

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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## THIRTY-FOURTH DAY

(Wednesday, March 30, 2011)

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: 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 announced that a quorum of the Senate was present.

The Reverend Dr. Edmund Robb, The Woodlands United Methodist Church, The Woodlands, was introduced by Senator Williams and offered the invocation as follows:

O God, we come before You at the beginning of today's session remembering that You are the source of all life. You are almighty and everlasting, slow to anger, and abounding in steadfast love. Help us to remember that our days of this Earth are numbered and that all of us shall stand in judgment of You. May that knowledge keep us on the right path. I ask, O Lord, that You would extend an extra measure of Your guidance to these Senators as they deliberate the business of our state during these tough economic times. Give them strength for the task and sensitive hearts for the weak and those most in need. And finally, gracious God, I pray that You will give these Senators patience with one another. Enable them to work together as colleagues and friends, believing the best about one another, as they make difficult decisions during the days ahead. 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.

## PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Fred Merian of Wimberley as the Physician of the Day.

The Senate welcomed Dr. Merian 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 announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 62, HCR 114.**

### **GUESTS PRESENTED**

Senator Eltife was recognized and introduced to the Senate a Marshall delegation.

The Senate welcomed its guests.

### **MESSAGES FROM THE GOVERNOR**

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

March 29, 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 Diabetes Council for terms to expire February 1, 2017:

Maria O. Duarte-Gardea  
El Paso, Texas

John W. Griffin, Jr.  
Victoria, Texas

Don E. Yarborough  
Garland, Texas

The individuals listed above are being reappointed.

To be a member of the Statewide Health Coordinating Council for a term to expire August 1, 2015:

Abigail Blackburn  
Austin, Texas

Dr. Blackburn is replacing Richard Smith of Amarillo whose term expired.

To be members of the Texas State Appraiser Licensing and Certification Board for terms to expire January 31, 2013:

Walker R. Beard  
El Paso, Texas  
(Mr. Beard is being reappointed)

Sheryl R. Swift  
Galveston, Texas  
(Ms. Swift is being reappointed)

Donna L. Walz  
Lubbock, Texas  
(Ms. Walz is being reappointed)

Jamie S. Wickliffe  
Midlothian, Texas  
(replacing James Ratliff of Garland whose term expired)

To be members of the Lower Colorado River Authority for terms to expire February 1, 2017:

J. Scott Arbuckle  
El Campo, Texas  
(replacing Linda Raun of El Campo whose term expired)

Stephen K. Balas  
Eagle Lake, Texas  
(Mr. Balas is being reappointed)

John M. Franklin  
Burnet, Texas  
(replacing Ida Carter of Marble Falls whose term expired)

Bobby L. Limmer  
Llano, Texas  
(replacing Woody McCasland of Horseshoe Bay whose term expired)

To be members of the Texas Commission on Fire Protection for terms to expire February 1, 2017:

Elroy Carson  
Ransom Canyon, Texas  
Christopher M. Connealy  
Cedar Park, Texas

John K. Gillette, III  
Frisco, Texas

John W. Green  
San Leon, Texas

The individuals listed above are being reappointed.

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

Robert Gary Gray  
Midland, Texas

Kathleen A. Luedtke-Hoffmann  
Garland, Texas

Daniel Reyna  
Waco, Texas

The individuals listed above are being reappointed.

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

John Coble  
Rockwall, Texas  
(Dr. Coble is being reappointed)

Larry W. Fields  
Carthage, Texas  
(Judge Fields is being reappointed)

Mario Gutierrez  
San Antonio, Texas  
(replacing Carolyn Carman of Mansfield whose term expired)

Respectfully submitted,

/s/Rick Perry  
Governor

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, March 30, 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 79** Aliseda

In memory of U.S. Marine Corps Lance Corporal Colton Wesley Rusk of Orange Grove.

**HCR 123** Scott

Honoring the Vietnam Veterans Memorial Fund and the National Park Service for their collaboration on The Education Center at The Wall.

**HCR 125** Hughes

Recognizing March 30, 2011 as Marshall Day at the State Capitol.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a Leadership Gainesville delegation.

The Senate welcomed its guests.

**SENATE RESOLUTION 575**

Senator Williams offered the following resolution:

**SR 575**, Recognizing March 30, 2011, as Montgomery County Day at the State Capitol.

WILLIAMS  
NICHOLS

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Williams, joined by Senator Nichols, was recognized and introduced to the Senate a Montgomery County delegation: Charlie Irvine, Gary Gardner, Karen Smith, Diane Holland, and Nina Marino.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate his wife, Licia Green-Ellis, and Rod Paige.

The Senate welcomed its guests.

**SENATE RESOLUTION 651**

Senator Huffman offered the following resolution:

**SR 651**, Recognizing March 30, 2011, as Pachyderm Day at the State Capitol.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Huffman was recognized and introduced to the Senate a Greater Houston Pachyderm Club delegation: J. D. Joyce, Carolyn Lightfoot, Linda Vega, Chris Mauer, and Bernadette McLeroy.

The Senate welcomed its guests.

**SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

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

Senator Deuell moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

**NOMINEES CONFIRMED**

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, Commission on Jail Standards: Allan D. Cain, Panola County; Stanley Dewayne Egger, Taylor County; Michael Morris Seale, Harris County.

Members, Board of Trustees, Teacher Retirement System of Texas: Todd F. Barth, Harris County; Christopher S. Moss, Angelina County; F. Nanette Sissney, Cooke County.

Commissioner of Education, Texas Education Agency: Robert P. Scott, Travis County.

Members, Board of Directors, Texas Public Finance Authority: Billy Morris Atkinson, Fort Bend County; Mark Warner Eidman, Travis County; Robert Thomas Roddy, Bexar County.

Members, Board of Regents, Texas State University System: Jaime R. Garza, Bexar County; Maria Isabel Salazar, Travis County; Donna N. Williams, Tarrant County.

Members, Board of Directors, Texas Underground Facility Notification Corporation: Dean Donald Bernal, Travis County; Joseph Francis Berry, Brazoria County; Barry Calhoun, Dallas County; Julio Cerda, Hidalgo County; Judith Hardaway Devenport, Midland County; Jason Hartgraves, Denton County; John William Linton, Hidalgo County; Janie Lou Walenta, Wood County; Jay Solomon Zeidman, Harris County.

Members, Texas Water Development Board: Billy Ray Bradford, Cameron County; Monte Dean Cluck, Hansford County.

Members, Board of Directors, Upper Colorado River Authority: Eva W. Horton, Tom Green County; Jeffie Harmon Roberts, Coke County; Hyman Dale Sauer, Schleicher County; Hugh Lamar Stone, Tom Green County.

### **GUESTS PRESENTED**

Senator Gallegos was recognized and introduced to the Senate Juliet Stipetche and Katherine Vialta.

The Senate welcomed its guests.

### **CONCLUSION OF MORNING CALL**

The President at 11:29 a.m. announced the conclusion of morning call.

### **COMMITTEE SUBSTITUTE SENATE BILL 290 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 290** at this time on its second reading:

**CSSB 290**, Relating to including a personal financial literacy component in public school mathematics instruction.

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 290 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 290** 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 290**, 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 290** 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.

**(President Pro Tempore Ogden in Chair)**

**SENATE BILL 544 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 544** at this time on its second reading:

**SB 544**, Relating to unlawful acts against and criminal offenses involving the Medicaid program.

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 544 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 544** 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 544**, 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 544** 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.

### **GUESTS PRESENTED**

Senator Davis was recognized and introduced to the Senate a National Association of Hispanic Firefighters and Texas Hispanic Firefighters delegation.

The Senate welcomed its guests.

### **SENATE BILL 158 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 158** at this time on its second reading:

**SB 158**, Relating to the fraudulent obtaining of a controlled substance from a practitioner; providing a penalty.

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 158 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 158** 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 158**, 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 158** 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 159 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 159** at this time on its second reading:

**SB 159**, Relating to the diversion of a controlled substance by certain persons who have access to the substance by virtue of the persons' profession or employment; 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.

### SENATE BILL 159 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 159** 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 159**, 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 159** 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 377 ON SECOND READING

Senator Huffman moved to suspend the regular order of business to take up for consideration **SB 377** at this time on its second reading:

**SB 377**, Relating to the murder of a child as a capital offense.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

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

Nays: Ellis, Rodriguez.

Present-not voting: Van de Putte.

The bill was read second time and was passed to engrossment by the following vote: Yeas 28, Nays 2, Present-not voting 1. (Same as previous roll call)

#### SENATE BILL 377 ON THIRD READING

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 377** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3, Present-not voting 1.

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

Nays: Ellis, Rodriguez, Wentworth.

Present-not voting: Van de Putte.

### 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 377**, 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 377** 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 28, Nays 2, Present-not voting 1.

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

Nays: Ellis, Rodriguez.

Present-not voting: Van de Putte.

### REASON FOR VOTE

Senator Van de Putte submitted the following reason for vote on **SB 377**:

I respectfully vote "Present-not voting" on Senate Bill 377.

I have voted "Present-not voting" on Senate Bill 377 for the following reasons. My vote on the bill was a very difficult decision, as a mother of six and a grandmother of 2, I can only begin to imagine the pain and suffering over the death of a child. I prayed over my decision and I agree that a person who commits such a heinous crime should be punished harshly, however, our capital punishment process is not without flaws and I cannot vote for a bill that expands the death penalty at this time. In recent years, several persons have been exonerated after serving time on death row because of DNA testing.

I did support the bill that included capital punishment for a person who commits murder of a child under six. However, without the necessary safeguards in our legal system to absolutely prevent an innocent person from being placed on death row, I cannot vote "Aye" at this time. For these reasons I respectfully vote "Present-not voting" on Senate Bill 377.

VAN DE PUTTE

**REASON FOR VOTE**

Senator Lucio submitted the following reason for vote on **SB 377**:

Despite having great personal concerns about the use of the death penalty, I voted in support of SB 377, specifically because I feel that the current statute regarding Murder of a Child needed to be raised from 6-years old to 10-years old. The current statute does not ensure that someone who murders a precious child will remain in prison for good. By expanding the statute, Texas juries will now have the option of Life Without Parole, a concept I authored and fully support in such cases. However, I remain deeply troubled about the use of the death penalty. I have full faith in Texas juries, but recent exonerations, inadequate defense counsel, and tainted crime lab results continue to show how deeply flawed the system remains. It is my hope that Texas juries will make full use of the Life Without Parole option to put murderers away for good, but I also recognize that we must continue to work for a fairer and more certain justice system.

LUCIO

**COMMITTEE SUBSTITUTE  
SENATE BILL 331 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 331** at this time on its second reading:

**CSSB 331**, Relating to designating certain synthetic cannabinoids as controlled substances under the Texas Controlled Substances Act; providing penalties and establishing certain criminal consequences or 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.

**COMMITTEE SUBSTITUTE  
SENATE BILL 331 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 331** 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 331**, 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 331** 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.

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 473 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 473** at this time on its second reading:

**CSSB 473**, Relating to adverse possession of real property by a cotenant heir against other cotenant heirs.

The motion prevailed.

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

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 473** (senate committee printing), in SECTION 1 of the bill, in added Section 16.0265, Property Code (page 1, line 49, through page 2, line 7), by striking Subsection (c) and substituting the following:

(c) To make a claim of adverse possession against a cotenant heir under this section, the cotenant heir or heirs claiming adverse possession must:

(1) file in the deed records of the county in which the real property is located an affidavit of heirship in the form prescribed by Section 52A, Texas Probate Code, and an affidavit of adverse possession that complies with the requirements of Subsection (c-1);

(2) publish notice of the claim in a newspaper of general circulation in the county in which the property is located for the four consecutive weeks immediately following the date the affidavits required by Subdivision (1) are filed; and

(3) provide written notice of the claim to the last known addresses of all other cotenant heirs by certified mail, return receipt requested.

(c-1) The affidavits required by Subsection (c) may be filed separately or combined into a single instrument. The affidavit of adverse possession must include:

(1) a legal description of the property that is the subject of the adverse possession;

(2) an attestation that each affiant is a cotenant heir of the property who has been in peaceable and exclusive possession of the property for a continuous, uninterrupted period during the 10 years preceding the filing of the affidavit;

(3) an attestation of cultivation, use, or enjoyment of the property by each affiant during the 10 years preceding the filing of the affidavit;

(4) evidence of payment by the affiant or affiants of all property taxes on the property as provided by Subsection (b) during the 10 years preceding the filing of the affidavit; and

(5) an attestation that there has been no action described by Subsection (b)(2) by another cotenant heir during the 10 years preceding the filing of the affidavit.

The amendment to **CSSB 473** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

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

**CSSB 473** 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: Nichols, Patrick.

### **COMMITTEE SUBSTITUTE SENATE BILL 473 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 473** be placed on its third reading and final passage.

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

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

Nays: Nichols, Patrick, Wentworth.

#### **Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 473**, 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 473** 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: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nichols, Patrick.

**(Senator Carona in Chair)**

**(President in Chair)**

**COMMITTEE SUBSTITUTE**

**SENATE BILL 332 ON SECOND READING**

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSSB 332** at this time on its second reading:

**CSSB 332**, Relating to the vested ownership interest in groundwater beneath the surface of land, the right to produce that groundwater, and the management of groundwater in this state.

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

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, Wentworth, West, Whitmire, Williams.

Nays: Rodriguez, Watson, Zaffirini.

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

**COMMITTEE SUBSTITUTE**

**SENATE BILL 332 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 332** 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, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, West, Whitmire, Williams.

Nays: Rodriguez, Watson, Wentworth, Zaffirini.

### Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 332**, 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 332** 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 28, Nays 3.

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, Wentworth, West, Whitmire, Williams.

Nays: Rodriguez, Watson, Zaffirini.

### COMMITTEE SUBSTITUTE SENATE BILL 246 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 246** at this time on its second reading:

**CSSB 246**, Relating to toll collection services provided by a regional tollway authority.

The motion prevailed.

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

The bill was read second time 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: Harris.



**COMMITTEE SUBSTITUTE  
SENATE BILL 246 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 246** 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, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Harris, 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 246**, 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 246** 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: Harris.

**COMMITTEE SUBSTITUTE  
SENATE BILL 737 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 737** at this time on its second reading:

**CSSB 737**, Relating to the management of groundwater production by groundwater conservation districts.

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

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 737 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 737** 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 737**, 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 737** 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 646 ON SECOND READING**

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 646** at this time on its second reading:

**CSSB 646**, Relating to the continuation and functions of the Texas Forest Service.

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

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 646 ON THIRD READING**

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 646** 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 646**, 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 646** 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.

### **GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate Josh Gallant, Denny Hamrick, and Christian Manrique, serving today as Honorary Senate Pages.

The Senate welcomed its guests.

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

Senator Eltife announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:30 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 Eltife and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting tomorrow during the Local and Uncontested Calendar Session.

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

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

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 12:55 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

**CO-AUTHOR OF SENATE BILL 326**

On motion of Senator Duncan, Senator West will be shown as Co-author of **SB 326**.

**CO-AUTHOR OF SENATE BILL 331**

On motion of Senator Shapiro, Senator West will be shown as Co-author of **SB 331**.

**CO-AUTHOR OF SENATE BILL 332**

On motion of Senator Fraser, Senator Duncan will be shown as Co-author of **SB 332**.

**CO-AUTHORS OF SENATE BILL 377**

On motion of Senator Huffman, Senators Estes and Uresti will be shown as Co-authors of **SB 377**.

**CO-AUTHOR OF SENATE BILL 473**

On motion of Senator West, Senator Uresti will be shown as Co-author of **SB 473**.

**CO-AUTHOR OF SENATE BILL 551**

On motion of Senator Williams, Senator West will be shown as Co-author of **SB 551**.

**CO-AUTHOR OF SENATE BILL 899**

On motion of Senator Ogden, Senator West will be shown as Co-author of **SB 899**.

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

On motion of Senator Williams, Senator Estes will be shown as Co-author of **SCR 36**.

**CO-AUTHOR OF SENATE CONCURRENT RESOLUTION 37**

On motion of Senator Hinojosa, Senator Birdwell will be shown as Co-author of **SCR 37**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 663** by Hinojosa, In memory of Jeff Bell.

**SR 668** by Jackson and Watson, In memory of Charles Durham Nash of Austin.

**SR 673** by Watson, In memory of Anthony "Biff" Johnson.

**HCR 79** (Hinojosa), In memory of U.S. Marine Corps Lance Corporal Colton Wesley Rusk of Orange Grove.

### **Congratulatory Resolutions**

**SR 662** by Hinojosa, Recognizing Larry Gallardo for being named the 2010 Constable of the Year by the National Constables Association.

**SR 664** by Nelson, Recognizing Lake Grapevine Runners and Walkers on the occasion of the organization's 12th Annual Hound Dog Hustle.

**SR 669** by West, Commending Dru M. Robinson for achieving the rank of Eagle Scout.

**SR 670** by West, Recognizing the National Council of Negro Women, Incorporated, Minnie H. Goodlow Page Section, on the occasion of its Ninth Annual Spring Hat Extravaganza and Tea.

**SR 672** by Watson, Recognizing Daniel Delarosa on the occasion of his retirement from the Texas Department of Criminal Justice.

**SR 674** by Watson, Recognizing Richard Dale McClain on the occasion of his 70th birthday.

**HCR 123** (Hinojosa), Honoring the Vietnam Veterans Memorial Fund and the National Park Service for their collaboration on The Education Center at The Wall.

### **Official Designation Resolutions**

**SR 657** by Zaffirini, Recognizing April 6, 2011, as Atascosa County Day at the State Capitol.

**SR 665** by Uresti, Celebrating Reeves County Day at the State Capitol.

**SR 666** by Uresti, Celebrating Loving County Day at the Capitol.

**SR 667** by Uresti, Celebrating Ward County Day at the State Capitol.

**HCR 125** (Eltife), Recognizing March 30, 2011 as Marshall Day at the State Capitol.

### **RECESS**

On motion of Senator Whitmire, the Senate at 12:55 p.m. recessed until 8:30 a.m. tomorrow for the Local and Uncontested Calendar Session.

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## **APPENDIX**

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### **COMMITTEE REPORTS**

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

March 30, 2011

**INTERGOVERNMENTAL RELATIONS — CSSB 142**

ADMINISTRATION — **SB 1343, SB 1518, SB 1147, SB 1303**

AGRICULTURE AND RURAL AFFAIRS — **SB 460, SB 498, CSSB 499**

JURISPRUDENCE — **SB 715, SB 789, SB 1025, SB 1098, SB 1187, SB 1228, SB 1236, SB 1241, SB 1242, SB 1267, SB 1308, SB 1322, SB 1476**

STATE AFFAIRS — **CSSB 626, CSSB 800**

NATURAL RESOURCES — **SB 907, SB 908, SB 1151**

BUSINESS AND COMMERCE — **CSSB 1230**

FINANCE — **CSSB 201**

EDUCATION — **SB 54, SB 217**

#### **BILLS ENGROSSED**

March 29, 2011

**SB 17, SB 19, SB 166, SB 431, SB 691, SB 727, SB 876, SB 888, SB 1007, SB 1165**

#### **RESOLUTIONS ENROLLED**

March 29, 2011

**SR 643, SR 644, SR 645, SR 646, SR 647, SR 648, SR 649, SR 650, SR 652, SR 654, SR 655, SR 658, SR 659, SR 660, SR 661**