the Deaf are participating in the 2009 Texas Capitol Schoolhouse; this year's theme is "New Tools for Texas Schools"; and

WHEREAS, The Texas Capitol Schoolhouse allows legislators and other state leaders to observe firsthand how the state funding they provide for technology in the public schools today is helping to prepare the children of Texas for the future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend appreciation to the Texas Capitol Schoolhouse Foundation for providing students, educators, and our state's leaders with this exceptional educational experience; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this event.

SR 799 was read and was adopted without objection.

GUESTS PRESENTED

Senator Shapiro, joined by Senators Van de Putte, Lucio, and Shapleigh, was recognized and introduced to the Senate Caren Valenciano, Northside Independent School District; Eric Rollinger, Houston Independent School District; Juan Munoz, Texas School for the Deaf; Gabby Roberts, Coleman Independent School District; and Analysa Guardado, Ysleta Independent School District; representing the Texas Capitol Schoolhouse event.

The Senate welcomed its guests.

BILLS AND RESOLUTIONS SIGNED

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

SB 872, SB 1373, HB 1205, HB 1382, HB 2042, HB 2101, HB 2238, HB 2560, HCR 121, HCR 137, HCR 194.

SENATE RESOLUTION 746

Senator Uresti offered the following resolution:

SR 746, In memory of Carlos Garcia, Sr., of Hondo.

The resolution was again read.

SR 746 was previously adopted on Tuesday, April 28, 2009.

In honor of the memory of Carlos Garcia, Sr., the text of the resolution is printed at the end of today's *Senate Journal*.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate family members of Carlos Garcia, Sr.: his wife, Magdalena Garcia; his sons, Carlos and Robert Garcia; his granddaughter, Virginia Gonzales; and his grandson, Simon Garcia.

The Senate welcomed its guests and extended its sympathy.

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.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 11, 2009

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 130, Relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

HB 155, Relating to access to rivers and riverbeds for individuals with physical disabilities.

HB 456, Relating to the authority of a dental hygienist to provide services in certain facilities.

HB 556, Relating to payment of attorney's fees in certain actions to recover possession of real property.

HB 853, Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.

HB 978, Relating to the employment rights of certain individuals with disabilities.

HB 1399, Relating to the powers and duties of municipal court judges.

HB 1617, Relating to limited agricultural cooperatives; providing penalties.

HB 1810, Relating to the purposes and designation of a transportation reinvestment zone.

HB 1973, Relating to the licensing and regulation of pool-related electrical maintenance.

HB 2242, Relating to the abolition of the Texas cultural endowment fund.

HB 2291, Relating to the procedure to be used by a taxing unit in adopting an ad valorem tax rate.

HB 2308, Relating to the establishment of the Texas secure loan pilot program by the Texas Department of Housing and Community Affairs.

HB 2360, Relating to the provision by employers of information regarding employee eligibility for the federal earned income tax credit.

HB 2504, Relating to requiring a public institution of higher education to make available to the public on the institution's Internet website certain undergraduate course information.

HB 3079, Relating to the sale or purchase of certain parts of game animals or birds.

HB 3095, Relating to the use of a parking space or area designated specifically for persons with disabilities.

HB 3433, Relating to the extended registration of a fleet of motor vehicles.

HB 3650, Relating to the creation, administration, powers, duties, operations, and financing of a border region higher-speed rail authority for the Texas-Louisiana and the Texas-Mexico border regions; granting the power to issue bonds; imposing a tax; granting the power of eminent domain.

HB 4270, Relating to the computation of cost of goods sold for purposes of the franchise tax by certain affiliated taxable entities.

HCR 182, Designating March 29, 2010, as Vietnam Veterans Day in the State of Texas.

HCR 210, In memory of Dr. Steven W. Jones, president of Amarillo College.

HCR 212, In memory of J. B. Lowry of Paris, Texas.

HCR 214, Honoring Haven for Hope of Bexar County as it commemorates its first full year of service in San Antonio.

SB 562, Relating to the inclusion on the exterior of an ad valorem tax bill of a statement directing the United States Postal Service to return the bill if it is not deliverable as addressed.

(Amended)

SB 1838, Relating to involuntary termination of parental rights based on attempted murder or solicitation of murder of the child's other parent.

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2238 (134 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 1442 WITH HOUSE AMENDMENT

Senator Fraser called **SB 1442** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 1442** on third reading by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 681.170, Business & Commerce Code, is amended to read as follows:

Sec. 681.170. CITY OF MIDLOTHIAN [~~TRADE ZONE CORPORATION~~]. The City of Midlothian [~~Trade Zone Corporation, organized under the laws of this state,~~] may apply for and accept a grant of authority to establish, operate, and maintain:

- (1) a foreign trade zone in Midlothian, Ellis County, adjacent to the port limits of the Dallas-Fort Worth port of entry; and
- (2) other subzones in Ellis County.

The amendment was read.

Senator Fraser moved to concur in the House amendment to **SB 1442**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HOUSE CONCURRENT RESOLUTION 214

The President laid before the Senate the following resolution:

WHEREAS, Haven for Hope of Bexar County commemorated its first full year of service in April 2009, providing a fitting opportunity to recognize this noteworthy institution; and

WHEREAS, San Antonio city officials began working on the plans for Haven for Hope in 2006, when Mayor Phil Hardberger launched the Community Council to End Homelessness; after extensive research, the group concluded that treating the root causes of homelessness with a wide array of social services in a single, central location was the most successful approach; thus, in November of that year, Haven for Hope was formed as an independent nonprofit organization that would later evolve into a multiservice campus offering education, job training, child care, medical and substance abuse treatment, and much more; and

WHEREAS, To meet the needs of the homeless community in Bexar County, Haven for Hope has developed into a comprehensive and efficient institution that works with more than 70 partner agencies to help homeless individuals and families become self-sufficient; the organization also seeks to reduce the number of homeless individuals in the criminal justice and public health systems and to remain a sustainable and cost-effective program, and it has distinguished itself as a model for similar initiatives across Texas; and

WHEREAS, Today, the 1,000-bed Haven for Hope facility sits on a 37-acre campus adjacent to San Antonio's Central Business District; in addition to its initial year of service, Haven for Hope is marking the first anniversary of its mental health and substance abuse treatment clinic, which operates in conjunction with the Center for Healthcare Services and was the first of 15 buildings to open its doors on the Haven for Hope campus; and

WHEREAS, The year 2009 has also brought the establishment of new programs, including a dental clinic with the support of San Antonio Christian Dental Clinic and medical services through CentroMed, a federally subsidized health center; moreover, the institution has built partnerships with Benevolence Works to offer social security income payee services and with San Antonio Prevent Blindness and I Care San Antonio to provide vision care; and

WHEREAS, Haven for Hope is committed to improving the quality of life for area Texans, and its outstanding efforts are benefiting the greater community in myriad ways; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby honor Haven for Hope on its first year of service in San Antonio and extend to all those associated with the institution sincere best wishes for continued success; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Haven for Hope as an expression of high regard by the Texas House of Representatives and Senate.

VAN DE PUTTE

HCR 214 was read.

On motion of Senator Van de Putte, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator Van de Putte, joined by Senators Uresti and Wentworth, was recognized and introduced to the Senate Bill Greehey, Robert Marbut, Jr., and Meghan Garza-Oswald, representing Haven for Hope of Bexar County.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 11:49 a.m. announced the conclusion of morning call.

SENATE BILL 687 WITH HOUSE AMENDMENT

Senator Hegar called **SB 687** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 687** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to injury leave and related benefits for certain state peace officers injured in the course of performance of duty.

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

SECTION 1. Section 661.918(b), Government Code, is amended to read as follows:

(b) A peace officer to whom this section applies is entitled to injury leave, without a deduction in salary, without being required to use compensatory time off accrued under Chapter 659, and without being required to use any other type of leave allowable under this chapter, for an injury sustained due to ~~[resulting from an assaultive offense under Chapter 22, Penal Code, to which the person is exposed~~

~~because of~~ the nature of the officer's ~~[person's]~~ duties and that occurs during the course of the officer's ~~[person's]~~ performance of duty, except an officer is not entitled to injury leave under this subsection if:

(1) the officer's own gross negligence contributed to the officer's injury; or

(2) the injury was related to the performance of routine office duties. ~~[For the purposes of this section, the course of performance of a person's duty does not include transportation to or from the person's designated headquarters or the site of an assignment.]~~

SECTION 2. Section 661.918(b), Government Code, as amended by this Act, applies only to an injury that occurs on or after January 1, 2009.

SECTION 3. This Act takes effect September 1, 2009.

The amendment was read.

Senator Hegar moved to concur in the House amendment to **SB 687**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

VOTES RECONSIDERED ON COMMITTEE SUBSTITUTE HOUSE BILL 1736

On motion of Senator Duncan and by unanimous consent, the vote by which **CSHB 1736** was passed to third reading was reconsidered:

CSHB 1736, Relating to compensation of and services to persons wrongfully imprisoned.

Question — Shall **CSHB 1736** be passed to third reading?

Senator Duncan moved that the vote by which Floor Amendment No. 2 was adopted be reconsidered.

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

Nays: Harris.

Question — Shall Floor Amendment No. 2 to **CSHB 1736** be adopted?

Senator Duncan withdrew Floor Amendment No. 2.

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

CSHB 1736 as amended was again passed to third reading by the following vote: Yeas 27, Nays 4.

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

Nays: Harris, Huffman, Nelson, Patrick.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1736 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 **CSHB 1736** 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, Hegar, Hinojosa, Jackson, Lucio, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Huffman, Nelson, Patrick.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate family members of Tim Cole: his mother, Ruby Session; his brothers, Cory Session and Kevin Kennard; his sisters-in-law, Kristie Session and Evette Brow; his nieces and nephews, Sara Session, Haylee Session, Cory Session, Jr., Lauren Session, and Chanel Session; and his cousin, Bessie Burks.

The Senate welcomed its guests.

SENATE BILL 543 WITH HOUSE AMENDMENT

Senator Carona called **SB 543** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 543** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to certain possessory liens; providing a criminal penalty.

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

SECTION 1. Subsection (c), Section 70.003, Property Code, is amended to read as follows:

(c) A garageman with whom a motor vehicle, motorboat, vessel, or outboard motor is left for care has a lien on the motor vehicle, motorboat, vessel, or outboard motor for the amount of the charges for the care, including reasonable charges for towing the motor vehicle, motorboat, vessel, or outboard motor to the garageman's place of business and excluding charges for repairs.

SECTION 2. Section 70.006, Property Code, is amended by amending Subsection (a) and adding Subsections (b-1), (b-2), (b-3), (g), and (h) to read as follows:

(a) A holder of a lien under this subchapter or Chapter 59 on a motor vehicle subject to Chapter 501, Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B, Chapter 31, Parks and Wildlife Code, as amended, who retains possession of the motor vehicle, motorboat, vessel, or outboard motor [for 30 days after the day that the charges accrue] shall, not later than the 30th day after the date on which the charges accrue, give written notice to the owner and each holder of a lien recorded on the certificate of title. A holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, shall file a copy of the notice and all information required by this section with the county tax assessor-collector's office in the county in which the repairs were made with an administrative fee of \$25 payable to the county tax assessor-collector. If the motor vehicle, motorboat, vessel, or outboard motor is registered outside this state, the holder of a lien under this subchapter who retains possession during that period shall give notice to the last known registered owner and each lienholder of record.

(b-1) A holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, who is required to give notice to a lienholder of record under this section must include in the notice:

(1) the physical address of the real property at which the repairs to the motor vehicle were made;

(2) the legal name of the person that holds the possessory lien for which the notice is required;

(3) the taxpayer identification number or employer identification number, as applicable, of the person that holds the possessory lien for which the notice is required; and

(4) a signed copy of the work order authorizing the repairs on the motor vehicle.

(b-2) If the holder of a possessory lien required to give notice in accordance with Subsection (b-1) does not comply with that subsection, a lien recorded on the certificate of title of the motor vehicle is superior to the possessory lienholder's lien.

(b-3) A person commits an offense if the person knowingly provides false or misleading information in a notice required by this section. An offense under this subsection is a Class B misdemeanor.

(g) After providing notice in accordance with this section, a holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, shall, on request, not later than the 30th day after the date on which the charges accrue, make commercially reasonable efforts to allow an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle by a qualified professional to verify that the repairs were made.

(h) Not later than the 10th day after the date the county tax assessor-collector receives notice under this section, the county tax assessor-collector shall provide a copy of the notice to the owner of the motor vehicle and each holder of a lien recorded

on the certificate of title of the motor vehicle. Except as provided by this subsection, the county tax assessor-collector shall provide the notice required by this section in the same manner as a holder of a lien is required to provide a notice under this section.

SECTION 3. The Texas Transportation Commission shall adopt rules necessary to carry out the Texas Department of Transportation's duties under Sections 70.003 and 70.006, Property Code, as amended by this Act.

SECTION 4. The changes in law made by this Act apply only to a possessory lien on a motor vehicle, motorboat, vessel, or outboard motor the possession of which is obtained on or after the effective date of this Act. A possessory lien on a motor vehicle, motorboat, vessel, or outboard motor the possession of which was obtained before that date is governed by the law in effect at the time possession was obtained, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 543**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1493 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1493** at this time on its second reading:

CSSB 1493, Relating to certain amounts payable by and the operation of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association.

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 1493 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 **CSSB 1493** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 382 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 382** at this time on its second reading:

CSSB 382, Relating to a competitive grant program to fund promotion of early literacy programs in certain communities 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.

**COMMITTEE SUBSTITUTE
SENATE BILL 382 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 382** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 725 ON THIRD READING**

Senator Estes moved to suspend the regular order of business to take up for consideration **CSSB 725** at this time on its third reading and final passage:

CSSB 725, Relating to the sunset review of certain river authorities.

The motion prevailed.

Senators Averitt, Davis, Harris, Hinojosa, Huffman, Ogden, Patrick, Shapiro, and Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

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

Nays: Averitt, Davis, Harris, Hinojosa, Huffman, Ogden, Patrick, Shapiro, Wentworth.

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 2085 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **CSSB 2085** at this time on its second reading:

CSSB 2085, Relating to the offense of unlawful use of public funds for political advertising by a political subdivision.

The motion prevailed.

Senators Harris, Patrick, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 2085** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in the introductory language (page 1, line 13), strike "Subsections (d) and (e)" and substitute "Subsections (d), (e), and (f)".

(2) In SECTION 1 of the bill, following added Section 255.003(e), Election Code (page 1, between lines 30 and 31), insert the following:

(f) Subsections (d) and (e) do not apply to a port authority or navigation district.

The amendment to **CSSB 2085** 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: Harris, Patrick, Williams.

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

CSSB 2085 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, Patrick, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 2085 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 **CSSB 2085** 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, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Patrick, Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

SENATE BILL 2565 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2565** at this time on its second reading:

SB 2565, Relating to adjustments of rates of certain telecommunications utilities for changes in certain tax liabilities.

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 2565 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 **SB 2565** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 2467 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2467** at this time on its second reading:

CSSB 2467, Relating to the creation of Waller Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds; and 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 2467 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2467** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

GUEST PRESENTED

Senator Patrick was recognized and introduced to the Senate his daughter, Shane.

The Senate welcomed its guest.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1023 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 1023** at this time on its second reading:

CSSB 1023, Relating to the exercise of eminent domain authority.

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

**HOUSE CONCURRENT RESOLUTION 88
ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HCR 88** at this time on its second reading:

HCR 88, Directing the Texas Department of State Health Services and the Texas Education Agency to educate parents of adolescent Texans regarding the importance of adolescents' receiving regular physical exams and updated immunizations.

The resolution was read second time and was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 875 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 875** at this time on its second reading:

HB 875, Relating to civil liability for erecting or maintaining certain outdoor signs or advertising.

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

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

HOUSE BILL 875 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 **HB 875** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1023 ON SECOND READING**

Senator Ogden again moved to suspend the regular order of business to take up for consideration **CSSB 1023** at this time on its second reading:

CSSB 1023, Relating to the exercise of eminent domain authority.

The motion prevailed.

Senators Averitt, Ellis, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1023** as follows:

On line 26, strike "shall" and insert "may."

The amendment to **CSSB 1023** 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: Averitt, Ellis, Williams.

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

CSSB 1023 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: Averitt, Ellis, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 1023 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 1023** be placed on its third reading and final passage.

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

Yeas: Carona, Davis, Deuell, Duncan, 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, Zaffirini.

Nays: Averitt, Ellis, Williams.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 1282 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1282** at this time on its second reading:

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

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

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

HOUSE BILL 1282 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 **HB 1282** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE
SENATE JOINT RESOLUTION 42 ON SECOND READING

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSSJR 42** at this time on its second reading:

CSSJR 42, Proposing a constitutional amendment to prohibit the taking of property for certain purposes.

The motion prevailed.

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

The resolution was read second time.

Senator Davis offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSSJR 42** (Senate committee report) as follows:

On page 1, line 24, strike "for transfer to a private entity".

On page 1, line 25, strike "or enhancement of tax revenues".

The amendment to **CSSJR 42** was read and failed of adoption by the following vote: Yeas 9, Nays 21.

Yeas: Davis, Ellis, Hinojosa, Lucio, Shapleigh, Watson, West, Whitmire, Zaffirini.

Nays: Averitt, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, Williams.

Absent: Gallegos.

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

Floor Amendment No. 2

Amend **CSSJR 42** (Senate committee printing) in SECTION 2 of the joint resolution (page 1, lines 29 and 30), by striking "The constitutional amendment to prohibit the taking of property for certain purposes." and substituting "The constitutional amendment to prohibit the taking of property for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues."

The amendment to **CSSJR 42** 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 Duncan and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

CSSJR 42 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 JOINT RESOLUTION 42 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 **CSSJR 42** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

REMARKS ORDERED PRINTED

On motion of Senator Davis and by unanimous consent, the exchange between Senators Duncan and Davis regarding **CSSJR 42** was ordered reduced to writing and printed in the *Senate Journal*.

The remarks will be printed in an addendum to this day's journal.

**COMMITTEE SUBSTITUTE
HOUSE BILL 968 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 968** at this time on its second reading:

CSHB 968, Relating to the use of crossbows for hunting.

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

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

Nays: Deuell, Hegar.

**COMMITTEE SUBSTITUTE
HOUSE BILL 968 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 **CSHB 968** be placed on its third reading and final passage.

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

Nays: Deuell.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

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

Nays: Deuell, Hegar.

SENATE BILL 2569 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2569** at this time on its second reading:

SB 2569, Relating to the governing body of the Willacy County Navigation District.

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

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

SENATE BILL 2569 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 2569** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

SENATE BILL 2570 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2570** at this time on its second reading:

SB 2570, Relating to the board of directors of the Kenedy County Groundwater Conservation District.

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

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

SENATE BILL 2570 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 2570** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1454 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1454** at this time on its second reading:

HB 1454, Relating to the establishment of a volunteer-supported decision-making advocate pilot program for persons with intellectual and developmental disabilities and persons with other cognitive disabilities.

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

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

HOUSE BILL 1454 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 **HB 1454** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1813 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1813** at this time on its second reading:

HB 1813, Relating to the punishment for tampering with certain governmental records concerning forensic analyses.

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

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

HOUSE BILL 1813 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 **HB 1813** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE SENATE BILL 2510 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 2510** at this time on its second reading:

CSSB 2510, Relating to the creation of the Harris County Improvement District No. 18; providing authority to impose an assessment, impose a tax, and issue bonds.

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 2510 ON THIRD READING**

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

PERMISSION TO INTRODUCE BILLS

On motion of Senator Shapleigh and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bills: **SB 2581, SB 2582**.

SENATE BILL 2559 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2559** at this time on its second reading:

SB 2559, Relating to the imposition and rate of the county hotel occupancy tax in certain counties.

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 2559 ON THIRD READING

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2559** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1963 ON SECOND READING

Senator Whitmire moved to suspend the regular order of business to take up for consideration **HB 1963** at this time on its second reading:

HB 1963, Relating to eliminating the limitation on lottery advertising expenses based on the lottery prize payout percentage.

The motion prevailed.

Senators Estes, Fraser, Harris, Huffman, Nelson, and Williams 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 third reading by a viva voce vote.

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

Nays: Estes, Fraser, Harris, Huffman, Nelson, Williams.

HOUSE BILL 1963 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 **HB 1963** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Estes, Fraser, Harris, Huffman, Nelson, Williams.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 6. (Same as previous roll call)

SENATE BILL 828 WITH HOUSE AMENDMENT

Senator Whitmire called **SB 828** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 828** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to a determination of value for purposes of punishment of the offense of abuse of official capacity.

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

SECTION 1. Section 39.02, Penal Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If separate transactions that violate Subsection (a)(2) are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the use of the things misused in the transactions may be aggregated in determining the classification of the offense.

(f) The value of the use of a thing of value misused under Subsection (a)(2) may not exceed:

(1) the fair market value of the thing at the time of the offense; or

(2) if the fair market value of the thing cannot be ascertained, the cost of replacing the thing within a reasonable time after the offense.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 828**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

AT EASE

The Presiding Officer, Senator Eltife in Chair, at 1:32 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Eltife at 1:44 p.m. called the Senate to order as In Legislative Session.

COMMITTEE SUBSTITUTE SENATE BILL 541 ON SECOND READING

Senator Watson moved to suspend the regular order of business to take up for consideration **CSSB 541** at this time on its second reading:

CSSB 541, Relating to incentives for Texas renewable energy jobs and manufacturing.

The motion prevailed by the following vote: Yeas 25, Nays 6.

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

Nays: Fraser, Harris, Jackson, Nelson, Patrick, Williams.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 541** (Senate committee printing) as follows:

(1) In the recitation (page 1, line 19), strike "and (c-2), and (p)" and substitute "(c-2), (c-3), (n-1), and (p)".

(2) In SECTION 2 of the bill by striking added Subsection (a-1), Section 39.904, Utilities Code (page 1, lines 36-48), and substituting:

(a-1) It is the goal of the legislature that by January 1, 2020, an additional 1,500 megawatts of tier 2 renewable energy will have been installed in this state. Of the renewable energy generating capacity installed to meet the goal of this subsection, up to 500 megawatts of renewable energy storage may qualify to meet the tier 2 goal. The cumulative installed tier 2 renewable energy resource capacity in this state shall total 50 megawatts by January 1, 2011; 100 megawatts by January 1, 2012; 200 megawatts by January 1, 2013; 350 megawatts by January 1, 2014; 500 megawatts by January 1, 2015; 750 megawatts by January 1, 2016; 900 megawatts by January 1, 2017; 1,000 megawatts by January 1, 2018; 1,250 megawatts by January 1, 2019; and 1,500 megawatts by January 1, 2020. On January 1, 2016, if the commission determines the state has not made significant progress toward the goals of this subsection, then the commission may take action to suspend future obligations under this subsection.

(3) Add the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.002, Utilities Code, is amended to read as follows:

Sec. 39.002. APPLICABILITY. Except as provided by this section, this [This] chapter, other than Sections 39.155, 39.157(e), 39.203, 39.903, 39.904, 39.9051, 39.9052, and 39.914(e), does not apply to a municipally owned utility or an electric cooperative. Sections 39.157(e), 39.203, and 39.904[~~], however,~~ apply only to a municipally owned utility or an electric cooperative that is offering customer choice. Section 39.9041 applies to a municipally owned utility. If there is a conflict between the specific provisions of this chapter and any other provisions of this title, except for Chapters 40 and 41, the provisions of this chapter control.

SECTION _____. Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.9041 to read as follows:

Sec. 39.9041. RENEWABLE ENERGY FOR MUNICIPALLY OWNED UTILITIES. (a) It is the goal of the legislature that municipally owned utilities:

(1) increase the installed capacity in this state from tier 2 renewable energy or from renewable energy storage in a cost-effective, market neutral, and nondiscriminatory manner; and

(2) install capacity from tier 2 renewable energy or from renewable energy storage in proportion to and at a level consistent with the requirements for electric utilities under Section 39.904(a-1).

(b) This section applies only to a municipally owned utility with retail sales of more than 500,000 megawatt hours for the year beginning January 1, 2007.

(c) Beginning not later than September 1, 2012, a municipally owned utility annually shall report to the state energy conservation office, in a form determined by the office, information regarding the efforts of the utility under this section.

(d) This section does not prevent the governing body of a municipally owned utility from adopting rules, programs, and incentives that encourage or provide for the installation of capacity from tier 2 renewable energy or renewable energy storage in addition to the goals in Section 39.904(a-1).

(e) The commission shall count capacity from tier 2 renewable energy or renewable energy storage installed on or after May 1, 2007, toward a municipally owned utility's compliance with this section.

(f) A municipally owned utility may satisfy the requirements of this section:

(1) by owning or purchasing capacity from tier 2 renewable energy or renewable energy storage; or

(2) by purchasing renewable energy credits in lieu of capacity from tier 2 renewable energy technologies.

(4) In SECTION 2 of the bill After added Subsection (c-2), Section 39.904, Utilities Code (page 2, between lines 37 and 38), insert:

(c-3) Not later than January 1, 2010, the commission shall adopt rules necessary to allow generators of tier 2 renewable energy installed before September 1, 1999, to qualify annually for not more than 40 megawatts of tier 2 renewable energy credits.

(5) After amended Subsection (n), Section 39.904, Utilities Code (page 2, between lines 61 and 62), insert:

(n-1) If the commission determines that complying with the goals of Subsection (a-1) and a federal renewable portfolio standard that is more stringent than those goals would cause an undue burden to ratepayers in this state, the commission may suspend any requirement relating to meeting those goals.

(6) Amend Subsection (p), Section 39.904, Utilities Code (page 3, lines 25 through 30), by striking proposed subsection (p) and substituting the following:

(p) If the commission suspends the tier 2 renewable energy goal under subsection (a-1), all alternative compliance payment funds collected shall be refunded by the retail electric providers under the guidance of the commission to the residential and commercial electric customers covered by this subchapter. If the commission does not suspend the tier 2 renewable energy goal under subsection (a-1), the alternative compliance payment funds collected by the commission shall be used for the purpose of a solar rebate program established by the commission.

The amendment to **CSSB 541** 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.

(President Pro Tempore Duncan in Chair)

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

CSSB 541 as amended was passed to engrossment by the following vote: Yeas 24, Nays 7.

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

Nays: Fraser, Harris, Jackson, Nelson, Ogden, Patrick, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 1663 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1663** at this time on its second reading:

CSSB 1663, Relating to the disregard or violation of a resident's advance directive by a nursing institution; providing penalties.

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

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

Nays: Duncan, Eltife, Estes, Fraser, Harris, Lucio, Ogden, Patrick.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1663** (Senate committee report) as follows:

(1) In the recital of SECTION 2 of the bill (page 1, line 21), strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 2 of the bill, in proposed Section 242.0663(a)(2), Health and Safety Code (page 1, line 26), between "(2)" and "employs", insert "knowingly".

(3) In SECTION 2 of the bill, in proposed Section 242.0663, Health and Safety Code (page 1, between lines 35 and 36), add the following:

(e) It is not a violation of this section or any other law if an institution, its owners, employees, agents, or physicians in good faith attempt to resuscitate a resident because the institution, its owners, employees, agents, or physicians who practice in the institution reasonably believe that the process of dying appears to be the result of an accident, unnatural causes, or suspicious circumstances.

The amendment to **CSSB 1663** 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 Deuell offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1663** (Senate committee report) as follows:

(1) In the recital of SECTION 2 of the bill (page 1, line 21), strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 2 of the bill, strike proposed Section 242.0663(d), Health and Safety Code (page 1, lines 31-35) and substitute the following:

(d) A person, including an owner or employee of an institution, who has cause to believe that a resident's advance directive has been or may be knowingly disregarded in violation of a written policy maintained under Section 166.004 shall report such violation consistent with the requirements of Section 242.123.

(e) To the extent consistent with federal law, an institution may, on the basis of conscience, object to honoring an advanced directive if the institution includes in its policies and explains to each prospective resident before admission to the institution the circumstances under which the institution would not follow instructions of an advanced directive. The policies and explanation must include the following:

(1) a clear and precise statement of limitations that result from the institution's objection to implement advanced directives based on conscience;

(2) a description of the differences between an institution-wide policy of objection on the basis of conscience and an objection that may be raised by an individual healthcare provider; and

(3) a description of the range of medical conditions or procedures affected by an objection based on conscience.

The amendment to **CSSB 1663** was read.

Senator Deuell withdrew Floor Amendment No. 2.

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

CSSB 1663 as amended was passed to engrossment by the following vote: Yeas 23, Nays 8.

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

Nays: Duncan, Eltife, Estes, Fraser, Harris, Lucio, Ogden, Patrick.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 11, 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:

SB 45, Relating to tuition exemptions at public institutions of higher education for students enrolled in certain interinstitutional academic programs.

SB 58, Relating to the administration of the Juvenile Justice Case Management System.

(Amended)

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

(Amended)

SB 1054, Relating to the Hill Country local mental health authority crisis stabilization unit.

SB 1540, Relating to a nonsubstantive revision of statutes relating to railroads; including conforming amendments.

SB 1969, Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, to conforming codifications enacted by the 80th Legislature to other Acts of that legislature, and to the repeal of certain unconstitutional laws.

SB 1216, Relating to the authority of owners and managers of apartment houses to assess a service charge for the submetering of water and wastewater services.

(Amended)

SB 2306, Relating to rates and methods of depreciation applied to a retired class of property for regulated water utilities.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 2096 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 2096** at this time on its second reading:

CSSB 2096, Relating to the creation of and the powers of a comprehensive multimodal urban transportation authority, including the power to impose taxes, issue bonds, and exercise limited eminent domain authority.

The motion prevailed.

Senators Hegar and 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: Hegar, Ogden.

**COMMITTEE SUBSTITUTE
SENATE BILL 2096 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2096** 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, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Ogden.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

SENATE BILLS ON FIRST READING

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

SB 2581 by Shapleigh

Relating to partnering with the United States Department of Veterans Affairs and other federal agencies to establish a veterans hospital in El Paso.

To Committee on Veteran Affairs and Military Installations.

SB 2582 by Van de Putte

Relating to certain investment products made available to certain public school employees and the companies authorized to provide those products; providing civil penalties.

To Committee on State Affairs.

HOUSE BILLS AND RESOLUTION ON FIRST READING

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

HB 130 to Committee on Education.

HB 155 to Committee on Natural Resources.

HB 556 to Committee on State Affairs.

HB 853 to Committee on Criminal Justice.

HB 978 to Committee on Business and Commerce.

HB 1399 to Committee on Criminal Justice.

HB 2291 to Committee on Finance.

HB 2308 to Committee on International Relations and Trade.

HB 2360 to Committee on Business and Commerce.

HB 2502 to Committee on Administration.

HB 2504 to Committee on Higher Education.

HB 2582 to Committee on Agriculture and Rural Affairs.

HB 2619 to Committee on Administration.

HB 3079 to Committee on Agriculture and Rural Affairs.

HB 3095 to Committee on Transportation and Homeland Security.

HB 3433 to Committee on Transportation and Homeland Security.

HB 3650 to Committee on Transportation and Homeland Security.

HB 4270 to Committee on Finance.

HB 4294 to Committee on Education.

HJR 77 to Committee on Education.

HOUSE BILL 1579 REREFERRED

Senator Lucio submitted a Motion In Writing requesting that **HB 1579** be withdrawn from the Subcommittee on Flooding and Evacuations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Deuell and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider **SB 2207** today.

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

On motion of Senator Nelson and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Health and Human Services might meet today.

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

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

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Williams announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 7:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

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

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

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

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

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 4:09 p.m. agreed to adjourn, in memory of Carlos Garcia, Sr., Judge Scott Ozmun, and Nolan Leon Counts, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 886 by Gallegos, In memory of Roy Cantu of Houston.

Congratulatory Resolutions

SR 884 by Jackson, Recognizing David L. Everson, Sr., on the occasion of his 10th anniversary as pastor of First Union Baptist Church in Galveston.

SR 887 by Gallegos, Recognizing Linda V. Boas on the occasion of her retirement from the Houston Independent School District.

SR 888 by Whitmire, Recognizing Donald R. Butts for being selected as the Houston Surgical Society's Distinguished Houston Surgeon for 2009.

SR 889 by Whitmire, Commending Ross Krueger of Houston for achieving the rank of Eagle Scout.

HCR 204 (Eltfie), Congratulating the *Tyler Morning Telegraph* on its 100th anniversary.

Official Designation Resolutions

SR 885 by Zaffirini, Declaring May 20, 2009, as SCORE Appreciation Day Across Texas.

SR 890 by Seliger, Celebrating May 13, 2009, as Salad Day 2009 at the Texas Capitol.

RECESS

On motion of Senator Whitmire, the Senate at 4:10 p.m. recessed until 7:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

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

May 11, 2009

EDUCATION — **CSHB 3, HB 772, HB 1332, HB 2263, HB 2542**

INTERGOVERNMENTAL RELATIONS — **CSHB 1998**

EDUCATION — **CSHB 1365**

FINANCE — **CSHB 2317**

BUSINESS AND COMMERCE — **CSSB 2558**

NATURAL RESOURCES — **CSHB 3632**

TRANSPORTATION AND HOMELAND SECURITY — **SJR 55, HB 471, HB 1272, HB 1983, HB 2186, HB 2201, HB 2219, HB 2314, HB 2530, HB 2918, HB 2985, HB 3517, HB 3692, HB 3800**

INTERGOVERNMENTAL RELATIONS — **CSHB 621, CSSB 2552**

STATE AFFAIRS — **HB 1364, HB 1979, HB 2065, HB 2796**

EDUCATION — **CSSB 688, CSHB 2763**

HEALTH AND HUMAN SERVICES — **CSHB 392, CSHB 449, CSHB 1468, CSHB 1672, CSHB 2225, CSHB 3961, CSSB 1824, CSSB 1886**

HIGHER EDUCATION — **CSSB 2077**

INTERGOVERNMENTAL RELATIONS — **CSHB 987**

EDUCATION — **CSHB 2512**

INTERGOVERNMENTAL RELATIONS — **CSSB 2550**

BILLS ENGROSSED

May 8, 2009

SB 37, SB 204, SB 1425, SB 1616, SB 1707, SB 1714, SB 1723, SB 1861, SB 2080, SB 2151, SB 2222, SB 2235, SB 2407, SB 2439

BILLS AND RESOLUTIONS ENROLLEDMay 8, 2009**SB 872, SB 1373, SR 850, SR 859, SR 860, SR 864, SR 874, SR 875, SR 876, SR 877, SR 878, SR 879, SR 880****SENT TO GOVERNOR**May 11, 2009**SB 872, SB 1373**

In Memory
of
Carlos Garcia, Sr.
Senate Resolution 746

WHEREAS, The Senate of the State of Texas joins the citizens of Hondo in mourning the loss of Carlos Garcia, Sr., who died March 21, 2009; and

WHEREAS, Mr. Garcia was an exemplary citizen who was widely admired in his community for his many accomplishments; and

WHEREAS, Mr. Garcia enriched all who knew him with kindness and his enthusiasm for living each day to the fullest; and

WHEREAS, A man of courage, strength, and compassion, he gave unselfishly to others, and his wisdom, vitality, and valued counsel will not be forgotten by those who knew him; and

WHEREAS, Mr. Garcia was devoted to his family, and he will long be remembered for his generous spirit and his kind nature; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend sincere condolences to the bereaved family of Carlos Garcia, Sr.; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Carlos Garcia, Sr.

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