

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-FIFTH DAY

(Tuesday, March 15, 2011)

The Senate met at 11:07 a.m. pursuant to adjournment and was called to order by President Pro Tempore Ogden.

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

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

The Reverend Daryl Horton, Mount Zion Baptist Church, Austin, offered the invocation as follows:

For this day we give thanks. As we take this moment, we recognize the need for Your wisdom and guidance. For every Senator, direct their thoughts so they focus on the needs of the people they represent. Give clarity to their speech, so it resonates with the desires of their constituency. Touch their hearts, so they beat in concert with the concerns of all Texans. Open their ears, so they may hear one another and the voice of every citizen. Guide them through every discussion and vote. Bless each Senator with a sound mind, good health, and the strength to persevere. Help them to always be mindful of the blessed privilege to be servant leaders. All this we pray in His name. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, March 15, 2011 - 1

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 10

Branch

Honoring Southern Methodist University on the 100th anniversary of its founding and 10 decades of educational excellence.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate his grandchildren: Anna Lynda Lucio Cisneros, Alejandro Lucio Cisneros, and Carlos Lucio Cisneros, as well as his daughter, Lynda Lucio Cisneros.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Jackson was recognized and presented Dr. Syed Azhar of Houston as the Physician of the Day.

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

GUEST PRESENTED

Senator Hinojosa was recognized and introduced to the Senate his son, Johnathan.

The Senate welcomed its guest.

SENATE RESOLUTION 480

Senator Seliger offered the following resolution:

SR 480, Recognizing Baylor University's Bob Bullock Scholars Program and commending this year's scholars for their participation.

SELIGER	NELSON
BIRDWELL	WEST
DUNCAN	

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Seliger, joined by Senators Duncan, Nelson, and West, was recognized and introduced to the Senate Dr. James Curry, Bob Bullock Professor of Public Policy and Administration, and Bob Bullock Scholars: Sarah Caldwell, Round Rock; Amanda Gonzales, San Antonio; Ashleigh Myers, Munday; and Courtney Lewis, Mansfield.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate a University of North Texas Health Science Center delegation.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Carona was recognized and introduced to the Senate Southern Methodist University President, Dr. R. Gerald Turner, and Vice-president for Legal Affairs and Government Relations, Paul Ward.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Seliger was recognized and introduced to the Senate Jessica Rubio of Big Spring.

The Senate welcomed its guest.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Deuell submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Members, Aging and Disability Services Council: Sharon Swift Butterworth, El Paso County; John Anthony Cuellar, Dallas County; Judy Rebecca Foster, Bexar County; Gary Don Newsom, Travis County; Donna Beth Stauber, McLennan County.

Members, Board of Directors, Central Colorado River Authority: Patrick Shane Justiss, Coleman County; Andrew Mark Young, Coleman County.

Members, Commission on Human Rights: Toni Rhodes Glover, Tarrant County; Shara Alyse Michalka, Dallas County.

Public Counsel, Office of Injured Employee Counsel: Norman Wayne Darwin, Tarrant County.

Commissioner, Red River Compact Commission: William Allen Abney, Harrison County.

Members, Risk Management Board for the State Office of Risk Management: Rosemary A. Gammon, Collin County; Tomas Gonzalez, Dallas County; Stephanie E. Simmons, Fort Bend County; John W. Youngblood, Milam County.

Members, School Land Board: David S. Herrmann, Bexar County; Thomas Vernon Orr, Harris County.

Members, Texas Council on Autism and Pervasive Developmental Disorders: Anna Laura Hundley, Dallas County; Tammy Campbell Lemoine, Shelby County; Callie M. Matthews, Tarrant County; Frank C. McCamant, Travis County; Pamela Rollins, Dallas County; Grover Glenn Roque-Jackson, Collin County; Stephanie Sokolosky, Lubbock County.

Members, Governing Board, Texas Department of Housing and Community Affairs: Lowell Adams Keig, Travis County; Juan Sanchez Munoz, Lubbock County; John Paul Daniell Oxer, Fort Bend County.

Members, Texas Physician Assistant Board: Margaret K. Bentley, Dallas County; Anna Arredondo Chapman, Val Verde County; Felix Chong Wah Koo, Hidalgo County; Richard R. Rahr, Galveston County.

Members, Texas Private Security Board: Albert Lee Black, Travis County; Brian Clayton England, Kaufman County; Howard Hans Johnsen, Dallas County; Mark Lawson Smith, Collin County.

Members, Board of Directors, Texas State Affordable Housing Corporation: Merrideth Jeran Akers, Collin County; Jerry Romero, El Paso County.

Members, Texas State Board of Examiners of Psychologists: Jeffrey M. Baker, Galveston County; Carlos R. Chacon, El Paso County; Leslie Dee Rosenstein, Travis County.

Members, Texas State Board of Pharmacy: Wilson Benjamin Fry, Cameron County; Joyce Ann Tipton, Harris County; Charles Field Wetherbee, Kendall County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Deuell gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

RESOLUTION SIGNED

The President Pro Tempore announced the signing of the following enrolled resolution in the presence of the Senate: **SCR 24**.

SENATE BILL 824 REREFERRED (Motion In Writing)

Senator Lucio submitted a Motion In Writing requesting that **SB 824** be withdrawn from the Committee on Agriculture and Rural Affairs and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

SENATE BILL 628 REREFERRED (Motion In Writing)

Senator Duncan submitted a Motion In Writing requesting that **SB 628** be withdrawn from the Committee on Health and Human Services and rereferred to the Committee on Intergovernmental Relations.

The Motion In Writing prevailed without objection.

CONCLUSION OF MORNING CALL

The President Pro Tempore at 11:31 a.m. announced the conclusion of morning call.

GUESTS PRESENTED

Senator Hegar was recognized and introduced to the Senate a Fort Bend County delegation, accompanied by William Carter, President of the 75th Fort Bend County Fair, and Susan Sillavan, Fair Manager.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 115 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 115** at this time on its second reading:

CSSB 115, Relating to limiting the liability of space flight entities.

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 115 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 **CSSB 115** 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 115**, 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 115** 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.

WENTWORTH

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

COMMITTEE SUBSTITUTE
SENATE BILL 141 ON SECOND READING

On motion of Senator Eltife and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 141** at this time on its second reading:

CSSB 141, Relating to debt management services and the regulation of debt management services providers.

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 141 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 141** 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 141**, 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 141** 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.

WENTWORTH

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

**COMMITTEE SUBSTITUTE
SENATE BILL 321 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 321** at this time on its second reading:

CSSB 321, Relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

The bill was read second time.

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

Floor Amendment No. 1

Amend **CSSB 321** (Senate Committee Printing), in SECTION 1 of the bill, as follows:

(1) At the end of proposed Section 52.062(a)(1), Labor Code (page 1, line 33), between the semicolon and "or", insert the following:

(2) prohibit a private employer who employs at least 10,000 employees at a single location in this state from adopting a confidential process requiring that an employee provide notice to the employer before the employee stores a firearm, ammunition, or both in the employee's locked, privately owned motor vehicle in a parking area the employer provides for employees;

(2) In proposed Section 52.062(a)(2), Labor Code (page 1, line 34), strike "(2)" and substitute "(3)".

The amendment to **CSSB 321** was read.

On motion of Senator Hegar, Floor Amendment No. 1 was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Wentworth, Whitmire, Williams.

Nays: Davis, Ellis, Gallegos, Lucio, Rodriguez, Van de Putte, Watson, West, Zaffirini.

CSSB 321 was passed to engrossment by the following vote: Yeas 30, Nays 1.

Nays: Rodriguez.

**COMMITTEE SUBSTITUTE
SENATE BILL 321 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 321** be placed on its third reading and final passage.

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

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

Nays: Rodriguez, 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 321**, 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 321** 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.

WENTWORTH

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Rodriguez.

SENATE BILL 257 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 257** at this time on its second reading:

SB 257, Relating to the issuance of "Choose Life" license plates and the creation of the Choose Life account in the general revenue fund.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10.

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

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

SENATE BILL 408 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 408** at this time on its second reading:

SB 408, Relating to inspection of the John Graves Scenic Riverway.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 408** by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION ____ . Subchapter M, Chapter 26, Water Code, is amended by adding Section 26.563 to read as follows:

Sec. 26.563. CERTAIN CRAFT PROHIBITED. (a) The commission by rule shall prohibit the commercial or recreational use of the following craft on the waters of the John Graves Scenic Riverway:

(1) airboats, fanboats, and similar shallow draft watercraft that use an aircraft-type propeller for propulsion; and

(2) hovercraft.

(b) A rule adopted under this section must allow for the operation of craft described by Subsection (a) for:

(1) a visual inspection conducted under Section 26.555; or

(2) law enforcement purposes.

The amendment to **SB 408** 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 Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 408 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 408 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 408** 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 408**, 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 408** 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.

WENTWORTH

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

CO-AUTHOR OF SENATE BILL 27

On motion of Senator Zaffirini, Senator Watson will be shown as Co-author of **SB 27**.

CO-AUTHORS OF SENATE BILL 37

On motion of Senator Zaffirini, Senators Rodriguez and West will be shown as Co-authors of **SB 37**.

CO-AUTHOR OF SENATE BILL 89

On motion of Senator Lucio, Senator Van de Putte will be shown as Co-author of **SB 89**.

CO-AUTHOR OF SENATE BILL 282

On motion of Senator Zaffirini, Senator West will be shown as Co-author of **SB 282**.

CO-AUTHOR OF SENATE BILL 594

On motion of Senator Van de Putte, Senator West will be shown as Co-author of **SB 594**.

CO-AUTHOR OF SENATE BILL 778

On motion of Senator Williams, Senator Seliger will be shown as Co-author of **SB 778**.

CO-AUTHOR OF SENATE BILL 1311

On motion of Senator Lucio, Senator Hinojosa will be shown as Co-author of **SB 1311**.

CO-AUTHOR OF SENATE BILL 1365

On motion of Senator Ellis, Senator Watson will be shown as Co-author of **SB 1365**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 487 by Watson, In memory of Max L. Noe of Austin.

SR 512 by Lucio, In memory of Antonio R. Lopez, Sr.

SR 513 by Lucio, In memory of Vivia Halbert.

SR 514 by Lucio, In memory of Hector Yznaga of Brownsville.

SR 523 by Zaffirini, In memory of Ignacia Mogas Czar "Nachita" Hopkins.

HCR 28 (Eltife), In memory of Don Meredith, former SMU and Dallas Cowboys quarterback and longtime sportscaster.

Congratulatory Resolutions

SR 488 by Watson, Recognizing the members of the Texian Legacy Association who provided an honor guard for the presentation of the Texas Declaration of Independence in the Senate Chamber on Texas Independence Day.

SR 496 by Davis, Recognizing Ron Tyler on the occasion of his retirement as director of the Amon Carter Museum of American Art.

SR 497 by Davis, Congratulating Jung-Chih Chiao on receiving the 2011 Edith and Peter O'Donnell Award in Engineering from The Academy of Medicine, Engineering and Science of Texas.

SR 501 by Shapiro, Recognizing Knox Hayes Matthews on the occasion of his seventh birthday.

SR 502 by Estes, Recognizing Cross Trail Outfitters for their work in assisting boys and young men to become leaders in their communities.

SR 505 by West, Recognizing Frances L. King on the occasion of her retirement from Dallas County.

SR 507 by Deuell, Recognizing Avanel C. Heard Moore of Ben Wheeler on the occasion of her 100th birthday.

SR 508 by Jackson, Recognizing the National Aeronautics and Space Administration for its leadership and accomplishments in the State of Texas.

SR 509 by Zaffirini, Recognizing Edison Mission Energy on the occasion of the dedication of its Cedro Hill Wind Project in Bruni.

SR 511 by Hinojosa, Recognizing the citizens of Jim Wells County on the occasion of its 100th anniversary.

HCR 10 (Carona), Honoring Southern Methodist University on the 100th anniversary of its founding and 10 decades of educational excellence.

Official Designation Resolution

SR 504 by Estes, Declaring March 23, 2011, Parent Association for the Retarded of Texas Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:25 p.m. adjourned, in memory of William E. Nelson, Jr., Stephanie Brown, and the victims of the earthquake and tsunami in Japan, until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

March 15, 2011

STATE AFFAIRS — **SB 350, SB 567, SB 792, SB 859**

ECONOMIC DEVELOPMENT — **SB 520** (Amended)

STATE AFFAIRS — **CSSB 809, CSSB 822**

GOVERNMENT ORGANIZATION — **SB 400, SB 647**

BUSINESS AND COMMERCE — **SB 411, SB 918, SB 944, SB 983**

RESOLUTIONS ENROLLED

March 14, 2011

SCR 24, SR 472, SR 482, SR 484, SR 485, SR 489, SR 490, SR 492, SR 493, SR 494, SR 495, SR 498, SR 499, SR 500, SR 503