

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FORTY-FIFTH DAY**  
(Tuesday, April 19, 2011)

The Senate met at 11:18 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.

Lieutenant Colonel Stephen Vaughn, Chaplain, Texas Army National Guard, was introduced by Senator Watson and offered the invocation as follows:

Our Father, we bow before You as this august body goes about the business of providing for the citizens of our state. The challenges have been and are great. We humbly ask that You would grant Your divine wisdom, not for our glory or our advancement but rather that our citizens might lead a quiet life of godliness and peace. We are challenged today, Father, with weather and the consequent fires that have devastated our state. Keep Your hand of protection upon those who fight these fires, strengthen those who have lost so much already. And in Your mercy and kindness, Father, we ask for relief from this unusual weather. We ask in Your blessed name. Amen.

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

The motion prevailed without objection.

## MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, April 19, 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:

**HB 992**

Castro

Relating to excess undergraduate credit hours at public institutions of higher education.

**HB 1148**

Smith, Wayne

Relating to an exemption for certain disabled veterans from the payment of a fee for the issuance of a personal identification certificate.

**HB 1206**

Guillen

Relating to training for members of governing boards of public junior college districts.

**HB 1325**

Hartnett

Relating to payment of the costs for services of a guardian ad litem, court visitor, and attorney ad litem in a guardianship proceeding.

**HB 1353**

Elkins

Relating to speed limits.

**HB 1614**

Gooden

Relating to fees for process server certification.

**HB 1774**

Taylor, Larry

Relating to the continuation and functions of the office of injured employee counsel under the workers' compensation program.

**HB 1806**

Flynn

Relating to fishing tournament fraud; providing penalties.

**HB 1917**

Schwertner

Relating to the removal of appointed emergency services commissioners by a commissioners court.

**HB 2251**

Bonnen

Relating to the continuation and functions of the Texas Public Finance Authority.

**HB 2499**

Cook

Relating to the continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts.

**HB 2582**

Murphy

Relating to the repeal of the partial tax exemption for certain beer.

**HB 2866**

Harper-Brown

Relating to the electronic submission of certain documents to the attorney general and the submission of certain documents by the attorney general; imposing certain fees.

**HCR 9**

Branch

Congratulating the Honorable Jack Pope on the occasion of his 98th birthday.

**HCR 69**

Hopson

Directing the Texas Facilities Commission to name the Department of State Health Services Laboratory Services Section building in Austin in honor of former state representative Dr. Bob Glaze.

**HCR 120** Kuempel  
In memory of Thomas Peter Whalen of Schertz.

**SB 423** Lucio Sponsor: Menendez  
Relating to health insurance coverage for eligible survivors of certain public servants killed in the line of duty.  
(Amended)

**SB 691** Estes Sponsor: King, Tracy O.  
Relating to the exemption from permitting by groundwater conservation districts for certain water wells used for domestic, livestock, and poultry watering purposes.

**SCR 42** Duncan Sponsor: Truitt  
Recognizing Ronnie G. Jung on the occasion of his retirement as executive director of the Teacher Retirement System of Texas.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### GUESTS PRESENTED

Senator Birdwell was recognized and introduced to the Senate Autumn Parker from Midlothian, serving as an Honorary Senate Page, and her grandfather, Bill Carson.

The Senate welcomed its guests.

### GUEST PRESENTED

Senator Davis was recognized and introduced to the Senate Taylor Smith of Fort Worth, serving today as an Honorary Senate Page.

The Senate welcomed its guest.

### GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Thomas Farmer of Trinity Episcopal School and Lillie Adams of O. Henry Middle School, both serving as Honorary Senate Pages.

The Senate welcomed its guests.

### SENATE RESOLUTION 733

Senator Deuell offered the following resolution:

**SR 733**, Recognizing April 19, 2011, as Balch Springs Day at the State Capitol.

The resolution was again read.

The resolution was previously adopted on Thursday, April 7, 2011.

### GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate a Balch Springs delegation.

The Senate welcomed its guests.

## BILLS SIGNED

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

**SB 309, SB 386, SB 458, SB 525, SB 567, SB 684, SB 727, SB 737, SB 785, SB 832, SB 890, SB 983.**

## NOMINATION RETURNED

On motion of Senator Deuell and by unanimous consent, the Senate agreed to grant the request of the Governor to return the following nomination:

Member, Coastal Coordination Council: Bob McCan, Victoria County.

## REPORT OF COMMITTEE ON NOMINATIONS

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

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

Judge, 128th Judicial District Court, Orange County: Courtney R. Burch-Arkeen, Orange County.

Members, Governing Board, Department of Information Resources: Richard S. Moore, Goliad County; Phillip Keith Morrow, Tarrant County; Wanda Chandler Rohm, Bexar County.

Member, Executive Council of Physical Therapy and Occupational Therapy Examiners: Arthur Roger Matson, Williamson County.

Member, State Preservation Board: Ida Louise Clement Steen, Bexar County.

Members, Board of Directors, Texas Economic Development Corporation: David Gregorio Cabrales, Dallas County; Marc Angelley Farmer, Lubbock County; Mario Omar Garcia, Wilson County; Macedonio Villarreal, Fort Bend County.

Member, Texas Lottery Commission: J. Winston Krause, Travis County.

Members, Texas Racing Commission: Alan Scott Haywood, Travis County; Gloria Hicks, Nueces County; Michael Floyd Martin, Bexar County; Robert Herman Schmidt, Parker County.

Members, Board of Directors, Texas School Safety Center: Amy L. C. Clapper, Williamson County; Dewey Michael Cox, Hays County; Garry Edward Eoff, Brown County; Daniel Riley Griffith, Travis County; Carl Alonzo Montoya, Cameron County; Adelaida Olivarez, Travis County; James Richard Pendell, El Paso County; Stephen Paul Raley, Angelina County; Dawn DuBose Randle, Harris County; Ruben Gonzales Reyes, Lubbock County.

**NOTICE OF CONSIDERATION OF NOMINATIONS**

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

**CONCLUSION OF MORNING CALL**

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

**GUESTS PRESENTED**

Senator Uresti was recognized and introduced to the Senate a San Antonio Concordia Lutheran Middle School delegation including student, Catherine Granados, and teachers, Ms. Buffington, Ms. Davis, and Mr. Hamann.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE  
SENATE BILL 7 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 7** at this time on its second reading:

**CSSB 7**, Relating to strategies for and improvements in quality of health care provided through and care management in the child health plan and medical assistance programs designed to achieve healthy outcomes and efficiency.

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 7 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 7** 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 7**, 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 7** 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 8 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 8** at this time on its second reading:

**CSSB 8**, Relating to improving the quality and efficiency of health care.

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 8 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 8** 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 8**, 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 8** 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 536 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **CSSB 536** at this time on its second reading:

**CSSB 536**, Relating to the use of certain discipline management practices or behavior management techniques by peace officers employed or commissioned by school districts.

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

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

Nays: Hegar, Ogden.

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

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

Nays: Hegar, Ogden.

**COMMITTEE SUBSTITUTE  
SENATE BILL 536 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 536** 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, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Ogden, Wentworth.

**Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 536**, 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 536** 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, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Ogden.

#### COMMITTEE SUBSTITUTE SENATE BILL 1250 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1250** at this time on its second reading:

**CSSB 1250**, Relating to the applicability of certain restrictions on the location and operation of concrete crushing facilities.

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 1250 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1250** 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 1250**, 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 1250** 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 717 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 717** at this time on its second reading:

**SB 717**, Relating to the purpose and duties of the Council on Children and Families.

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 717 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 717** 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 717**, 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 717** 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.

**(Senator Eltife in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 866 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 866** at this time on its second reading:

**CSSB 866**, Relating to the education of public school students with dyslexia, the education and training of educators who teach students with dyslexia, and the assessment of students with dyslexia attending an institution of higher education.

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 866 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 866** 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 866**, 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 866** 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 295 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 295** at this time on its second reading:

**CSSB 295**, Relating to the definition of emergency services personnel for purposes of the enhanced penalty prescribed for an assault committed against a person providing emergency services.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 295** as follows:

(1) In SECTION 1 of the bill (Committee printing page 1, lines 14 and 15), strike the recital and substitute the following:

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

(2) In SECTION 1 of the bill, in Section 22.01, Penal Code (Committee printing page 1, between lines 52 and 53), add Subsection (b-2) to read as follows:

(b-2) It is an exception to the application of Subsection (b)(6) that:

(1) the actor is a patient; and

(2) the emergency room personnel has not received training in de-escalation and crisis intervention techniques to facilitate interaction with patients, including patients with mental impairments, that meets minimum standards established by the Department of State Health Services.

(3) In SECTION 2 of the bill, in added Subdivision (4), Subsection (e), Section 22.01, Penal Code (Committee printing page 2, lines 12-15), following "emergency situations" strike ", and has received training in de-escalation and crisis intervention techniques to facilitate interaction with patients and the public, including those with mental impairments"

The amendment to **CSSB 295** was read and was adopted by a viva voce vote.

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

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

**CSSB 295** 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 295 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 295** 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 295**, 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 295** 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 1258 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1258** at this time on its second reading:

**CSSB 1258**, Relating to the disposal of demolition waste from abandoned or nuisance buildings in certain areas.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1258** (senate committee printing) in SECTION 1 of the bill, in added Section 361.126(c), Health and Safety Code (page 1, line 35), by striking "may" and substituting "shall".

The amendment to **CSSB 1258** 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 Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1258** 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 1258 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1258** 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 1258**, 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 1258** 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 44 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **SB 44** at this time on its second reading:

**SB 44**, Relating to the detention and transportation of a person with a mental illness.

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

Nays: Ogden.

The bill was read second time and was passed to engrossment by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

### **SENATE BILL 44 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 44** be placed on its third reading and final passage.

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

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

Nays: Ogden, Wentworth.

### **Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 44**, 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 44** 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: Ogden.

### **COMMITTEE SUBSTITUTE SENATE BILL 167 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 167** at this time on its second reading:

**CSSB 167**, Relating to the automatic expunction of arrest records and files after an individual receives a pardon or a grant of certain other relief with respect to the offense for which the individual was arrested.

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 167 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 167** 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 167**, 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 167** 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 267 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 267** at this time on its second reading:

**CSSB 267**, Relating to a joint statement regarding the transfer of a motor vehicle as the result of a gift.

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 267 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 267** 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 267**, 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 267** 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 1225 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 1225** at this time on its second reading:

**CSSB 1225**, Relating to the disannexation of land in Caldwell County by the Gonzales County Underground Water Conservation District or the Plum Creek Conservation District.

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

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1225 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 1225** 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 1225**, 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 1225** 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 1356 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1356** at this time on its second reading:

**SB 1356**, Relating to the repeal of certain laws regulating the registration of animal tattoo marks with the Department of Public Safety of the State of Texas.

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 1356 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1356** 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 1356**, 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 1356** 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 1357 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1357** at this time on its second reading:

**CSSB 1357**, Relating to the redemption and impoundment of estrays.

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 1357 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1357** 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 1357**, 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 1357** 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 1661 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1661** at this time on its second reading:

**CSSB 1661**, Relating to the regulation of health organizations certified by the Texas Medical Board; imposing an administrative 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.

#### COMMITTEE SUBSTITUTE SENATE BILL 1661 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1661** 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 1661**, 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 1661** 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 1005 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1005** at this time on its second reading:

**CSSB 1005**, Relating to fair treatment of all providers of instructional materials to students enrolled at public institutions of higher education.

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 1005 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1005** 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 1005**, 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 1005** 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 616 ON SECOND READING

Senator Rodriguez moved to suspend the regular order of business to take up for consideration **SB 616** at this time on its second reading:

**SB 616**, Relating to the sale or transportation of certain desert plants; providing a penalty.

The motion prevailed.

Senator Nelson 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 the following vote: Yeas 30, Nays 1.

Nays: Nelson.

#### SENATE BILL 616 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 616** be placed on its third reading and final passage.

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

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

Nays: Nelson, 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 616**, 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 616** 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: Nelson.

### COMMITTEE SUBSTITUTE SENATE BILL 661 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 661** at this time on its second reading:

**CSSB 661**, Relating to the continuation and functions, as applicable, of the Electric Reliability Council of Texas, the Office of Public Utility Counsel, and the Public Utility Commission of Texas and to the transfer of certain functions from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas; imposing administrative penalties.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 661** (senate committee printing) as follows:

(1) In SECTION 1.06 of the bill, in the recital (page 3, line 29), strike "and (g)" and substitute "(g), and (g-1)".

(2) In SECTION 1.06 of the bill, in the recital (page 3, line 30), strike "and (n)" and substitute "(n), (o), (p), and (q)".

(3) In SECTION 1.06 of the bill, in amended Section 39.151(g), Utilities Code (page 4, line 53), between "candidates" and the period, insert "and commission consultation regarding the selection of the chief executive officer or an unaffiliated board member, subject to Subsection (p)".

(4) In SECTION 1.06 of the bill, in amended Section 39.151, Utilities Code (page 5, between lines 14 and 15), insert the following:

(g-1) The presiding officer of the governing body must be one of the members described by Subsection (g)(7) or (8).

(5) In SECTION 1.06 of the bill, in amended Section 39.151, Utilities Code (page 5, between lines 42 and 43), insert the following:

(o) For any reason, the commission may remove a board member selected by the commission under Subsection (g)(1) and the counsellor may remove a board member selected by the counsellor under Subsection (g)(2). The organization's governing body may not remove a member selected by the commission or the counsellor.

(p) Only the governing body of an independent organization may select or remove the organization's chief executive officer or an unaffiliated board member not selected by the commission or the counsellor. The selection or removal of the chief executive officer is not subject to review or approval by the commission. The

commission may not initiate the removal or reappointment of an unaffiliated board member not selected by the commission. The commission may, however, recommend that an unaffiliated board member not be reappointed or be removed for cause by the governing board under Subsection (q).

(q) The governing board may remove a board member not appointed by the commission or the counsellor for cause, including failure to properly perform the member's duties to the independent organization, a violation of a policy or procedure adopted by the governing body, a violation of a law of this state or the United States, or a violation of a commission rule adopted under this section. Notwithstanding any other provision of this section, the commission does not have jurisdiction over and may not review a matter relating to the selection, qualifications, or removal of a member not appointed by the commission or the counsellor.

HEGAR  
BIRDWELL

The amendment to **CSSB 661** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSSB 661** as follows:

(1) On page 5, line 48, strike SECTION 1.08 of the bill and renumber the subsequent sections appropriately.

(2) Page 6, line 46, strike section 1.10 of the bill and renumber the subsequent sections appropriately.

(3) On page 6, line 53, strike SECTION 1.11 of the bill and renumber the subsequent sections appropriately.

(4) On page 6, line 66, strike SECTION 1.12 of the bill and renumber the subsequent sections appropriately.

The amendment to **CSSB 661** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Lucio offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSSB 661** (introduced version) in ARTICLE 1 of the bill by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION 1. Subchapter D, Chapter 38, Utilities Code, is amended by adding Section 38.072 to read as follows:

Sec. 38.072. PRIORITIES FOR POWER RESTORATION TO CERTAIN MEDICAL FACILITIES. (a) In this section:

(1) "Assisted living facility" has the meaning assigned by Section 247.002, Health and Safety Code.

(2) "Extended power outage" has the meaning assigned by Section 13.1395, Water Code.

(3) "Hospice services" has the meaning assigned by Section 142.001, Health and Safety Code.

(4) "Nursing facility" has the meaning assigned by Section 242.301, Health and Safety Code.

(b) The commission by rule shall require an electric utility to give to the following the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage:

(1) a nursing facility;

(2) an assisted living facility; and

(3) a facility that provides hospice services.

(c) The rules adopted by the commission under Subsection (b) must allow an electric utility to exercise the electric utility's discretion to prioritize power restoration for a facility after an extended power outage in accordance with the facility's needs and with the characteristics of the geographic area in which power must be restored.

(d) A municipally owned utility shall report the emergency operations plan for restoring power to a facility listed in Subsection (b) to the municipality's governing body or the body vested with the power to manage and operate the municipally owned utility.

(e) An electric cooperative shall report the emergency operations plan for restoring power to a facility listed in Subsection (b) to the board of directors of the electric cooperative.

SECTION 2. This Act takes effect September 1, 2011.

The amendment to **CSSB 661** was read.

On motion of Senator Nichols, Floor Amendment No. 3 was tabled by the following vote: Yeas 19, Nays 12.

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

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

Senator Davis offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSSB 661** (senate committee report) as follows:

(1) In ARTICLE 1 of the bill, insert the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION \_\_\_\_. (a) Section 39.101, Utilities Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Notwithstanding Subsection (e), to provide a customer with electric service in an area that has implemented customer choice, on request of a retail electric provider, a transmission and distribution utility shall remove a hold or any other restriction that:

- (1) is based on an amount due to another retail electric provider;
- (2) is preventing the customer from receiving electric service; and
- (3) is not related to meter tampering.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2011.

(2) In ARTICLE 4 of the bill, in SECTION 4.01 (page 42, line 62), strike "This" and substitute "Except as otherwise provided by this Act, this".

The amendment to **CSSB 661** was read.

On motion of Senator Nichols, Floor Amendment No. 4 was tabled by the following vote: Yeas 20, Nays 11.

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

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

Senator Davis offered the following amendment to the bill:

#### **Floor Amendment No. 5**

Amend **CSSB 661** (senate committee report) in ARTICLE 1 by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.113 to read as follows:

Sec. 39.113. STANDARD PRODUCT. (a) A retail electric provider shall offer a standard product to each residential customer as provided by this section.

(b) The commission by rule shall establish the terms of the standard product required by this section. The rules must:

- (1) require the product to offer service for 12 months at a fixed rate;
- (2) set any necessary terms or conditions for the product; and
- (3) allow a retail electric provider to set its own price for the product.

(c) A retail electric provider may offer alternative residential service products to its customers in addition to the standard product required by this section.

(d) This section does not affect a retail electric provider's obligation to serve as a provider of last resort under Section 39.106.

(e) A retail electric provider commits a significant violation of this title for the purposes of Section 39.356 if the retail electric provider does not offer to a residential customer the standard product required by this section.

(b) The Public Utility Commission of Texas shall adopt rules to implement Section 39.113, Utilities Code, as added by this section, as soon as practicable after the effective date of this Act.

The amendment to **CSSB 661** was read.

On motion of Senator Nichols, Floor Amendment No. 5 was tabled by the following vote: Yeas 20, Nays 11.

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

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

Senator Davis offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **CSSB 661** (senate committee report) in ARTICLE 1 by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 39.101, Utilities Code, is amended by adding Subsection (i) to read as follows:

(i) The commission shall create a standard written retail service package and related forms that a retail electric provider may use to offer service or provide a description of that service offer. The standard package and related forms must:

(1) include a standard font size, typeface, and page limit;

(2) offer service for at least 12 months;

(3) charge a fixed price per kilowatt hour throughout the term of the offered service period; and

(4) not include a fee that the commission does not require a retail electric provider to charge.

The amendment to **CSSB 661** was read.

On motion of Senator Nichols, Floor Amendment No. 6 was tabled by the following vote: Yeas 20, Nays 11.

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

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

Senator Davis offered the following amendment to the bill:

### **Floor Amendment No. 7**

Amend **CSSB 661** (committee printing) in ARTICLE 1 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. \_\_\_. Section 36.351, Utilities Code, is reenacted and amended to read as follows:

Sec. 36.351. DISCOUNTED RATES FOR CERTAIN SCHOOLS AND INSTITUTIONS OF HIGHER EDUCATION. (a) Notwithstanding any other provision of this title, each electric utility and transmission and distribution utility and, except as provided by Subsection (d-1), each municipally owned utility shall discount

charges for electric service provided to a facility of a four-year state university, upper-level institution, Texas State Technical College, junior ~~[or]~~ college, independent school district, or open-enrollment charter school.

(b) The discount is a 20-percent reduction of the utility's base rates that would otherwise be paid under the applicable tariffed rate. The discount shall be provided either directly to an educational entity described by Subsection (a) or to a retail electric provider that also provides service to the educational entity.

(b-1) A retail electric provider that receives a discount under Subsection (b) shall apply the discount to an educational entity described by Subsection (a) as a credit in an amount equal to the amount of the discount. The commission may suspend, revoke, or amend the certificate of a retail electric provider that does not apply the discount as required by this subsection. The commission shall impose an administrative penalty on a retail electric provider that does not apply the discount as required by this subsection.

(c) An electric or municipally owned utility is exempt from this section if the 20-percent discount results in a reduction equal to more than one percent of the utility's total annual revenues.

(d) A municipally owned utility is exempt from this section if the municipally owned utility, on September 1, 1995, discounted base commercial rates for electric service provided to all four-year state universities or colleges in its service area by 20 percent or more.

(d-1) A municipally owned utility is exempt from the requirement to discount charges for electric service provided to a junior college, independent school district, or open-enrollment charter school.

(e) This section does not apply to a rate charged to an institution of higher education by a municipally owned utility that provides a discounted rate to the state for electric services below rates in effect on January 1, 1995, if the discounted rate provides a greater financial discount to the state than is provided to the institution of higher education through the discount provided by this section.

(f) An investor-owned electric utility may not recover from residential customers or any other customer class the assigned and allocated costs of serving an educational entity ~~[a state university or college]~~ that receives a discount under this section. After September 1, 2011, an investor-owned electric utility is subject to the requirements of this subsection unless a regulatory authority authorizes other ratemaking treatment.

(g) Each electric utility shall file tariffs with the commission reflecting the discount required under this section. The initial tariff filing is not a rate change for purposes of Subchapter C.

(h) This section has been in full force and effect since September 1, 1995, as to the discount required for electric service provided by an electric utility, including a transmission and distribution utility, or a municipally owned utility to a facility of a four-year state university, upper-level institution, Texas State Technical College, or college. Neither Section 63, Chapter 405 (S.B. 7), Acts of the 76th Legislature, Regular Session, 1999, nor the decision of the commission in the commission's Docket No. 35717 or any other ruling or order by the commission terminated or

excused the continuing obligation of a transmission and distribution utility, any other electric utility, or a municipally owned utility to provide the discounts required by this section.

The amendment to **CSSB 661** was read.

On motion of Senator Nichols, Floor Amendment No. 7 was tabled by the following vote: Yeas 20, Nays 11.

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

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

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

**CSSB 661** 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 661 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 661** 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 661**, 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 661** 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 18 WITH HOUSE AMENDMENTS

Senator Estes called **SB 18** from the President's table for consideration of the House amendments to the bill.

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

#### Amendment

Amend **SB 18** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the use of eminent domain authority.

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

SECTION 1. Chapter 2206, Government Code, is amended to read as follows:

#### CHAPTER 2206. ~~LIMITATIONS ON USE OF~~ EMINENT DOMAIN SUBCHAPTER A. LIMITATIONS ON PURPOSE AND USE OF PROPERTY ACQUIRED THROUGH EMINENT DOMAIN

Sec. 2206.001. LIMITATION ON EMINENT DOMAIN FOR PRIVATE PARTIES OR ECONOMIC DEVELOPMENT PURPOSES. (a) This section applies to the use of eminent domain under the laws of this state, including a local or special law, by any governmental or private entity, including:

(1) a state agency, including an institution of higher education as defined by Section 61.003, Education Code;

(2) a political subdivision of this state; or

(3) a corporation created by a governmental entity to act on behalf of the entity.

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party; ~~or~~

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

(4) is not for a public use.

(c) This section does not affect the authority of an entity authorized by law to take private property through the use of eminent domain for:

(1) transportation projects, including, but not limited to, railroads, airports, or public roads or highways;

(2) entities authorized under Section 59, Article XVI, Texas Constitution, including:

- (A) port authorities;
- (B) navigation districts; and
- (C) any other conservation or reclamation districts that act as ports;
- (3) water supply, wastewater, flood control, and drainage projects;
- (4) public buildings, hospitals, and parks;
- (5) the provision of utility services;
- (6) a sports and community venue project approved by voters at an election held on or before December 1, 2005, under Chapter 334 or 335, Local Government Code;

(7) the operations of:

(A) a common carrier pipeline ~~[subject to Chapter 111, Natural Resources Code, and Section B(3)(b), Article 2.01, Texas Business Corporation Act];~~  
or

(B) an energy transporter, as that term is defined by Section 186.051, Utilities Code;

(8) a purpose authorized by Chapter 181, Utilities Code;

(9) underground storage operations subject to Chapter 91, Natural Resources Code;

(10) a waste disposal project; or

(11) a library, museum, or related facility and any infrastructure related to the facility.

(d) This section does not affect the authority of a governmental entity to condemn a leasehold estate on property owned by the governmental entity.

(e) The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or circumstance.

Sec. 2206.002. LIMITATIONS ON EASEMENTS. (a) This section applies only to an easement acquired by an entity for the purpose of a pipeline to be used for oil or gas exploration or production activities.

(b) A property owner whose property is acquired through the use of eminent domain under Chapter 21, Property Code, for the purpose of creating an easement through that owner's property may construct streets or roads, including gravel, asphalt, or concrete streets or roads, at any locations above the easement that the property owner chooses.

(c) The portion of a street or road constructed under this section that is within the area covered by the easement:

(1) must cross the easement at or near 90 degrees; and

(2) may not:

(A) exceed 40 feet in width;

(B) cause a violation of any applicable pipeline regulation; or

(C) interfere with the operation and maintenance of any pipeline.

(d) At least 30 days before the date on which construction of an asphalt or concrete street or road that will be located wholly or partly in an area covered by an easement used for a pipeline is scheduled to begin, the property owner must submit plans for the proposed construction to the owner of the easement.

SUBCHAPTER B. PROCEDURES REQUIRED TO INITIATE  
EMINENT DOMAIN PROCEEDINGS

Sec. 2206.051. SHORT TITLE. This subchapter may be cited as the Truth in Condemnation Procedures Act.

Sec. 2206.052. APPLICABILITY. The procedures in this subchapter apply only to the use of eminent domain under the laws of this state by a governmental entity.

Sec. 2206.053. VOTE ON USE OF EMINENT DOMAIN. (a) Before a governmental entity initiates a condemnation proceeding by filing a petition under Section 21.012, Property Code, the governmental entity must:

(1) authorize the initiation of the condemnation proceeding at a public meeting by a record vote; and

(2) include in the notice for the public meeting as required by Subchapter C, Chapter 551, in addition to other information as required by that subchapter:

(A) the consideration of the use of eminent domain to condemn property as an agenda item; and

(B) a map of the general area or general route that may be affected by the condemnation proceeding.

(b) A single ordinance, resolution, or order may be adopted for all units of property to be condemned if:

(1) the motion required by Subsection (e) indicates that the first record vote applies to all units of property to be condemned; and

(2) the minutes of the governmental entity reflect that the first vote applies to all of those units.

(c) If more than one member of the governing body objects to adopting a single ordinance, resolution, or order by a record vote for all units of property for which condemnation proceedings are to be initiated, a separate record vote must be taken for each unit of property.

(d) For the purposes of Subsections (a) and (c), if two or more units of real property are owned by the same person, the governmental entity may treat those units of property as one unit of property.

(e) The motion to adopt an ordinance, resolution, or order authorizing the initiation of condemnation proceedings under Chapter 21, Property Code, must be made in a form substantially similar to the following: "I move that the (name of governmental entity) authorize the use of the power of eminent domain to acquire (describe the property) for (describe the public use)." The description of the property required by this subsection is sufficient if the description of the location of and interest in the property that the governmental entity seeks to acquire is substantially similar to the description that is or could properly be used in a petition to condemn the property under Section 21.012, Property Code.

(f) If a project for a public use described by Section 2206.001(c)(3) will require a governmental entity to acquire multiple tracts or units of property to construct facilities connecting one location to another location, the governing body of the

governmental entity may adopt a single ordinance, resolution, or order by a record vote that delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity.

(g) An ordinance, resolution, or order adopted under Subsection (f) is not required to identify specific properties that the governmental entity will acquire. The ordinance, resolution, or order must identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project.

#### SUBCHAPTER C. SUSPENSION OF CERTAIN EMINENT DOMAIN AUTHORITY

Sec. 2206.101. REPORT OF EMINENT DOMAIN AUTHORITY; SUSPENSION OF AUTHORITY. (a) This section does not apply to an entity that was created or that acquired the power of eminent domain on or after December 31, 2012.

(b) Not later than December 31, 2012, an entity, including a private entity, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the comptroller a letter stating that the entity is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the entity that authority. The entity must send the letter by certified mail, return receipt requested.

(c) The authority of an entity to exercise the power of eminent domain is suspended beginning September 1, 2013, if the entity does not submit a letter required by Subsection (b) on or before that date, and remains suspended until the entity submits the letter.

(d) Not later than March 1, 2013, the comptroller shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officers of the appropriate standing committees of the senate and the house of representatives, and the Texas Legislative Council a report that contains:

(1) the name of each entity that submitted a letter in accordance with this section; and

(2) a corresponding list of the provisions granting eminent domain authority as identified by each entity that submitted a letter.

SECTION 2. Section 21.0111, Property Code, is amended to read as follows:

Sec. 21.0111. DISCLOSURE OF CERTAIN INFORMATION REQUIRED; INITIAL OFFER. (a) An ~~[A governmental]~~ entity with eminent domain authority that wants to acquire real property for a public use shall, by certified mail, return receipt requested, disclose to the property owner at the time an offer to purchase or lease the property is made any and all ~~[existing]~~ appraisal reports produced or acquired by the ~~[governmental]~~ entity relating specifically to the owner's property and prepared in the 10 years preceding the date of the ~~[used in determining the final valuation]~~ offer.

(b) A property owner shall disclose to the ~~[acquiring governmental]~~ entity seeking to acquire the property any and all current and existing appraisal reports produced or acquired by the property owner relating specifically to the owner's property and used in determining the owner's opinion of value. Such disclosure shall take place not later than the earlier of:

(1) the 10th day after the date ~~[within 10 days]~~ of receipt of an appraisal report; or

(2) the third business day before the date of a special commissioner's hearing if an appraisal report is to be used at the ~~[reports but no later than 10 days prior to the special commissioner's]~~ hearing.

(c) An entity seeking to acquire property that the entity is authorized to obtain through the use of eminent domain may not include a confidentiality provision in an offer or agreement to acquire the property. The entity shall inform the owner of the property that the owner has the right to:

(1) discuss any offer or agreement regarding the entity's acquisition of the property with others; or

(2) keep the offer or agreement confidential, unless the offer or agreement is subject to Chapter 552, Government Code.

(d) A subsequent bona fide purchaser for value from the ~~acquiring governmental]~~ entity may conclusively presume that the requirement of this section has been met. This section does not apply to acquisitions of real property for which an ~~a governmental]~~ entity does not have eminent domain authority.

SECTION 3. Subchapter B, Chapter 21, Property Code, is amended by adding Sections 21.0113 and 21.0114 to read as follows:

Sec. 21.0113. BONA FIDE OFFER REQUIRED. (a) An entity with eminent domain authority that wants to acquire real property for a public use must make a bona fide offer to acquire the property from the property owner voluntarily.

(b) An entity with eminent domain authority has made a bona fide offer if:

(1) an initial offer is made in writing to a property owner;

(2) a final offer is made in writing to the property owner;

(3) the final offer is made on or after the 30th day after the date on which the entity makes a written initial offer to the property owner;

(4) before making a final offer, the entity obtains a written appraisal from a certified appraiser of the value of the property being acquired and the damages, if any, to any of the property owner's remaining property;

(5) the final offer is equal to or greater than the amount of the written appraisal obtained by the entity;

(6) the following items are included with the final offer or have been previously provided to the owner by the entity:

(A) a copy of the written appraisal;

(B) a copy of the deed, easement, or other instrument conveying the property sought to be acquired; and

(C) the landowner's bill of rights statement prescribed by Section 21.0112; and

(7) the entity provides the property owner with at least 14 days to respond to the final offer and the property owner does not agree to the terms of the final offer within that period.

Sec. 21.0114. NOTICE TO COUNTY OF CONDEMNATION FOR PIPELINE.

Before a private entity with eminent domain authority begins negotiating with a property owner to acquire real property for the purpose of a pipeline, the entity must provide the commissioners court of a county in which the property to be acquired is located notice of the proposed route for the pipeline in that county.

SECTION 4. Section 21.012, Property Code, is amended to read as follows:

Sec. 21.012. CONDEMNATION PETITION. (a) If an entity [the United States, this state, a political subdivision of this state, a corporation] with eminent domain authority [, or an irrigation, water improvement, or water power control district created by law] wants to acquire real property for public use but is unable to agree with the owner of the property on the amount of damages, the [condemning] entity may begin a condemnation proceeding by filing a petition in the proper court.

(b) The petition must:

- (1) describe the property to be condemned;
- (2) state with specificity the public use [purpose] for which the entity intends to acquire [use] the property;
- (3) state the name of the owner of the property if the owner is known;
- (4) state that the entity and the property owner are unable to agree on the damages; [and]
- (5) if applicable, state that the entity provided the property owner with the landowner's bill of rights statement in accordance with Section 21.0112; and
- (6) state that the entity made a bona fide offer to acquire the property from the property owner voluntarily as provided by Section 21.0113.

(c) An entity that files a petition under this section must provide a copy of the petition to the property owner by certified mail, return receipt requested.

SECTION 5. Subsection (a), Section 21.014, Property Code, is amended to read as follows:

(a) The judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned shall appoint three disinterested real property owners [freeholders] who reside in the county as special commissioners to assess the damages of the owner of the property being condemned. The judge appointing the special commissioners shall give preference to persons agreed on by the parties. The judge shall provide each party a reasonable period to strike one of the three commissioners appointed by the judge. If a person fails to serve as a commissioner or is struck by a party to the suit, the judge shall [may] appoint a replacement.

SECTION 6. Subsection (a), Section 21.015, Property Code, is amended to read as follows:

(a) The special commissioners in an eminent domain proceeding shall promptly schedule a hearing for the parties at the earliest practical time but may not schedule a hearing to assess damages before the 20th day after the date the special commissioners were appointed. The special commissioners shall schedule a hearing for the parties [and] at a place that is as near as practical to the property being condemned or at the county seat of the county in which the proceeding is being held.

SECTION 7. Subsection (b), Section 21.016, Property Code, is amended to read as follows:

(b) Notice of the hearing must be served on a party not later than the 20th ~~[14th]~~ day before the day set for the hearing. A person competent to testify may serve the notice.

SECTION 8. Section 21.023, Property Code, is amended to read as follows:

Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF ACQUISITION. An [A governmental] entity with eminent domain authority shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:

(1) the owner or the owner's heirs, successors, or assigns may be [are] entitled to:

(A) repurchase the property under Subchapter E [if the public use for which the property was acquired through eminent domain is canceled before the 10th anniversary of the date of acquisition]; or

(B) request from the entity certain information relating to the use of the property and any actual progress made toward that use; and

(2) the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain [fair market value of the property at the time the public use was canceled].

SECTION 9. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.025 to read as follows:

Sec. 21.025. PRODUCTION OF INFORMATION BY CERTAIN ENTITIES.

(a) Notwithstanding any other law, an entity that is not subject to Chapter 552, Government Code, and is authorized by law to acquire private property through the use of eminent domain is required to produce information as provided by this section if the information is:

(1) requested by a person who owns property that is the subject of a proposed or existing eminent domain proceeding; and

(2) related to the taking of the person's private property by the entity through the use of eminent domain.

(b) An entity described by Subsection (a) is required under this section only to produce information relating to the condemnation of the specific property owned by the requestor as described in the request. A request under this section must contain sufficient details to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) The entity shall respond to a request in accordance with the Texas Rules of Civil Procedure as if the request was made in a matter pending before a state district court.

(d) Exceptions to disclosure provided by this chapter and the Texas Rules of Civil Procedure apply to the disclosure of information under this section.

(e) Jurisdiction to enforce the provisions of this section resides in:

(1) the court in which the condemnation was initiated; or

(2) if the condemnation proceeding has not been initiated:

(A) a court that would have jurisdiction over a proceeding to condemn the requestor's property; or

(B) a court with eminent domain jurisdiction in the county in which the entity has its principal place of business.

(f) If the entity refuses to produce information requested in accordance with this section and the court determines that the refusal violates this section, the court may award the requestor's reasonable attorney's fees incurred to compel the production of the information.

SECTION 10. Subsection (d), Section 21.042, Property Code, is amended to read as follows:

(d) In estimating injury or benefit under Subsection (c), the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuity of travel and diversion of traffic. In this subsection, "direct access" means ingress and egress on or off a public road, street, or highway at a location where the remaining property adjoins that road, street, or highway.

SECTION 11. Subsections (a) and (b), Section 21.046, Property Code, are amended to read as follows:

(a) A department, agency, instrumentality, or political subdivision of this state shall ~~may~~ provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that ~~if the service~~ is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [~~Advisory Program~~], 42 U.S.C.A. 4601 [23 U.S.C.A. 501], et seq.

(b) This state or a political subdivision of this state shall ~~may~~, as a cost of acquiring real property, pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.

SECTION 12. The heading to Section 21.047, Property Code, is amended to read as follows:

Sec. 21.047. ASSESSMENT OF COSTS AND FEES.

SECTION 13. Section 21.047, Property Code, is amended by adding Subsection (d) to read as follows:

(d) If a court hearing a suit under this chapter determines that a condemnor did not make a bona fide offer to acquire the property from the property owner voluntarily as required by Section 21.0113, the court shall abate the suit, order the condemnor to make a bona fide offer, and order the condemnor to pay:

(1) all costs as provided by Subsection (a); and

(2) any reasonable attorney's fees and other professional fees incurred by the property owner that are directly related to the violation.

SECTION 14. Subchapter C, Chapter 21, Property Code, is amended by adding Section 21.0471 to read as follows:

Sec. 21.0471. ATTORNEY'S FEES AND OTHER PROFESSIONAL FEES. If the special commissioners or a court awards damages in a condemnation proceeding in an amount that is greater than 110 percent of the amount of damages the condemnor offered to pay before the proceedings began, the commissioners or the court shall award reasonable attorney's fees and other professional fees to the property owner in addition to costs awarded under Section 21.047.

SECTION 15. Subchapter E, Chapter 21, Property Code, is amended to read as follows:

SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM  
CONDEMNING [GOVERNMENTAL] ENTITY

Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A person from whom [Except as provided in Subsection (b), this subchapter applies only to] a real property interest is acquired by an [a governmental] entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by this subchapter if:

(1) the public use for which the property was acquired through eminent domain is [that was] canceled before the property is used for that public use;

(2) no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or

(3) the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) In this section, "actual progress" means the completion of two or more of the following actions:

(1) the performance of a significant amount of labor to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(2) the provision of a significant amount of materials to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(3) the hiring of and performance of a significant amount of work by an architect, engineer, or surveyor to prepare a plan or plat that includes the property or other property acquired for the same public use project for which the property owner's property was acquired;

(4) application for state or federal funds to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(5) application for a state or federal permit to develop the property or other property acquired for the same public use project for which the property owner's property was acquired;

(6) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner's property was acquired;  
or

(7) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one action described by Subdivisions (1)-(6) before the 10th anniversary of the date of acquisition of the property ~~[This subchapter does not apply to a right of way under the jurisdiction of:~~  
~~(1) a county;~~  
~~(2) a municipality; or~~  
~~(3) the Texas Department of Transportation].~~

(c) A district court may determine all issues in any suit regarding the repurchase of a real property interest acquired through eminent domain by the former property owner or the owner's heirs, successors, or assigns.

Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED ~~[AT TIME OF CANCELLATION OF PUBLIC USE].~~ Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property under Section 21.101 ~~[of the cancellation of the public use for which real property was acquired through eminent domain from a property owner under Subchapter B],~~ the ~~[governmental]~~ entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing:

(1) an identification, which is not required to be a legal description, of the property that was acquired;

(2) an identification of the public use for which the property had been acquired and a statement that:

(A) the public use was [has been] canceled before the property was used for the public use;

(B) no actual progress was made toward the public use; or

(C) the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition;  
 and

(3) a description of the person's right under this subchapter to repurchase the property.

Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED PROPERTY. (a) On or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a property owner or the owner's heirs, successors, or assigns may request that the condemning entity make a determination and provide a statement and other relevant information regarding:

(1) whether the public use for which the property was acquired was canceled before the property was used for the public use;

(2) whether any actual progress was made toward the public use between the date of acquisition and the 10th anniversary of that date, including an itemized description of the progress made, if applicable; and

(3) whether the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

(b) A request under this section must contain sufficient detail to allow the entity to identify the specific tract of land in relation to which the information is sought.

(c) Not later than the 90th day following the date of receipt of the request for information, the entity shall send a written response by certified mail, return receipt requested, to the requestor.

Sec. 21.1022. LIMITATIONS PERIOD FOR REPURCHASE RIGHT. Notwithstanding Section 21.103, the right to repurchase provided by this subchapter is extinguished on the first anniversary of the expiration of the period for an entity to provide notice under Section 21.102 if the entity:

(1) is required to provide notice under Section 21.102;

(2) makes a good faith effort to locate and provide notice to each person entitled to notice before the expiration of the deadline for providing notice under that section; and

(3) does not receive a response to any notice provided under that section in the period for response prescribed by Section 21.103.

Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later than the 180th day after the date of the postmark on a ~~the~~ notice sent under Section 21.102 or a response to a request made under Section 21.1021 that indicates that the property owner, or the owner's heirs, successors, or assigns, is entitled to repurchase the property interest in accordance with Section 21.101, the property owner or the owner's heirs, successors, or assigns must notify the ~~governmental~~ entity of the person's intent to repurchase the property interest under this subchapter.

(b) As soon as practicable after receipt of a notice of intent to repurchase ~~the notification~~ under Subsection (a), the ~~governmental~~ entity shall offer to sell the property interest to the person for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain ~~[fair market value of the property at the time the public use was canceled]~~. The person's right to repurchase the property expires on the 90th day after the date on which the ~~governmental~~ entity makes the offer.

SECTION 16. Section 202.021, Transportation Code, is amended by adding Subsection (j) to read as follows:

(j) The standard for determination of the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that is applied by the commission in the:

(1) acquisition of access rights under Subchapter D, Chapter 203; and

(2) payment of damages in the exercise of the authority, under Subchapter C, Chapter 203, for impairment of highway access to or from real property where the real property adjoins the highway.

SECTION 17. Section 54.209, Water Code, is amended to read as follows:

Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A district may not exercise the power of eminent domain outside the district boundaries to acquire:

(1) a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal plant;

(2) a site for a park, swimming pool, or other recreational facility, as defined by Section 49.462 ~~[except a trail]~~;

(3) ~~[a site for a trail on real property designated as a homestead as defined by Section 41.002, Property Code; or~~

~~[(4)] an exclusive easement through a county regional park; or~~

(4) a site or easement for a road project.

SECTION 18. Section 1, Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. Except as provided by this section, and notwithstanding any other law, any [Any] nonprofit corporation incorporated under the laws of this state for purely charitable purposes and which is directly affiliated or associated with a medical center having a medical school recognized by the Council on Medical Education and Hospitals of the American Medical Association as an integral part of its establishment, and which has for a purpose of its incorporation the provision or support of medical facilities or services for the use and benefit of the public, and which is situated in any county of this state having a population in excess of six hundred thousand (600,000) inhabitants according to the most recent Federal Census shall have the power of eminent domain and condemnation for the purposes set forth in Section 2 and Section 3 of this Act. A charitable corporation described by this section may not exercise the power of eminent domain and condemnation to acquire a detached, single-family residential property or a multifamily residential property that contains eight or fewer dwelling units.

SECTION 19. (a) Section 552.0037, Government Code, is repealed.

(b) Section 21.024, Property Code, is repealed.

SECTION 20. Chapter 2206, Government Code, Chapter 21, Property Code, and Section 1, Chapter 178 (S.B. 289), Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), as amended by this Act, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding are governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 21. The change in law made by this Act to Section 202.021, Transportation Code, applies only to a sale or transfer under that section that occurs on or after the effective date of this Act. A sale or transfer that occurs before the effective date of this Act is governed by the law applicable to the sale or transfer immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 22. The changes in law made by this Act to Section 54.209, Water Code, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act. A condemnation proceeding in which the petition is filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and that law is continued in effect for that purpose.

SECTION 23. This Act takes effect September 1, 2011.

#### **Floor Amendment No. 4**

Amend **CSSB 18** on page 4, between lines 18 and 19 by adding a new subsection to read as follows:

(e) Notwithstanding the provisions of this section, a property owner and the owner of the easement may agree to terms other than those stated in subsection (c).

**Floor Amendment No. 8**

Amend **CSSB 18** (house committee printing) in SECTION 3 of the bill as follows:

(1) In the recital (page 9, line 14), strike "Sections 21.0113 and 21.0114" and substitute "Sections 21.0113, 21.0114, and 21.0115".

(2) After added Section 21.0114, Property Code (page 10, between lines 23 and 24), insert the following:

Sec. 21.0115. RIGHT TO RESCIND AGREEMENT. On or before the third day after the date on which a property owner enters into an agreement with an entity with eminent domain authority for the entity to acquire the owner's property for a public use from the property owner voluntarily, the property owner may rescind the agreement.

**Floor Amendment No. 13**

Amend **CSSB 18** (house committee printing) in SECTION 3 of the bill, in added Section 21.0113(b), Property Code (page 10, lines 1-4), by striking Subdivision (4) and substituting the following:

(4) before making a final offer, the entity obtains a written appraisal from an independent and certified appraiser of the value of the property being acquired and the damages, if any, to any of the property owner's remaining property;

**Floor Amendment No. 14**

Amend Isaac Amendment No. 13 to **CSSB 18** (page 44, pre-filed amendment packet), on line 6 between "appraiser" and "of", by inserting "not employed by the entity".

**Floor Amendment No. 15**

Amend **CSSB 18** (house committee printing) as follows:

(1) In SECTION 8 of the bill, in amended Section 21.023(2), Property Code (page 13, lines 14-15), strike "~~[fair market value of the property at the time the public use was canceled]~~" and substitute "or the fair market value of the property at the time the property owner becomes entitled to repurchase the property, whichever is less [public use was canceled]".

(2) In SECTION 15 of the bill, in amended Section 21.101(a)(2), Property Code (page 17, line 16), strike "or".

(3) In SECTION 15 of the bill, in amended Section 21.101(a)(3), Property Code (page 17, line 19), between "acquisition" and the period, insert the following:

; or

(4) the initial use of the property is not the public use for which the property was acquired

(4) In SECTION 15 of the bill, in amended Section 21.102, Property Code (page 19, lines 6-7), strike "an entity that acquired a real property interest through eminent domain determines".

(5) In SECTION 15 of the bill, strike amended Section 21.102(2), Property Code (page 19, lines 16-24), and substitute the following:

(2) an identification of the public use for which the property had been acquired, ~~and~~ a statement that the person has a right to repurchase the property under this subchapter, and an explanation of the reason under this subchapter the person has acquired the right to repurchase the property ~~[the public use has been canceled]~~; and

(6) In SECTION 15 of the bill, in added Section 21.1021(a), Property Code (page 20, lines 1-3), strike "On or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a" and substitute "A".

(7) In SECTION 15 of the bill, in added Section 21.1021(a)(2), Property Code (page 20, line 12), strike "; and" and substitute ";".

(8) In SECTION 15 of the bill, in added Section 21.1021(a)(3), Property Code (page 20, line 15), between "acquisition" and the period, insert the following: ; and

(4) whether the initial use of the property was the public use for which the property was acquired

(9) In SECTION 15 of the bill, in amended Section 21.103(b), Property Code (page 21, lines 22-24), strike "[fair market value of the property at the time the public use was canceled]" and substitute "or the fair market value of the property at the time the property owner becomes entitled to repurchase the property, whichever is less [public use was canceled]".

#### **Floor Amendment No. 17**

Amend **CSSB 18** (house committee printing) in SECTION 14 of the bill, in added Section 21.0471, Property Code (page 16, lines 24-25), by striking "offered to pay before the proceedings began" and substituting "offered in a final offer made under Section 21.0113".

#### **Floor Amendment No. 18**

Amend **CSSB 18** (house committee printing) as follows:

(1) In SECTION 20 of the bill (page 23, line 24), strike "Chapter 2206, Government Code," and substitute "Section 11.155, Education Code, Chapter 2206, Government Code, Sections 251.001, 261.001, 263.201, and 273.002, Local Government Code,".

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

SECTION \_\_\_\_\_. Section 11.155(a), Education Code, is amended to read as follows:

(a) An independent school district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property ~~[for the purpose of securing sites]~~ on which to construct school buildings or for any other public use ~~[purpose]~~ necessary for the district.

SECTION \_\_\_\_\_. Section 251.001(a), Local Government Code, is amended to read as follows:

(a) When the governing body of a municipality considers it necessary, the municipality may exercise the right of eminent domain for a public use ~~[purpose]~~ to acquire public or private property, whether located inside or outside the municipality, for any of the following uses ~~[purposes]~~:

(1) the providing, enlarging, or improving of a municipally owned city hall; police station; jail or other law enforcement detention facility; fire station; library; school or other educational facility; academy; auditorium; hospital; sanatorium; market house; slaughterhouse; warehouse; elevator; railroad terminal; airport; ferry; ferry landing; pier; wharf; dock or other shipping facility; loading or unloading facility; alley, street, or other roadway; park, playground, or other recreational facility; square; water works system, including reservoirs, other water supply sources, watersheds, and water storage, drainage, treatment, distribution, transmission, and emptying facilities; sewage system including sewage collection, drainage, treatment, disposal, and emptying facilities; electric or gas power system; cemetery; and crematory;

(2) the determining of riparian rights relative to the municipal water works;

(3) the straightening or improving of the channel of any stream, branch, or drain;

(4) the straightening, widening, or extending of any alley, street, or other roadway; and

(5) ~~for~~ any other municipal public use ~~[purpose]~~ the governing body considers advisable.

SECTION \_\_\_\_\_. Section 261.001(a), Local Government Code, is amended to read as follows:

(a) A county may exercise the right of eminent domain to condemn and acquire land, an easement in land, or a right-of-way if the acquisition is necessary for the construction of a jail, courthouse, hospital, or library, or for another public use ~~[purpose]~~ authorized by law.

SECTION \_\_\_\_\_. Section 263.201(c), Local Government Code, is amended to read as follows:

(c) The declaration of taking must contain:

(1) a declaration that the land or interest in land described in the original petition is taken for a public use ~~[purpose]~~ and for ultimate conveyance to the United States;

(2) a description of the land sufficient for the identification of the land;

(3) a statement of the estate or interest in the land being taken;

(4) a statement of the public use to be made of the land;

(5) a plan showing the land being taken; and

(6) a statement of the amount of damages awarded by the special commissioners, or by the jury on appeal, for the taking of the land.

SECTION \_\_\_\_\_. Section 273.002, Local Government Code, is amended to read as follows:

Sec. 273.002. CONDEMNATION. Condemnation of property under this chapter shall be in accordance with state law relating to eminent domain, which may be Chapter 21, Property Code, or any other state law governing and relating to the condemnation of land for public use ~~[purposes]~~ by a municipality.

#### **Floor Amendment No. 24**

Amend **CSSB 18** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 402.031(b), Government Code, is amended to read as follows:

(b) The landowner's bill of rights must notify each property owner that the property owner has the right to:

- (1) notice of the proposed acquisition of the owner's property;
- (2) a bona fide good faith effort to negotiate by the entity proposing to acquire the property;
- (3) an assessment of damages to the owner that will result from the taking of the property;

(4) a hearing under Chapter 21, Property Code, including a hearing on the assessment of damages; ~~and~~

(5) an appeal of a judgment in a condemnation proceeding, including an appeal of an assessment of damages; and

(6) request that a governmental entity that condemns the property owner's property provide to the property owner all documentation required under Chapter 21, Property Code, in a language used for providing voting materials for a county election in the county in which the property is located as required by the Voting Rights Language Assistance Act of 1992 (42 U.S.C. Section 1973aa-1a), in addition to providing the documentation in English.

SECTION \_\_\_\_\_. Section 21.0112, Property Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The statement must ~~be~~:

(1) ~~be~~ printed in an easily readable font and type size; and

(2) ~~if~~ the entity is a governmental entity:

(A) ~~be~~ ~~[ ]~~ made available on the Internet website of the entity if technologically feasible; and

(B) include a provision informing the property owner that the entity is required to provide all documents and written information required under this chapter to be provided to the property owner in English, and if requested by the property owner, in a language used for providing voting materials for a county election in the county in which the property is located as required by the Voting Rights Language Assistance Act of 1992 (42 U.S.C. Section 1973aa-1a).

(c) A governmental entity shall provide to a property owner all documents and written information required under this chapter to be provided to the property owner in English, and if requested by the property owner, in a language used for providing voting materials for a county election in the county in which the property is located as required by the Voting Rights Language Assistance Act of 1992 (42 U.S.C. Section 1973aa-1a).

### Floor Amendment No. 25

Amend Amendment No. 24 by Johnson to **CSSB 18** (page 68 of the amendment packet) as follows:

(1) On page 1, lines 19 and 20, strike "all documentation required under Chapter 21" and substitute "the documents listed in Section 21.0112(c)".

(2) On page 2 of the amendment, line 9, between "owner," and "in," insert "provide the documents listed in Subsection (c)".

(3) On page 2, strike lines 13 through 19, and substitute the following:

(c) A governmental entity shall provide to a property owner all documents and written information required under this chapter to be provided to a property owner in English, and if requested by the property owner, provide the following documents in a language used for providing voting materials for a county election in the county in which the property is located as required by the Voting Rights Language Assistance Act of 1992 (42 U.S.C. Section 1973aa-1a), in addition to providing the documentation in English:

(1) the landowner's bill of rights;

(2) the notice of hearing required by Section 21.016, Property Code;

(3) the disclosures required at the time of acquisition by Section 21.023, Property Code; and

(4) the condemnation petition filed under Section 21.012, Property Code.

### **Floor Amendment No. 26**

Amend Amendment No. 8 by Phillips to **CSSB 18** (page 43 of the amendment packet) on page 1, line 13, between "agreement" and the period, by inserting "if the property owner was not represented by an attorney with respect to entering into the agreement".

The amendments were read.

Senator Estes moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer, Senator Eltife in Chair, asked if there were any motions to instruct the conference committee on **SB 18** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Duncan, Whitmire, Lucio, and Harris.

### **SENATE BILL 1342 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **SB 1342** at this time on its second reading:

**SB 1342**, Relating to the use of bingo proceeds by licensed authorized organizations, including the use of proceeds to provide health insurance or health insurance benefits to certain employees.

The motion prevailed.

Senator Nelson 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: Nelson.

**SENATE BILL 1342 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 1342** be placed on its third reading and final passage.

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

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

Nays: Nelson, 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 1342**, 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 1342** 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: Nelson.

**SENATE BILL 49 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **SB 49** at this time on its second reading:

**SB 49**, Relating to school district requirements regarding parental notification and documentation in connection with disciplinary alternative education programs.

The motion 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 49 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 49** 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 49**, 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 49** 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.

### **COMMITTEE SUBSTITUTE SENATE BILL 1048 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 1048** at this time on its second reading:

**CSSB 1048**, Relating to the creation of public and private facilities and infrastructure.

The motion prevailed.

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

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1048** on Page 1, Line 35-36 by deleting the following:

(B) a political subdivision of this state, including a municipality, a county, or any kind of district.

And replacing with:

(B) a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision.

The amendment to **CSSB 1048** 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 Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1048** 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.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1048 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1048** be placed on its third reading and final passage.

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

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

Nays: 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 **CSSB 1048**, 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 1048** 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: Nichols.

#### COMMITTEE SUBSTITUTE SENATE BILL 1086 ON SECOND READING

Senator Estes moved to suspend the regular order of business to take up for consideration **CSSB 1086** at this time on its second reading:

**CSSB 1086**, Relating to the operation by the Department of Agriculture of programs for rural economic development and the marketing and promotion of agricultural and other products grown, processed, or produced in this state.

The motion prevailed.

Senators Fraser 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: Fraser, Patrick.

#### COMMITTEE SUBSTITUTE SENATE BILL 1086 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1086** 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, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, 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 1086**, 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 1086** 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, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Fraser, Patrick.

### **COMMITTEE SUBSTITUTE SENATE BILL 860 ON SECOND READING**

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 860** at this time on its second reading:

**CSSB 860**, Relating to the authority of the El Paso County Hospital District to appoint, contract for, or employ physicians, dentists, and other health care providers.

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

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 860 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 **CSSB 860** 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 860**, 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 860** 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 1134 ON SECOND READING**

Senator Hegar moved to suspend the regular order of business to take up for consideration **CSSB 1134** at this time on its second reading:

**CSSB 1134**, Relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.

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

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

Nays: Gallegos, Watson.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1134** (senate committee printing), in SECTION 1 of the bill, between added Sections 382.051961 and 382.051962, Health and Safety Code (page 1, between lines 48 and 49), by inserting the following:

(c) The air quality monitoring data and the evaluation of that data under Subsection (b):

(1) must be relevant and technically and scientifically credible, as determined by the commission; and

(2) may be generated by an ambient air monitoring program conducted by or on behalf of the commission in any part of the state or by another governmental entity of this state, a local or federal governmental entity, or a private organization.

The amendment to **CSSB 1134** was read and was adopted by a viva voce vote.

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

Senator Davis offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1134** (Senate committee printing), in SECTION 1 of the bill, in added Section 382.051962(c)(2), Health and Safety Code (page 2, line 13), by striking "January 5, 2014; and" and substituting "the earlier of:

(A) January 5, 2014; or

(B) the 30th day after the effective date of a new or amended permit adopted by the commission under Subsection (b); and"

The amendment to **CSSB 1134** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

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

**CSSB 1134** 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: Gallegos, Watson.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1134 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 1134** 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, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Watson, 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 1134**, 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 1134** 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, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Watson.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1300 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1300** at this time on its second reading:

**CSSB 1300**, Relating to insurer restrictions regarding repair of a motor vehicle covered under an insurance policy.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSSB 1300** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 1952.304(a), Insurance Code (page 1, line 18), between "with" and "written", insert "a".

(2) In SECTION 1 of the bill, in amended Section 1952.304(a), Insurance Code (page 1, line 19), strike "describing" and substitute "summarizing".

(3) In SECTION 1 of the bill, in amended Section 1952.304(a), Insurance Code (page 1, lines 21-22), strike "an explanation" and substitute "a summary explanation".

(4) In SECTION 2 of the bill, at the end of added Section 1952.309, Insurance Code (page 1, line 48), insert "This section does not require an insurer to contract with an inquiring automobile repair facility."

The amendment to **CSSB 1300** 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 Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1300** 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 1300 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1300** 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 1300**, 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 1300** 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 1217 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1217** at this time on its second reading:

**CSSB 1217**, Relating to an excavator's duty to notify a notification center before excavating; providing civil and criminal penalties.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1217** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In Section 251.155(b), Utilities Code (page 1, line 22), strike "precautions" and substitute "care [~~precautions~~]".

(2) Strike amended Section 251.155(c), Utilities Code (page 1, lines 24-29), and substitute the following:

(c) When an emergency exists, the excavator shall notify a notification center as promptly as practicably [~~reasonably~~] possible.

The amendment to **CSSB 1217** was read and was adopted by a viva voce vote.

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

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

**CSSB 1217** 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 1217 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1217** 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 1217**, 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 1217** 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 15 ON SECOND READING

Senator Fraser moved to suspend the regular order of business to take up for consideration **CSSB 15** at this time on its second reading:

**CSSB 15**, Relating to state energy policy and the planning of energy development and utilization.

The motion 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.

Senator Fraser offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 15** as follows:

- (1) On page 1, line 42, strike "Office" and substitute "Commission";
- (2) On page 1, line 42, strike "State Energy Conservation Office" and substitute "Public Utility Commission";
- (3) On page 2, line 5, strike "office" and substitute "State Energy Conservation Office";
- (4) On page 2, line 19, strike "office" and substitute "commission";
- (5) On page 2, line 20, strike "office" and substitute "commission";
- (6) On page 5, line 22, insert the following new subsection (i) to read as follows: "(i) Implementation of the requirements of this section shall be contingent upon receiving gifts, grants, or donations sufficient to cover the expenses incurred by the commission.".

The amendment to **CSSB 15** was read and was adopted by a viva voce vote.

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

Nays: Birdwell.

Senator Seliger offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSSB 15** (senate committee report) as follows:

(1) In ARTICLE 1 of the bill, in SECTION 1.02, in added Section 300.005(a)(10), Utilities Code (page 2, line 66), between "Section 39.904(d)" and the period, insert ", including solar and wind technologies".

(2) In ARTICLE 1 of the bill, in SECTION 1.02, in added Section 300.005(b), Utilities Code (page 3, line 3), after the period, add "The council shall also consider all types of generation technology to identify in its recommendations current or potential operational or administrative advantages or disadvantages of each type of technology to which a protocol of the Electric Reliability Council of Texas applies.".

(3) In ARTICLE 2 of the bill, in SECTION 2.02, in added section 39.9049(p), Utilities Code (page 5, line 27), between "advantages" and "to," insert "through Electric Reliability Council of Texas protocols".

The amendment to **CSSB 15** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

Senator Ogden offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSSB 15** (senate committee printing) by adding the following new SECTIONS to the bill and renumbering subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 31.002, Utilities Code, is amended by adding Subdivision (4-a) and amending Subdivision (10) to read as follows:

(4-a) "Distributed natural gas generation facility" means a facility installed on the customer's side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity.

(10) "Power generation company" means a person, including a person who owns or operates a distributed natural gas generation facility, that:

(A) generates electricity that is intended to be sold at wholesale;

(B) does not own a transmission or distribution facility in this state other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

SECTION \_\_\_\_\_. The heading to Subchapter B, Chapter 35, Utilities Code, is amended to read as follows:

SUBCHAPTER B. EXEMPT WHOLESALE GENERATORS, DISTRIBUTED  
NATURAL GAS GENERATION FACILITIES, AND POWER MARKETERS

SECTION \_\_\_\_. Subchapter B, Chapter 35, Utilities Code, is amended by adding Section 35.036 to read as follows:

Sec. 35.036. DISTRIBUTED NATURAL GAS GENERATION FACILITIES.

(a) A person who owns or operates a distributed natural gas generation facility may sell electric power generated by the facility. The electric utility, electric cooperative, or retail electric provider that provides retail electricity service to the facility may purchase electric power tendered to it by the owner or operator of the facility at a value agreed to by the electric utility, electric cooperative, or retail electric provider and the owner or operator of the facility. The value of the electric power may be based wholly or partly on the clearing price of energy at the time of day and at the location at which the electric power is made available to the electric grid.

(b) At the request of the owner or operator of the distributed natural gas generation facility, the electric utility or electric cooperative shall allow the owner or operator of the facility to use transmission and distribution facilities to transmit the electric power to another entity that is acceptable to the owner or operator in accordance with commission rules or a tariff approved by the Federal Energy Regulatory Commission.

(c) Subject to Subsections (e) and (f), if the owner or operator of a distributed natural gas generation facility requests to be interconnected to an electric utility or electric cooperative that does not have a transmission tariff approved by the Federal Energy Regulatory Commission, the electric utility or electric cooperative may recover from the owner or operator of the facility the reasonable costs of interconnecting the facility with the electric utility or electric cooperative that are necessary for and directly attributable to the interconnection of the facility.

(d) Subject to Subsections (e) and (f), an electric utility or electric cooperative may recover from the owner or operator of a distributed natural gas generation facility the reasonable costs of electric facility upgrades and improvements if:

(1) the rated capacity of the distributed natural gas generation facility is greater than the rated capacity of the electric utility or electric cooperative; and

(2) the costs are necessary for and directly attributable to accommodating the distributed natural gas generation facility's capacity.

(e) An electric utility or electric cooperative may recover costs under Subsection (c) or (d) only if:

(1) the electric utility or electric cooperative provides a written good-faith cost estimate to the owner or operator of the distributed natural gas generation facility; and

(2) the owner or operator of the distributed natural gas generation facility agrees in writing to pay the reasonable and necessary costs of interconnection or capacity accommodation requested by the owner or operator and described in the estimate before the electric utility or electric cooperative incurs the costs.

(f) If an electric utility or electric cooperative seeks to recover from the owner or operator of a distributed natural gas generation facility an amount that exceeds the amount in the estimate provided under Subsection (e) by more than five percent, the commission shall resolve the dispute at the request of the owner or operator of the facility.

(g) A distributed natural gas generation facility must comply with emissions limitations established by the Texas Commission on Environmental Quality for a standard emissions permit for an electric generation facility unit installed after January 1, 1995.

(h) This section does not require an electric cooperative to transmit electricity to a retail point of delivery in the certificated service area of the electric cooperative if the electric cooperative has not adopted customer choice.

SECTION \_\_\_\_\_. Section 39.351(c), Utilities Code, is amended to read as follows:

(c) The commission may establish simplified filing requirements for distributed natural gas generation facilities. [A power generation company may register any time after September 1, 2000.]

The amendment to **CSSB 15** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Nays: Birdwell.

Senator Fraser offered the following amendment to the bill:

#### **Floor Amendment No. 4**

Amend **CSSB 15** (senate committee report) as follows:

(1) In ARTICLE 1 of the bill, in SECTION 1.02, in added Section 300.003(b), Utilities Code (page 2, line 18), strike "12" and replace with "13".

(2) In ARTICLE 1 of the bill, in SECTION 1.02, in added Section 300.003(b), Utilities Code, amend by striking "and" (page 3, line 8), then adding "and" immediately after the word "office" (page 3, line 9), then adding: "(11) one member of the public with expertise in low-income energy issues including the needs of low-income and vulnerable ratepayers appointed by the governor."

(3) In ARTICLE 1 of the bill, in SECTION 1.02, in added Section 300.004(a), Utilities Code, amend by striking "and" (page 4, line 15), then adding "and" immediately after "energy" (page 4, line 18), and then adding "(8) take into account the needs of low-income and vulnerable Texans."

The amendment to **CSSB 15** 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. 4 except as follows:

Nays: Birdwell.

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

**CSSB 15** 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: Birdwell, Hegar, Patrick.

**COMMITTEE SUBSTITUTE  
SENATE BILL 15 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 15** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Hegar, 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 15**, 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 15** 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: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Hegar, Patrick.

**COMMITTEE SUBSTITUTE  
SENATE BILL 773 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 773** at this time on its second reading:

**CSSB 773**, Relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

The motion prevailed.

Senators Birdwell, Estes, and Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 773** (senate committee printing) as follows:

(1) On page 1, between lines 16 and 17, insert the following new SECTION:  
SECTION 2. Section 58.253(a), Utilities Code, is amended to read as follows:

(a) On customer request, an electing company shall provide private network services to:

- (1) an educational institution;
- (2) a library as defined in Section 57.021;
- (3) a nonprofit telemedicine center;
- (4) a public or not-for-profit hospital; [~~or~~]
- (5) a legally constituted consortium or group of entities listed in this subsection; or

(6) a health center.

(2) Renumber subsequent SECTIONS of the bill accordingly.

The amendment to **CSSB 773** 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 Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 773** 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: Birdwell, Estes, Nelson.

**COMMITTEE SUBSTITUTE  
SENATE BILL 773 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 773** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Estes, Nelson, 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 773**, 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 773** 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: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Estes, Nelson.

### SENATE BILL 1733 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1733** at this time on its second reading:

**SB 1733**, Relating to the occupational licensing of spouses of members of the military.

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 1733 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1733** 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 1733**, 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 1733** 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 1293 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 1293** at this time on its second reading:

**CSSB 1293**, Relating to the amounts of administrative, civil, and criminal penalties for violations relating to certain pipelines.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSSB 1293** in SECTION 9 of the bill, in amended Section 121.310(b), Utilities Code (Senate committee printing, page 2, line 14), by striking "\$500 [~~\$50~~]" and substituting "\$50".

The amendment to **CSSB 1293** 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 Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1293** 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 1293 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 1293** 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 1293**, 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 1293** 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 1638 ON SECOND READING**

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1638** at this time on its second reading:

**SB 1638**, Relating to the exception of certain personal information from required disclosure under the public information law.

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 1638 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1638** 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 1638**, 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 1638** 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 333 WITH HOUSE AMENDMENT**

Senator Fraser called **SB 333** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 333** (house committee report) on page 2, line 13, by striking "25" and substituting "20".

The amendment was read.

Senator Fraser moved to concur in the House amendment to **SB 333**.

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

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

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

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Watson and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider **SB 1114** tomorrow.

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

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

**NOTICE GIVEN FOR  
LOCAL AND UNCONTESTED CALENDAR**

Senator Rodriguez 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 8:00 a.m. Thursday, April 21, 2011, and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**CO-AUTHOR OF SENATE BILL 44**

On motion of Senator Zaffirini, Senator Hinojosa will be shown as Co-author of **SB 44**.

**CO-AUTHOR OF SENATE BILL 89**

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

**CO-AUTHOR OF SENATE BILL 224**

On motion of Senator Nelson, Senator Van de Putte will be shown as Co-author of **SB 224**.

**CO-AUTHOR OF SENATE BILL 267**

On motion of Senator Williams, Senator Lucio will be shown as Co-author of **SB 267**.

**CO-AUTHOR OF SENATE BILL 573**

On motion of Senator Nichols, Senator Watson will be shown as Co-author of **SB 573**.

**CO-AUTHOR OF SENATE BILL 641**

On motion of Senator Seliger, Senator Lucio will be shown as Co-author of **SB 641**.

**CO-AUTHORS OF SENATE BILL 773**

On motion of Senator Zaffirini, Senators Carona and Deuell will be shown as Co-authors of **SB 773**.

**CO-AUTHOR OF SENATE BILL 1293**

On motion of Senator Hegar, Senator Davis will be shown as Co-author of **SB 1293**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 802** by Wentworth, In memory of John Matthew Bird of San Antonio.

**SR 803** by Wentworth, In memory of Warren Alston of Bulverde.

**SR 804** by Wentworth, In memory of Armin F. Puck.

**SR 805** by Wentworth, In memory of Kenneth N. Ports of San Antonio.

**SR 806** by Wentworth, In memory of Harry Joseph Burns of San Antonio.

**SR 807** by Zaffirini, In memory of Jesse Wallace Quinney Sr.

**HCR 120** (Wentworth), In memory of Thomas Peter Whalen of Schertz.

### **Congratulatory Resolutions**

**SR 798** by West, Recognizing Denny D. Davis on the occasion of his 20th year of service to Saint John Church.

**SR 800** by Davis, Congratulating Patrick M. Walker for receiving the Barbara Jordan Media Award for print news.

**SR 801** by Van de Putte, Recognizing Carlos Madero of San Antonio for more than forty years of service as a peace officer.

**SR 808** by Zaffirini, Recognizing Karen Bessette on the occasion of her retirement as principal of Randolph Elementary School on Randolph Air Force Base.

**SR 809** by Nelson, Deuell, Harris, Hegar, and Lucio, Recognizing the students from Texas A&M University who are participating in policy internship programs in Austin.

**SR 811** by Davis, Recognizing Allyson L. Sekerke on the occasion of her high school graduation.

**SR 812** by Davis, Recognizing Thomasene Sweeney Norton of Itasca for her service to her community.

### **Official Designation Resolutions**

**HCR 134** (Duncan), Declaring Lamesa the Legendary Home of the Chicken-fried Steak.

**HCR 136** (Fraser), Commemorating April 2011 as Safe Digging Month.

### **ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 2:24 p.m. adjourned, in memory of Larry "T-Byrd" Gordon, until 11:00 a.m. tomorrow.

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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:

April 19, 2011

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSSR 506, SCR 37, SB 1734, CSSB 1755, CSSB 1796**

BUSINESS AND COMMERCE — **SB 1463, SB 1812**

EDUCATION — **CSSB 570**

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 1248, CSSB 1307**

ADMINISTRATION — **CSSB 1841**

HIGHER EDUCATION — **CSSB 1726, CSSB 1730**

**BILLS ENGROSSED**

April 18, 2011

**SB 266, SB 843, SB 1002, SB 1065, SB 1132, SB 1420, SB 1568, SB 1617, SB 1618**

**BILLS AND RESOLUTIONS ENROLLED**

April 18, 2011

**SB 309, SB 386, SB 458, SB 525, SB 567, SB 684, SB 727, SB 737, SB 785, SB 832, SB 890, SB 983, SR 760, SR 763, SR 770, SR 793, SR 794, SR 795, SR 796**

**SIGNED BY GOVERNOR**

April 15, 2011

**SCR 40**