

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

TWENTY-SEVENTH DAY

(Thursday, March 17, 2011)

The Senate met at 10:06 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 Mark Denison, First Baptist Church, Conroe, was introduced by Senator Nichols and offered the invocation as follows:

Our loving and generous Father, we step into Your presence today with a sense of awe and reverence. We know that You care uniquely about the affairs of our world, country, and state. We pray for Your divine inspiration and leadership for those in national office. But today we especially lift up our state government and this great body in particular. For our elected representatives, we pray for an unusual endowment of insight and wisdom, as they wrestle with difficult issues in difficult times. May they seek You in every decision. Give to them a fresh vision and unity of purpose. Forgive us for the mistakes of the past, and may Your light guide our steps of tomorrow. Now, may Your richest blessings fall upon the great State of Texas, her leaders, and her citizens. Thank You for the opportunities of this day to lead, inspire, work together, and to follow Your will. We offer this prayer in the name of Christ, our savior and lord. 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.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

March 16, 2011
Austin, Texas

TO THE SENATE OF THE EIGHTY-SECOND LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be members of the Texas Board of Nursing for terms to expire January 31, 2017:

Deborah H. Bell
Tuscola, Texas
(Ms. Bell is being reappointed)

Mary M. LeBeck
Weatherford, Texas
(replacing Blanca Garcia of Corpus Christi whose term expired)

Beverley Nutall
Bryan, Texas
(Ms. Nutall is being reappointed)

V. Kathleen Shipp
Lubbock, Texas
(replacing Linda Rounds of Galveston whose term expired)

To be members of the Department of Information Resources for terms to expire February 1, 2017:

Phillip "Keith" Morrow
Southlake, Texas
(Mr. Morrow is being reappointed)

Wanda Rohm
San Antonio, Texas
(replacing Debra McCart of Amarillo whose term expired)

Respectfully submitted,
/s/Rick Perry
Governor

SENATE RESOLUTION 535

Senator Uresti offered the following resolution:

SR 535, Commending the citizens of Uvalde County on their many contributions to our state.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Uresti, joined by Senator Zaffirini, was recognized and introduced to the Senate a Uvalde County delegation: William R. Mitchell, County Judge; Kelly Garrett, Uvalde Area Chamber of Commerce Board President; Rachel Gonzales-Hanson, Executive Officer, Community Health Development; Hector Gonzales, Dean, Southwest Texas Junior College; and Cody Smith, Mayor of Uvalde.

The Senate welcomed its guests.

SENATE RESOLUTION 447

Senator Estes offered the following resolution:

SR 447, In memory of Mundy Ingalls Peale, Jr., of Lake Kiowa.

The resolution was read.

On motion of Senator Estes, **SR 447** was adopted by a rising vote of the Senate.

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

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate family members of Mundy Ingalls Peale, Jr.: his wife, Pat; his children, Mundy Peale III, Lalon C. Peale, and Danielle Peale Rook; his grandchildren; and other family members and friends.

The Senate welcomed its guests and extended its sympathy.

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Kelly Alberda of Austin as the Physician of the Day.

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

RESOLUTIONS SIGNED

The President Pro Tempore announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 10**, **HCR 28**.

CONCLUSION OF MORNING CALL

The President Pro Tempore at 10:29 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE**SENATE BILL 160 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 160** at this time on its second reading:

CSSB 160, Relating to the regulation of certain aggregate production operations by the Texas Commission on Environmental Quality; providing penalties.

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

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

COMMITTEE SUBSTITUTE**SENATE BILL 160 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 160** 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 160**, 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 160** 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.

SENATE BILL 173 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 173** at this time on its second reading:

SB 173, Relating to civil remedy of violations of certain municipal health and safety ordinances.

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 173 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 173** 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 173**, 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 173** 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.

SENATE BILL 312 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 312** at this time on its second reading:

SB 312, Relating to the exemption of certain electric cooperatives from certain regulations.

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 312 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 312** 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 312**, 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 312** 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 425 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 425** at this time on its second reading:

CSSB 425, Relating to property and casualty certificates of insurance and approval of property and casualty certificate of insurance forms by the Texas Department of Insurance; providing penalties.

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

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

(President in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 425 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 425** 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 425**, 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 425** 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.

SENATE RESOLUTION 542

Senator Duncan offered the following resolution:

SR 542, In memory of Elmer Kelton of San Angelo.

The resolution was read.

On motion of Senator Duncan, **SR 542** was adopted by a rising vote of the Senate.

In honor of the memory of Elmer Kelton, the text of the resolution is printed at the end of today's *Senate Journal*.

GUEST PRESENTED

Senator Duncan was recognized and introduced to the Senate Steve Kelton.

The Senate welcomed its guest and extended its sympathy.

SENATE BILL 605 ON SECOND READING

Senator Rodriguez moved to suspend the regular order of business to take up for consideration **SB 605** at this time on its second reading:

SB 605, Relating to the creation of an appellate judicial system for the Eighth Court of Appeals District.

POINT OF ORDER

Senator Seliger raised a point of order that the caption of the bill was in violation of Senate Rule 7.02.

POINT OF ORDER WITHDRAWN

Senator Seliger withdrew the point of order.

POINT OF ORDER

Senator Wentworth raised a point of order that a motion to suspend the regular order of business is not a debatable motion.

POINT OF ORDER RULING

The President ruled that the point of order was well-taken and sustained.

Question — Shall the regular order of business be suspended for **SB 605**?

SENATE RESOLUTION 552

Senator Zaffirini offered the following resolution:

SR 552, Recognizing March 1, 2011, as Bee County Day at the State Capitol.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a Bee County delegation.

The Senate welcomed its guests.

Question — Shall the regular order of business be suspended for **SB 605**?

SB 605, Relating to the creation of an appellate judicial system for the Eighth Court of Appeals District.

The motion to suspend the regular order of business prevailed.

Senators Birdwell and Patrick 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: Birdwell, Patrick.

SENATE BILL 605 ON THIRD READING

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 605** 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, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Patrick, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 605**, 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 605** 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 29, Nays 2.

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

Nays: Birdwell, Patrick.

SENATE BILL 350 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 350** at this time on its second reading:

SB 350, Relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.

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 350 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 350** 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 350**, 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 350** 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 527 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 527** at this time on its second reading:

CSSB 527, Relating to projects funded through the Texas emissions reduction plan.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 527** (senate committee printing), in SECTION 3 of the bill, by amending Subsection (a), Section 386.252, Health and Safety Code as follows:

(1) on page 1, line 61, amend proposed Subdivision (5), between "(5) not" and "more than \$7 million" by striking "less than \$3 million or";

(2) on page 1, line 62, amend proposed Subdivision (5), after "shall be allocated in 2012 and 2013 and not" strike "less than \$1 million or"; and

(3) on page 2, line 20, amend proposed Subdivision (9), between "(9)" and "\$216,000" by inserting "not more than".

The amendment to **CSSB 527** 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 Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 527 as amended was passed to engrossment by a viva voce vote.

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

COMMITTEE SUBSTITUTE SENATE BILL 527 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 527** 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 527**, 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 527** 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.

SENATE BILL 370 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 370** at this time on its second reading:

SB 370, Relating to the authority of the Texas Water Development Board to provide financial assistance for certain projects if the applicant has failed to complete a request for information relevant to the project.

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 370 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 370** 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 370**, 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 370** 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 781 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 781** at this time on its second reading:

CSSB 781, Relating to the repeal of certain legislative oversight committees.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 781** (senate committee report) in SECTION 1 of the bill as follows:

(1) In Subdivision (2) (page 1, line 14), strike "and".

(2) In Subdivision (3) (page 1, line 15), strike the period and substitute:

; and

(4) Section 3.01, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

The amendment to **CSSB 781** 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 Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 781 as amended was passed to engrossment by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 781 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 781** 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 781**, 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 781** 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.

SENATE BILL 361 ON SECOND READING

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

SB 361, Relating to indemnification provisions in construction contracts.

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

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

Nays: Birdwell, Huffman, Nelson, Nichols, Patrick, Shapiro, Uresti.

The bill was read second time and was passed to engrossment by the following vote: Yeas 24, Nays 7. (Same as previous roll call)

SENATE BILL 361 ON THIRD READING

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

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

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

Nays: Huffman, Nelson, Nichols, 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 361**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 361** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

WENTWORTH

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7.

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

Nays: Birdwell, Huffman, Nelson, Nichols, Patrick, Shapiro, Uresti.

COMMITTEE SUBSTITUTE**SENATE BILL 566 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 566** at this time on its second reading:

CSSB 566, Relating to the regulation of the practice of public accountancy.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 566** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____, Subchapter D, Chapter 551, Government Code, is amended by adding Section 551.092 to read as follows:

Sec. 551.092. ENFORCEMENT COMMITTEE APPOINTED BY TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. This chapter does not require an enforcement committee appointed by the Texas State Board of Public Accountancy to conduct an open meeting to investigate and deliberate a disciplinary action under Subchapter K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of the Texas State Board of Public Accountancy.

SECTION ____, Section 901.153, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) An enforcement committee may hold a closed meeting to investigate and deliberate a disciplinary action under Subchapter K relating to the enforcement of this chapter or board rules as provided by Section 551.092, Government Code.

The amendment to **CSSB 566** 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 Williams and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 566 as amended was passed to engrossment by a viva voce vote.

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

COMMITTEE SUBSTITUTE SENATE BILL 566 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 566** 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 566**, 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 566** 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.

SENATE BILL 1167 REREFERRED
(Motion In Writing)

Senator Carona submitted a Motion In Writing requesting that **SB 1167** be withdrawn from the Committee on Health and Human Services and rereferred to the Committee on Business and Commerce.

The Motion In Writing prevailed without objection.

SENATE BILL 992 REREFERRED
(Motion In Writing)

Senator Lucio submitted a Motion In Writing requesting that **SB 992** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

SENATE BILL 825 REREFERRED
(Motion In Writing)

Senator Lucio submitted a Motion In Writing requesting that **SB 825** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

CO-AUTHOR OF SENATE BILL 88

On motion of Senator Lucio, Senator Watson will be shown as Co-author of **SB 88**.

CO-AUTHOR OF SENATE BILL 89

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

CO-AUTHOR OF SENATE BILL 160

On motion of Senator Williams, Senator Carona will be shown as Co-author of **SB 160**.

CO-AUTHOR OF SENATE BILL 312

On motion of Senator Seliger, Senator Duncan will be shown as Co-author of **SB 312**.

CO-AUTHOR OF SENATE BILL 806

On motion of Senator Hinojosa, Senator Wentworth will be shown as Co-author of **SB 806**.

CO-AUTHOR OF SENATE BILL 831

On motion of Senator Rodriguez, Senator Wentworth will be shown as Co-author of **SB 831**.

CO-AUTHOR OF SENATE BILL 832

On motion of Senator Rodriguez, Senator Uresti will be shown as Co-author of **SB 832**.

CO-AUTHOR OF SENATE BILL 975

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SB 975**.

CO-AUTHOR OF SENATE BILL 1107

On motion of Senator Davis, Senator Van de Putte will be shown as Co-author of **SB 1107**.

CO-AUTHOR OF SENATE BILL 1145

On motion of Senator Shapiro, Senator West will be shown as Co-author of **SB 1145**.

CO-AUTHOR OF SENATE BILL 1261

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SB 1261**.

CO-AUTHOR OF SENATE BILL 1365

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

CO-AUTHOR OF SENATE BILL 1392

On motion of Senator Lucio, Senator Davis will be shown as Co-author of **SB 1392**.

CO-AUTHOR OF SENATE BILL 1655

On motion of Senator Watson, Senator Lucio will be shown as Co-author of **SB 1655**.

CO-AUTHOR OF SENATE BILL 1878

On motion of Senator Deuell, Senator Rodriguez will be shown as Co-author of **SB 1878**.

CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 10

On motion of Senator Ellis, Senator Uresti will be shown as Co-author of **SCR 10**.

CO-AUTHOR OF SENATE JOINT RESOLUTION 40

On motion of Senator Lucio, Senator Davis will be shown as Co-author of **SJR 40**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 533 by Nichols and Deuell, In memory of Louann Confer of Mabank.

SR 549 by Watson, In memory of Gabriel R. Garcia of Austin.

SR 550 by Zaffirini, In memory of Fernando A. Salinas of Laredo.

SR 553 by Davis, In memory of Barrett Martin Havran.

SR 555 by Zaffirini, In memory of Barbara Ann Kazen.

HCR 47 (Zaffirini), In memory of U.S. Army Private First Class Ira Benjamin Laningham IV of Zapata.

Congratulatory Resolutions

SR 465 by Davis, Recognizing Kids Who Care, Incorporated, on the occasion of its visit to the State Capitol on March 16, 2011.

SR 530 by Nichols, Congratulating John D. Eckstrum on being named Realtor of the Year by the Texas Association of Realtors.

SR 531 by Nichols, Recognizing the Neches High School girls' basketball team for winning the Class 1A Division II state championship title.

SR 546 by Watson, Recognizing Jane Smoot of Austin for her work as an educator.

SR 547 by Watson, Recognizing Sherry True Smith on the occasion of her retirement from the Texas Commission on Environmental Quality.

SR 548 by Watson, Recognizing Casa Marianella on the occasion of its 25th anniversary.

SR 551 by Patrick and Carona, Recognizing the 150th anniversary of the unification of the Republic of Italy.

Official Designation Resolution

SR 532 by Nichols, Recognizing March 14, 2011, as Cedar Creek Lake Day at the State Capitol.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 12:28 p.m. adjourned, in memory of Barbara Ann Kazen, Mundy Ingalls Peale, Jr., and Elmer Kelton, until 1:30 p.m. Monday, March 21, 2011.

APPENDIX

COMMITTEE REPORTS

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

March 17, 2011

INTERGOVERNMENTAL RELATIONS — SB 86, SB 117, SB 410, SB 475, SB 629, SB 813

TRANSPORTATION AND HOMELAND SECURITY — SB 461, SB 802, SB 963

NATURAL RESOURCES — CSSB 684, CSSB 313

HIGHER EDUCATION — SB 36, SB 38, SB 794, SB 777, SB 945

INTERGOVERNMENTAL RELATIONS — CSSB 238, CSSB 310

AGRICULTURE AND RURAL AFFAIRS — SB 199, SB 387, SB 390, SB 478, SB 479, CSSB 248, CSSB 766

NATURAL RESOURCES — CSSB 181, CSSB 329

BILLS ENGROSSED

March 16, 2011

SB 121, SB 257, SB 271, SB 292, SB 367, SB 433, SB 514, SB 580

RESOLUTIONS ENROLLED

March 16, 2011

SR 486, SR 510, SR 516, SR 517, SR 518, SR 519, SR 520, SR 521, SR 522, SR 524, SR 525, SR 526, SR 527, SR 528, SR 529, SR 534, SR 536, SR 538, SR 539, SR 540, SR 541, SR 543, SR 544, SR 545

In Memory
of
Mundy Ingalls Peale, Jr.
Senate Resolution 447

WHEREAS, Memories of a life filled with joyful times and meaningful accomplishments remain to comfort the family and friends of Mundy Ingalls Peale, Jr., of Lake Kiowa, who passed away on July 8, 2009, at the age of 74; and

WHEREAS, Born in Evansville, Illinois, on August 23, 1934, Mundy Peale was a 1956 graduate of Princeton University, where he majored in economics and received the prestigious Triade Trophy, the highest honor in Ivy League wrestling; he went on to earn a degree from the Harvard Business School in 1961 and also served in the United States Air Force as a pilot and radar intercept officer; and

WHEREAS, Mr. Peale married the former Pat Crawford in 1957, and the couple enjoyed a rewarding union that continued for 51 years; they were blessed with three children, Mundy, Lalon, and Danielle, and with the passing years their family grew to include seven grandchildren; and

WHEREAS, This respected business executive began his career with the Ford Motor Company in 1961 as a cost analyst, and during his tenure with the company he held several supervisory positions and worked in locations around the globe; in 1979, he became the vice president and controller for the Rockwell International Electronics Operations and Avionics and Missiles Group, and he later was vice president of corporate finance for the company's central region; after serving as the chief financial officer for Marlow Industries from 1993 to 1996, he helped create the company United Space Alliance, which partnered with the National Aeronautics and Space Administration in carrying out manned space operations; he held the title of chief financial officer at the time of his retirement in 1998; and

WHEREAS, Though he made his home in a variety of locations as a result of his career, Mr. Peale was always involved in community affairs; a member of Rotary International and a supporter of the Boy Scouts of America, he also played an active role in the churches he attended, helping with financial matters, teaching Sunday school, and assisting building committees; in his leisure time, he loved to golf, play tennis, and travel, and he took great satisfaction in devoting himself to his family; and

WHEREAS, Honorable, humble, and widely admired, Mundy Peale lived a caring and purposeful life, and he will forever be remembered with great affection by those who were privileged to share in his love and friendship; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby pay tribute to the memory of Mundy Ingalls Peale, Jr., and extend sincere condolences to the members of his family: to his wife, Pat; to his children, Mundy Ingalls Peale III, Lalon Crawford Peale, and Danielle Peale Rook; to his grandchildren, Mundy Peale IV, Jon Peale, Hannah Rook, Hunter Rook, Hayden Rook, Holden Rook, and Julia Peale; to his sisters, Sandra Farwell Eike and Betsey Peale Hardman; and to his other relatives and friends; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family, and that when the Texas Senate adjourns this day, it do so in memory of Mundy Ingalls Peale, Jr.

ESTES

In Memory

of

Elmer Kelton

Senate Resolution 542

WHEREAS, The Lone Star State lost an accomplished native son with the passing of novelist and journalist Elmer Kelton of San Angelo on August 22, 2009, at the age of 83; and

WHEREAS, Born on April 29, 1926, at Horse Camp in Andrews County, Elmer Stephen Kelton was descended from cowboys and ranchers; his great-grandfather came to West Texas in the 1870s with a covered wagon and a string of horses, and his father, Robert William "Buck" Kelton, was the foreman and eventual manager of the McElroy Ranch in Crane and Upton Counties; and

WHEREAS, Elmer Kelton was the oldest of four sons and, by his own admission, the worst cowboy of the bunch; he decided at an early age that if he couldn't be a cowboy, he would at least write about them, and he was encouraged in this endeavor by his mother, Neta Beatrice "Bea" Kelton, a former schoolteacher; he entered The University of Texas at Austin at the age of 16 and enrolled in journalism classes; and

WHEREAS, In the mid-1940s, Mr. Kelton served in Europe as an infantryman during the final months of World War II; while stationed in Austria, he met his future wife, Anni Lipp, whom he married in 1947; he went on to earn his bachelor's degree in journalism from UT the following year; and

WHEREAS, Mr. Kelton was the farm-and-ranch editor for the *San Angelo Standard-Times* from 1948 to 1963; he later spent five years as associate editor of *Sheep and Goat Raisers' Magazine* and more than two decades as editor of *Livestock Weekly* before retiring in 1990; and

WHEREAS, His career as a Western writer began in 1948, when he sold a story to *Ranch Romances* magazine for \$50; he published his first novel, *Hot Iron*, in 1955, and writing mainly in his spare time, he went on to author or contribute to more than 60 books, including several volumes of Western art, a memoir, *Sandhills Boy*, and many works of fiction; and

WHEREAS, Insightful portrayals of West Texans, Mr. Kelton's novels were admired by readers and critics alike for their keen attention to detail, moral complexity, and psychological realism; he wasn't interested in writing simplistic Western characters who were "seven feet tall and invincible," he once said, adding, "my characters are five-eight and nervous"; and

WHEREAS, In *The Time It Never Rained*, he vividly evoked the struggles of a rancher during a devastating drought in the 1950s; in *The Good Old Boys*, which was made into a television movie directed by and starring Tommy Lee Jones, he told the story of an aging cowboy grappling with changing times at the turn of the 20th century; and

WHEREAS, Often bestsellers, his books also won numerous accolades; seven of his titles earned the Spur Award from the Western Writers of America, and three received Western Heritage Awards from the National Cowboy and Western Heritage Museum; Mr. Kelton himself was honored with both the Owen Wister Award for lifetime achievement and the Lone Star Award for Lifetime Achievement from the Larry McMurtry Center for Arts and Humanities at Midwestern State University; in 1995, he was voted the best Western writer of all time by members of the Western Writers of America; and

WHEREAS, Throughout a long and prolific career, Mr. Kelton enjoyed the love and support of his wife of 62 years as well as their three children, Gary, Stephen, and Kathy; moreover, his family included four grandchildren, five great-grandchildren, and a great-great-granddaughter; and

WHEREAS, Elmer Kelton wrote with deep reverence and compassion about the people and landscape he loved; whether he was evoking the stark beauty of the high plains or the pride and dignity of hardworking people, he celebrated a rich culture and left a lasting legacy that will endure as long as the wind blows over West Texas; now, therefore, be it

RESOLVED, That the Senate of the 82nd Texas Legislature hereby pay tribute to the life and accomplishments of Elmer Kelton; and, be it further

RESOLVED, That an official copy of this resolution be prepared for his family and that when the Texas Senate adjourns this day, it do so in memory of Elmer Kelton.

DUNCAN

