

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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FORTY-NINTH DAY

(Thursday, April 28, 2011)

The Senate met at 11:50 a.m. pursuant to adjournment and was called to order by the President.

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

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

The Reverend John C. Stennfeld, Christ Lutheran Church, Austin, offered the invocation as follows:

Dear Father in heaven, we thank and praise You for this new day. We thank You that You have granted us to live in the greatest and most blessed nation on Earth and granted us to serve in this greatest and most blessed State of Texas. As our fellow citizens in this state and country suffer from recent fires, floods, and devastating storms, we ask You to bring them comfort, hope, and healing. Give to them the assurance of a brighter future and the certainty of a nation that will not abandon them in their time of need. On this day also, Lord, we praise You that You have chosen us to lead and to guide and to serve the people of this state. Help us always remember that we best lead and serve by example and through sacrifice. Forgive us for times when we have placed our desires before others' needs. Use us in this place and on this day as instruments of Your love and Your grace to benefit the people of Texas for the sake of Jesus Christ, Your son, we pray. 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 GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on Nominations:

April 28, 2011  
Austin, Texas

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

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

To be members of the State Employee Charitable Campaign Policy Committee for terms to expire January 1, 2012:

Gregory "Greg" Davidson  
Lexington, Texas  
(replacing Jason Patteson of Austin who resigned)

Cecile Erwin Young  
Austin, Texas  
(replacing Carol Treadway of Austin who resigned)

Respectfully submitted,  
/s/Rick Perry  
Governor

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Thursday, April 28, 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 38** Menendez

Relating to the criminal penalty for and certain civil consequences of damaging property with graffiti.

**HB 127** Alvarado

Relating to the types of beverages that may be sold to students on public school campuses.

**HB 273** Zerwas

Relating to creation of a study committee for the Interstate Health Care Compact.

- HB 598** Jackson, Jim  
Relating to requiring certain applicants for motor vehicle registration to provide proof that the applicant holds a valid driver's license.
- HB 736** Patrick, Diane  
Relating to required online information regarding public institutions of higher education.
- HB 1029** Carter  
Relating to the conditions of release on bond for certain defendants charged with the offense of burglary.
- HB 1146** Kuempel  
Relating to the registration and regulation of appraisal management companies and the composition of the Texas Appraiser Licensing and Certification Board; providing penalties.
- HB 1451** Thompson  
Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.
- HB 1648** Smith, Wayne  
Relating to the purchase of plastic bulk merchandise containers by certain businesses; providing a civil penalty.
- HB 1812** Phillips  
Relating to the type of newspaper required for publication of notice in certain counties.
- HB 1853** Hamilton  
Relating to the licensing and regulation of certain employees of fire protection sprinkler system contractors; providing a penalty.
- HB 1933** Smith, Wayne  
Relating to the regulation of metal recycling entities; providing penalties.
- HB 2004** Bonnen  
Relating to the sale of certain state property in Brazoria County by the Texas Board of Criminal Justice.
- HB 2133** Solomons  
Relating to the Public Utility Commission of Texas' authority to disgorge revenue obtained as a result of certain violations; providing an administrative penalty.
- HB 2229** Coleman  
Relating to the creation of the Texas HIV Medication Advisory Committee.
- HB 2342** Truitt  
Relating to certain violations of and offenses under The Securities Act; providing penalties.
- HB 2403** Otto  
Relating to retailers engaged in business in this state for purposes of sales and use taxes.

**HB 2476** Harless  
Relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment inventory; providing penalties.

**HB 2482** Pena  
Relating to the prosecution of and punishment for certain offenses involving theft.

**HB 2575** Phillips  
Relating to the Texas Department of Motor Vehicles' electronic lien system.

**HB 2623** Beck  
Relating to certain energy security technologies for critical governmental facilities.

**HB 2624** Sheffield  
Relating to procedures applicable in circumstances involving family violence or other criminal conduct and military personnel.

**HB 3272** Burnam  
Relating to the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program.

**HCR 90** Miller, Sid  
Urging Congress to provide a comprehensive public alert warning system.

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 18** (non-record vote)  
House Conferees: Geren - Chair/Hardcastle/Oliveira/Ritter/Sheffield

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **BILLS AND RESOLUTIONS SIGNED**

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

**SB 416, SB 488, SB 605, SB 630, SB 692, SB 729, SB 777, SB 873, SB 874, SB 914, SB 1230, SCR 43, SCR 44, SCR 48, HB 74, HCR 32, HCR 109, HCR 137.**

### **INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

### **SENATE RESOLUTION 860**

Senator Rodriguez offered the following resolution:

WHEREAS, The Senate of the State of Texas joins Texans across the state in observing April 28, 2011, as Workers' Memorial Day; and

WHEREAS, Workers' Memorial Day is an internationally recognized day of remembrance for workers who have died while performing their jobs; and

WHEREAS, More workers in the construction industry are killed on the job than in any other sector of the economy, and more construction workers die in Texas than any other state, with 138 Texans dying on the job in 2009 alone; and

WHEREAS, The construction industry is one of the most important components of the Texas economy, providing more than \$29.2 billion in wages each year and generating more than 600,000 jobs; workers in every field can safely perform their jobs if the highest standards of workplace safety are upheld and if all workers receive the training and equipment necessary to keep them safe on the job; and

WHEREAS, It is truly fitting that a day be set aside to remember and honor those men and women who have given their lives while building our state; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby pay tribute to the men and women who have lost their lives on the job and call on all Texans to observe April 28, 2011, as Workers' Memorial Day; and, be it further

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

**SR 860** was read and was adopted without objection.

#### **GUESTS PRESENTED**

Senator Rodriguez was recognized and introduced to the Senate Guadalupe Torres, Hector Hernandez, Fernando Adame, the Reverend Jim Stockton, and Juan Gutierrez.

The Senate welcomed its guests.

#### **SENATE CONCURRENT RESOLUTION 46**

The President laid before the Senate the following resolution:

WHEREAS, The University of Texas MD Anderson Cancer Center is marking its 70th anniversary in 2011, and this occasion provides an ideal opportunity to recognize the remarkable achievements of this noteworthy institution; and

WHEREAS, Over the past seven decades, MD Anderson has served more than 800,000 people, the majority of whom have been Texas residents, and patients in every corner of the world have benefited from medical discoveries at the center; public education and community outreach programs initiated by MD Anderson now reach more than 1.4 million Texans annually and address the needs of those at increased risk for cancer, particularly underserved and minority populations; and

WHEREAS, For many years, MD Anderson has received more grants from the National Cancer Institute and conducted more clinical trials to evaluate new treatments than any other institution; the center sets the standard in developing new therapies targeted to the cancer-related genes and proteins associated with each patient's disease; moreover, MD Anderson has expanded the continuum of care beyond diagnosis and treatment of cancer patients to encompass major programs in cancer prevention and to address the special needs of cancer survivors; and

WHEREAS, Rising to meet the health care challenges of the 21st century, MD Anderson excels as a degree-granting institution; it awards baccalaureate degrees in eight allied health disciplines and master's and doctoral degrees in biomedical research; more than 85,000 physicians, scientists, nurses, and health care professionals have been trained at the center; and

WHEREAS, President John Mendelsohn, M.D., has guided MD Anderson for the past 15 years, building on the strong foundation built by his predecessors, Charles A. LeMaistre, M.D., and R. Lee Clark, M.D.; Dr. Mendelsohn provides inspired leadership to a staff of more than 17,000 dedicated professionals, along with approximately 1,200 hospital volunteers; their efforts are supported by the skillful direction of The University of Texas System Board of Regents, the work of citizen volunteers of The University Cancer Foundation Board of Visitors, and the generosity of thousands of donors; and

WHEREAS, Internationally recognized for its excellence, The University of Texas MD Anderson Cancer Center has been named the nation's number one cancer hospital by *US News & World Report*; the exceptional reputation of this institution is a reflection of its immeasurable contributions to the advancement of medical science and of the outstanding care that has made a positive difference in the lives of hundreds of thousands of patients and their families over the past seven decades; now, therefore, be it

RESOLVED, That the 82nd Legislature of the State of Texas hereby commemorate the 70th anniversary of The University of Texas MD Anderson Cancer Center and extend to all those associated with the institution sincere best wishes for continued success in their vital endeavors; and, be it further

RESOLVED, That an official copy of this resolution be prepared for The University of Texas MD Anderson Cancer Center as an expression of high regard by the Texas Senate and House of Representatives.

ELLIS

**SCR 46** was read.

On motion of Senator Lucio and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

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

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

#### **GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate a delegation from The University of Texas MD Anderson Cancer Center: John Mendelsohn, President; Raymond DuBois, Provost and Executive Vice-president; Leon J. Leach, Executive Vice-president; Thomas Burke, Executive Vice-president and Physician-in-Chief; and Anne Mendelsohn.

The Senate welcomed its guests.

#### **CONCLUSION OF MORNING CALL**

The President at 12:39 p.m. announced the conclusion of morning call.

**(Senator Eltife in Chair)****GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate Texas A&M University Agricultural and Natural Resources Policy Internship Program participants.

The Senate welcomed its guests.

**SENATE BILL 568 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **SB 568** at this time on its second reading:

**SB 568**, Relating to access by a public institution of higher education to the criminal history record information of certain persons seeking to reside in on-campus housing.

The motion prevailed.

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

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

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

Nays: Hegar.

**SENATE BILL 568 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 568** 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, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, 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 568**, 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 568** 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: Hegar.

#### COMMITTEE SUBSTITUTE SENATE BILL 738 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 738** at this time on its second reading:

**CSSB 738**, Relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

The motion prevailed.

Senator Watson 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: Watson.

#### COMMITTEE SUBSTITUTE SENATE BILL 738 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 738** be placed on its third reading and final passage.

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

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

Nays: 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 738**, 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 738** 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: Watson.

#### SENATE BILL 1668 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1668** at this time on its second reading:

**SB 1668**, Relating to purchase of service credit in the Teacher Retirement System 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 1668 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1668** 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 1668**, 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 1668** 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 JOINT RESOLUTION 4 ON SECOND READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **SJR 4** at this time on its second reading:

**SJR 4**, Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board.

The motion prevailed.

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

The resolution 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: Ogden.

#### **SENATE JOINT RESOLUTION 4 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 4** 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 **SJR 4**, 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 **SJR 4** 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 resolution was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

#### COMMITTEE SUBSTITUTE SENATE BILL 1796 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 1796** at this time on its second reading:

**CSSB 1796**, Relating to the creation of the Texas Coordinating Council for Veterans Services.

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 1796 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 1796** 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 1796**, 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 1796** 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 1294 ON SECOND READING

Senator Hegar moved to suspend the regular order of business to take up for consideration **SB 1294** at this time on its second reading:

**SB 1294**, Relating to the imposition of administrative penalties by the Railroad Commission of Texas.

The motion prevailed.

Senator 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: Patrick.

#### SENATE BILL 1294 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 **SB 1294** be placed on its third reading and final passage.

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

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

Nays: 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 1294**, 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 1294** 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: Patrick.

#### SENATE BILL 1302 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1302** at this time on its second reading:

**SB 1302**, Relating to the offense of paying or receiving certain forms of compensation for assisting voters who vote early by mail; providing criminal penalties.

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

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

#### SENATE BILL 1302 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 **SB 1302** 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 1302**, 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 1302** 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 4 ON SECOND READING**

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 4** at this time on its second reading:

**CSSB 4**, Relating to certification, performance, continuing education, and appraisal of public school teachers.

The motion prevailed.

Senators Davis, Ellis, Gallegos, Hinojosa, Uresti, Van de Putte, Watson, and Zaffirini asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 4** (senate committee printing) as follows:

(1) In SECTION 5 of the bill, adding Section 21.351(a-1), Education Code (page 2, line 66), strike "at least 35 percent" and substitute "not less than 30 percent or more than 50 percent".

(2) In SECTION 5 of the bill, adding Section 21.351(a-1), Education Code (page 2, line 67), strike "and" and substitute "including".

(3) In SECTION 5 of the bill, adding Section 21.351(a-1), Education Code (page 2, line 69), between "the" and "measures" insert "multiple".

(4) In SECTION 5 of the bill, adding Section 21.351(a-1), Education Code (page 3, line 1), after the period, add "The performance of a teacher's students on assessment instruments required under Subchapter B, Chapter 39, may not be the primary indicator for determining teacher effectiveness. The recommended appraisal process must provide a method for determining the effectiveness of teachers who do not teach a subject in which assessment instruments under Subchapter B, Chapter 39, are administered."

(5) In SECTION 5 of the bill, adding Section 21.351(f), Education Code (page 3, line 6), strike "2013" and substitute "2016".

(6) In SECTION 5 of the bill, adding Section 21.351(f), Education Code (page 3, line 11), between the period and "The", insert "Before the commissioner adopts rules required by this subsection, the commissioner must develop, validate, and test the proposals regarding the redesign of the recommended appraisal process. The"

commissioner may initiate pilot projects to implement and test redesign proposals, which may address different aspects of the redesign and different methods for determining teacher effectiveness."

(7) In SECTION 5 of the bill, adding Section 21.351(f), Education Code (page 3, line 19), strike "and" and substitute "including".

(8) In SECTION 5 of the bill, adding Section 21.351(f), Education Code (page 3, line 19), strike "2013" and substitute "2016".

(9) In SECTION 9 of the bill, strike added Section 21.358, Education Code (page 4, lines 10-17), and substitute the following:

Sec. 21.358. QUALIFICATIONS OF APPRAISERS. The commissioner shall adopt rules regarding the minimum qualifications necessary for a person who conducts teacher appraisals. The rules must require that the appraiser be highly qualified to assess instructional quality and demonstrate instructional leadership.

(10) In SECTION 11 of the bill (page 4, lines 28 and 32-33), strike "the effective date of this Act" each place it occurs and substitute "September 1, 2013".

(11) In SECTION 11 of the bill (page 4, lines 30 and 31-32), strike "the effective date of this Act" each place it occurs and substitute "September 1, 2013,".

(12) In SECTION 12 of the bill (page 4, line 37), strike "This Act takes effect September 1, 2011." and substitute the following: "(a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Sections 21.0521, 21.0522, 21.0523, and 21.4581, Education Code, as added by this Act, take effect September 1, 2013."

The amendment to **CSSB 4** 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 Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 4** 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: Davis, Ellis, Gallegos, Hinojosa, Uresti, Van de Putte, Watson, Zaffirini.

### COMMITTEE SUBSTITUTE SENATE BILL 4 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 4** be placed on its third reading and final passage.

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

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

Nays: Davis, Ellis, Gallegos, Hinojosa, Wentworth, Zaffirini.

### Reason for Vote

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 4**, 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 4** 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 23, Nays 8.

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

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

### SENATE BILL 736 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 736** at this time on its second reading:

**SB 736**, Relating to membership and duties of local school health advisory councils.

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 736 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 736** 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 736**, 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 736** 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 JOINT RESOLUTION 50 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSJR 50** at this time on its second reading:

**CSSJR 50**, Proposing a constitutional amendment providing for the issuance of general obligation bonds of the state to finance educational loans to students.

The motion prevailed.

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

The resolution 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, Nelson, Ogden, Seliger.

**COMMITTEE SUBSTITUTE  
SENATE JOINT RESOLUTION 50 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 **CSSJR 50** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Hegar, Nelson, Ogden, Seliger, 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 **CSSJR 50**, 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 **CSSJR 50** 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 resolution was read third time and was passed by the following vote: Yeas 27, Nays 4.

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

Nays: Hegar, Nelson, Ogden, Seliger.

### **COMMITTEE SUBSTITUTE SENATE BILL 1799 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1799** at this time on its second reading:

**CSSB 1799**, Relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

The motion prevailed.

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

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

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

Nays: Hegar, Nelson, Ogden, Seliger.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1799 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 1799** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Hegar, Nelson, Ogden, Seliger, 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 1799**, 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 1799** 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 27, Nays 4.

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

Nays: Hegar, Nelson, Ogden, Seliger.

**COMMITTEE SUBSTITUTE  
SENATE BILL 529 ON SECOND READING**

Senator Huffman moved to suspend the regular order of business to take up for consideration **CSSB 529** at this time on its second reading:

**CSSB 529**, Relating to the regulation of motor vehicle dealers, manufacturers, distributors, and representatives.

The motion prevailed.

Senators Ellis and Watson asked to be recorded as "Present-not voting" on suspension of the regular order of business.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

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

Amend **CSSB 529** as follows:

(1) In SECTION 4 of the bill, in Section 2301.4651, Occupations Code (Committee printing page 3, lines 14-22), strike Subsection (d) and substitute the following:

(d) The amounts to be paid under Subsection (b)(1) or (2) to the dealer by a manufacturer, distributor, or representative shall be based on the percentage of the total square footage of the dealership attributable to sales, service, and parts suggested by a manufacturer or distributor and allocated to the franchise being terminated or discontinued at the time of the termination or discontinuance.

(2) In SECTION 5 of the bill, in Subsection (b-1), Section 2301.467, Occupations Code (Committee printing page 3, line 57), following "(b-1)", strike "It is" and substitute "Except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service a line-make, it is".

(3) In SECTION 5 of the bill, in Subsection (b-2), Section 2301.467, Occupations Code (Committee printing page 3, line 66), following "(b-2)", strike "It is" and substitute "Except as necessary to comply with health or safety laws or to comply with technology requirements necessary to sell or service a line-make, it is".

(4) In SECTION 6 of the bill, in the heading to Section 2301.4671, Occupations Code (Committee printing page 4, line 17), between "Sec. 2301.4671." and "RESTRICTION" insert "FRANCHISE PROVISION ESTABLISHING".

(5) In the recital to SECTION 11 of the bill (Committee printing page 5, line 9), strike "and 2301.481" and substitute ", 2301.481, and 2301.482".

(6) In SECTION 11 of the bill, add the following after added Section 2301.481, Occupations Code (Committee printing page 5 between lines 47 and 48):

Sec. 2301.482. CERTAIN PROPERTY USE AGREEMENTS.

(a) Notwithstanding Section 2301.481(b)(1), and subject to this section, a dealer may enter into a property use agreement for cash consideration that grants the manufacturer or distributor the exclusive rights to direct the use of the dealership.

(b) In the event the dealer breaches the terms of the property use agreement described by Subsection (a) by altering the use of the property during the term of the agreement in violation of the agreement, the property use agreement is terminated and the dealer must reimburse the manufacturer or distributor in an amount determined by dividing the amount of the manufacturer's or distributor's cash consideration provided under Subsection (a) by the market value of the property identified in the original property use agreement at the time any necessary real estate has been purchased and any necessary construction has been completed, and multiplying the resulting quotient by the market value of the property at the time of the breach.

(c) For purposes of this section, the market value of property is to be determined by three appraisers chosen as follows:

- (1) one selected by the affected manufacturer or distributor;
- (2) one selected by the affected dealer; and
- (3) one selected by mutual agreement of the manufacturer or distributor and the dealer.

The amendment to **CSSB 529** 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 Huffman and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 529** 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:

Present-not voting: Ellis, Watson.

#### **COMMITTEE SUBSTITUTE SENATE BILL 529 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 529** be placed on its third reading and final passage.

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

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

Nays: Wentworth.

Present-not voting: Ellis, Watson.

#### **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 529**, 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 529** 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 0, Present-not voting 2.

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

Present-not voting: Ellis, Watson.

#### REASON FOR VOTE

Senator Watson submitted the following reason for vote on **CSSB 529**:

I am registering Present and Not Voting on the Committee Substitute to Senate Bill 529, as amended, because of a business relationship I have and my desire to avoid even the appearance of a conflict of interest.

#### WATSON

#### COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 5 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSJR 5** at this time on its second reading:

**CSSJR 5**, Proposing a constitutional amendment relating to increasing the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

The motion prevailed.

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

The resolution 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: Carona, Hegar.

#### COMMITTEE SUBSTITUTE SENATE JOINT RESOLUTION 5 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 5** be placed on its third reading and final passage.

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

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

Nays: Carona, Hegar, 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 **CSSJR 5**, 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 **CSSJR 5** 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 resolution was read third time and was passed by the following vote: Yeas 29, Nays 2.

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

Nays: Carona, Hegar.

### **COMMITTEE SUBSTITUTE SENATE BILL 365 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 365** at this time on its second reading:

**CSSB 365**, Relating to distributed generation of electric power.

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 365 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 365** 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 365**, 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 365** 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 1669 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1669** at this time on its second reading:

**SB 1669**, Relating to the resumption of service by retirees under the Teacher Retirement System 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 1669 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1669** 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 1669**, 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 1669** 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 462 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 462** at this time on its second reading:

**CSSB 462**, Relating to the expunction of records and files relating to a person's arrest.

The motion prevailed.

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

The bill was read second time and was passed to engrossment by the following vote: Yeas 23, Nays 8.

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

Nays: Birdwell, Fraser, Harris, Huffman, Nelson, Nichols, Patrick, Williams.

### SENATE BILL 1734 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 1734** at this time on its second reading:

**SB 1734**, Relating to tuition and fee exemptions at public institutions of higher education for certain Texas military veterans.

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 1734 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 1734** 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 1734**, 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 1734** 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 1319 ON SECOND READING**

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 1319** at this time on its second reading:

**CSSB 1319**, Relating to certain loans secured by a lien on residential real property and to other transactions involving residential real property; providing civil penalties.

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 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: Nichols.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1319 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 1319** 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 1319**, 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 1319** 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 1320 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 1320** at this time on its second reading:

**CSSB 1320**, Relating to the execution of deeds conveying residential real estate in connection with certain transactions involving residential real estate.

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 1320 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 1320** 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 1320**, 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 1320** 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 506 ON SECOND READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSSB 506** at this time on its second reading:

**CSSB 506**, Relating to consumption advisories for mercury contamination in fish, crustaceans, molluscan shellfish, and other aquatic and terrestrial animals.

The motion prevailed.

Senators Birdwell, Harris, Huffman, Nelson, Nichols, Shapiro, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

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

Nays: Birdwell, Harris, Huffman, Nelson, Nichols, Shapiro, Williams.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 1580 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 1580** at this time on its second reading:

**CSSB 1580**, Relating to state fiscal matters related to health and human services and state agencies administering health and human services programs.

The motion was lost by the following vote: Yeas 11, Nays 20.

Yeas: Deuell, Duncan, Eltife, Hinojosa, Lucio, Nelson, Ogden, Patrick, Shapiro, Wentworth, Williams.

Nays: Birdwell, Carona, Davis, Ellis, Estes, Fraser, Gallegos, Harris, Hegar, Huffman, Jackson, Nichols, Rodriguez, Seliger, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

**(President in Chair)**

**(Senator Seliger in Chair)**

**(President in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 1582 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 1582** at this time on its second reading:

**CSSB 1582**, Relating to state fiscal matters related to the judiciary.

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

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

Nays: Birdwell, Carona, Davis, Ellis, Fraser, Gallegos, Watson, Zaffirini.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1582** (senate committee printing) by striking ARTICLE 1 of the bill (page 1, lines 11 through 38) and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly.

The amendment to **CSSB 1582** 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 Ellis offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1582** (senate committee printing) by striking Article 5 of the bill (page 2, line 67, through page 3, line 30).

The amendment to **CSSB 1582** was read.

On motion of Senator Ogden, Floor Amendment No. 2 was tabled by the following vote: Yeas 20, Nays 11.

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

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

Senator Rodriguez offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSSB 1582** (senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. FISCAL MATTERS REGARDING BASIC CIVIL LEGAL SERVICES, INDIGENT DEFENSE, AND JUDICIAL TECHNICAL SUPPORT  
SECTION \_\_\_\_\_.01. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.016 to read as follows:

Sec. 22.016. JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. (a) The judicial access and improvement account is an account in the general revenue fund.

(b) Subject to Subsection (d), money in the judicial access and improvement account shall be appropriated only as provided by this section. The supreme court may use an amount determined by the supreme court, which annually may not exceed \$1 million, to phase in electronic filing and retrieval in courts in this state. The remainder of the money in the account shall be divided as follows:

(1) an amount equal to 70 percent of the remainder shall be deposited to the credit of the basic civil legal services account of the judicial fund established under Section 51.943 for use in programs approved by the supreme court that provide basic civil legal services to indigents; and

(2) an amount equal to 30 percent of the remainder shall be deposited to the credit of the fair defense account established under Section 71.058.

(c) The supreme court in consultation with the judicial committee on information technology may enter into an agreement with the Office of Court Administration of the Texas Judicial System to implement the electronic filing and retrieval in courts of this state authorized under Subsection (b), including acquiring the necessary technology, software, and data storage.

(d) The comptroller may retain two percent of the money remitted to the comptroller for deposit in the judicial access and improvement account. The comptroller shall use the money to audit and administer fund balances and to ensure the timely deposit of money in accounts as required by this section.

(e) Section 403.095 does not apply to money dedicated under this section.

SECTION \_\_.02. Section 101.0615, Government Code, is amended to read as follows:

Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fees:

(A) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50; and

(B) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$15 [~~\$5~~]; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$20 [~~\$10~~];

(2) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(3) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(4) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(5) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35; and

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$42.

SECTION \_\_.03. Subchapter F, Chapter 102, Government Code, is amended by adding Section 102.1035 to read as follows:

Sec. 102.1035. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: LOCAL GOVERNMENT CODE. A clerk of a justice court shall collect from a defendant a court cost of \$5 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION \_\_.04. Subchapter G, Chapter 102, Government Code, is amended by adding Section 102.1215 to read as follows:

Sec. 102.1215. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: LOCAL GOVERNMENT CODE. A clerk of a municipal court shall collect from a defendant a court cost of \$5 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION \_\_.05. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.0306 to read as follows:

Sec. 403.0306. FEES AND COSTS ASSESSED FOR JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. Notwithstanding any other law, if in any state fiscal biennium the legislature:

(1) does not appropriate any money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of court administration shall notify each clerk of a justice or municipal court, as appropriate, not to assess fees and court costs under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(B) a clerk of a justice or municipal court may not assess fees and court costs under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; or

(2) appropriates only a portion of the money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of court administration shall:

(i) proportionally adjust the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(ii) notify each clerk of a justice or municipal court, as appropriate, of the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(B) a clerk of a justice or municipal court shall assess the amount of the fees and court costs determined by the comptroller under Paragraph (A) during the state fiscal biennium.

SECTION \_\_.06. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;

(3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;

(4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;

(5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;

(6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;

(7) fines on conviction imposed under Section 621.506(g), Transportation Code;

(8) the fee imposed under Article 102.0045, Code of Criminal Procedure;

(9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund; ~~and~~

(10) the cost on conviction imposed under Section 133.107; and

(11) the cost on conviction imposed under Section 133.108.

SECTION \_\_.07. Section 133.058, Local Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A municipality or county may retain five percent of the money collected as a fee under Section 133.108.

SECTION \_\_.08. Subchapter C, Chapter 133, Local Government Code, is amended by adding Section 133.108 to read as follows:

Sec. 133.108. FEE FOR JUDICIAL ACCESS AND IMPROVEMENT. (a) A person convicted in a municipal or justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to other costs, a fee of \$5 to be used to fund basic civil legal services and criminal defense for indigents and electronic filing in courts in this state through the judicial access and improvement account established under Section 22.016, Government Code.

(b) The treasurer shall remit the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall credit the remitted fees to the credit of the judicial access and improvement account established under Section 22.016, Government Code.

SECTION \_\_.09. Section 133.152(a), Local Government Code, is amended to read as follows:

(a) In addition to other fees collected under Section 133.151(a) or otherwise authorized or required by law, the clerk of a district court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$15 [~~\$5~~] in family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$20 [~~\$10~~] in any case other than a case described by Subdivision (1).

SECTION \_\_.10. (a) Section 51.607, Government Code, does not apply to the imposition of a court cost or fee under this article.

(b) The changes in law made by this article apply to the costs imposed on or after September 1, 2011, for conviction of an offense that occurs on or after that date.

(c) For purposes of Subsection (b) of this section, an offense is committed before the date specified by that subsection if any element of the offense occurs before the specified date. Court costs imposed on conviction of an offense committed before that specified date are governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(d) Section 133.152(a), Local Government Code, as amended by this article, and Section 101.0615, Government Code, as amended by this article, apply only to a civil action or proceeding filed in a district court on or after the effective date of this article. A civil action or proceeding filed before that date is governed by the law in effect on the date the action or proceeding was filed, and the former law is continued in effect for that purpose.

RODRIGUEZ  
CARONA  
DEUELL

LUCIO  
WENTWORTH

The amendment to **CSSB 1582** was read.

Senator Rodriguez withdrew Floor Amendment No. 3.

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

**CSSB 1582** 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, Carona, Davis, Ellis, Fraser, Gallegos, Watson, Zaffirini.

### **COMMITTEE SUBSTITUTE SENATE BILL 23 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 23** at this time on its second reading:

**CSSB 23**, Relating to efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

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

Amend **CSSB 23** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. ASSISTED LIVING FACILITY LICENSING EXEMPTIONS. Section 247.004, Health and Safety Code, is amended to read as follows:

Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

(1) a boarding home facility as defined by Section 254.001;  
 (2) an establishment conducted by or for the adherents of the Church of Christ, Scientist, for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing without the use of any drug or material remedy if the establishment complies with local safety, sanitary, and quarantine ordinances and regulations;

(3) a facility conducted by or for the adherents of a qualified religious society classified as a tax-exempt organization under an Internal Revenue Service group exemption ruling for the purpose of providing personal care services without charge solely for the society's professed members or ministers in retirement, if the facility complies with local safety, sanitation, and quarantine ordinances and regulations; or

(4) a facility that provides personal care services only to persons enrolled in a program that:

(A) is funded in whole or in part by the department and that is monitored by the department or its designated local mental retardation authority in accordance with standards set by the department; or

(B) is funded in whole or in part by the Department of State Health Services and that is monitored by the Department of State Health Services or its designated local mental health authority in accordance with standards set by the Department of State Health Services.

The amendment to **CSSB 23** 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 Van de Putte offered the following amendment to the bill:

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

Amend **CSSB 23** (senate committee printing) in SECTION 4 of the bill as follows:

(1) In added Section 533.005(a)(16)(C), Government Code (page 5, line 38), strike "and".

(2) In added Section 533.005(a)(16)(D), Government Code (page 5, line 39), between "Section 531.089" and the period, insert the following:

;

(E) does not impair an enrolled recipient's choice regarding which pharmacist or pharmacy dispenses the recipient's prescription drug by imposing different copayments or other conditions, including specific dosage or fulfillment requirements, on a recipient based on the pharmacist or pharmacy or the type of pharmacist or pharmacy that dispenses the drug;

(F) establishes reasonable administrative, financial, and professional terms for a pharmacist's or pharmacy's participation in the plan that are uniform across all pharmacists and pharmacies seeking to participate, or participating, in the plan;

(G) does not prevent a pharmacist or pharmacy from participating in the plan if the pharmacist or pharmacy agrees to comply with the terms established under Paragraph (F);

(H) does not require an enrolled recipient to obtain a prescription drug from a mail-order pharmacy as a condition of paying for the drug;

(I) provides, and requires any subcontractor of the managed care organization that is responsible for reimbursing pharmacists or pharmacies participating in the plan, including a pharmacy benefit management company, to provide, full and prompt payment for the provision of services, including the dispensation of prescription drugs, to enrolled recipients in a manner that complies with the requirements of the vendor drug program; and

(J) identifies and separately charges any administrative fee that is incurred by the managed care organization or a subcontractor of the managed care organization, including a fee for a pharmacy benefit management company that is hired as a subcontractor by the managed care organization to administer the pharmacy benefit plan

The amendment to **CSSB 23** was read.

Senator Van de Putte withdrew Floor Amendment No. 2.

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

**CSSB 23** 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 23 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 23** 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 23**, 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 23** 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 Seliger in Chair)**

**COMMITTEE SUBSTITUTE  
SENATE BILL 1505 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1505** at this time on its second reading:

**CSSB 1505**, Relating to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place.

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 1505 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1505** 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 1505**, 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 1505** 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 1580 ON SECOND READING**

Senator Ogden again moved to suspend the regular order of business to take up for consideration **CSSB 1580** at this time on its second reading:

**CSSB 1580**, Relating to state fiscal matters related to health and human services and state agencies administering health and human services programs.

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

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

Nays: Carona, Davis, Ellis, Gallegos, Rodriguez, Watson, West.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1580** (Senate committee printing) by striking ARTICLE 1 of the bill (page 1, line 13, through page 2, line 9) and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly.

The amendment to **CSSB 1580** 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 Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 1580** as amended was passed to engrossment by the following vote: Yeas 23, Nays 8.

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

Nays: Carona, Davis, Ellis, Fraser, Gallegos, Rodriguez, Watson, West.

**COMMITTEE SUBSTITUTE  
SENATE BILL 9 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **CSSB 9** at this time on its second reading:

**CSSB 9**, Relating to homeland security; providing penalties.

The motion prevailed.

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

The bill was read second time.

Senator Williams offered the following amendment to the bill:

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

Amend **CSSB 9** (Senate Committee Printing) in SECTION 1 of the bill, after proposed Article 2.252(b), Code of Criminal Procedure (page 1, between lines 23 and 24), by inserting the following:

(c) A law enforcement agency is not required to conduct an immigration status verification under Subsection (a) of a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency, before transferring custody of the person, conducted an immigration status verification under Subsection (a).

The amendment to **CSSB 9** 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 Williams offered the following amendment to the bill:

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

Amend **CSSB 9** (senate committee report) as follows:

(1) In SECTION 23 of the bill, in the heading to added Subchapter T, Chapter 521, Transportation Code (page 8, line 63), between "IMPROVEMENT" and the semicolon insert "AND MAINTENANCE".

(2) In SECTION 23 of the bill, in added Section 521.481(a), Transportation Code (page 8, line 68), between "improving" and "the" insert "and maintaining".

(3) In SECTION 23 of the bill, in added Section 521.482(b), Transportation Code (page 9, line 22), between "improvement" and "the" insert "or maintenance".

The amendment to **CSSB 9** 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 Davis offered the following amendment to the bill:

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

Amend **CSSB 9** (senate committee report) in SECTION 11 of the bill by striking amended Section 71.023(a), Penal Code (page 4, line 63, through page 5, line 8), and substituting the following:

(a) A person commits an offense if the person, as part of the identifiable leadership of a criminal street gang, knowingly [~~initiates, organizes, plans,~~] finances, directs, [~~manages,~~] or supervises the commission of, or a conspiracy to commit, one or more of the following offenses by ~~a criminal street gang or~~ members of a criminal street gang:

(1) a felony that is listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(2) a felony for which it is shown that a deadly weapon, as defined by Section 1.07, was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; or

(3) an offense that is punishable as a felony of the first or second degree under Chapter 481, Health and Safety Code [with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing, position, or status in the criminal street gang].

The amendment to **CSSB 9** 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.

Senator Hinojosa offered the following amendment to the bill:

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

Amend **CSSB 9** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 46.01, Penal Code, is amended by adding Subdivision (17) to read as follows:

(17) "Tire deflation device" means a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires. The term does not include a traffic control device that:

(A) is designed to puncture one or more of a vehicle's tires when driven over in a specific direction; and

(B) has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

SECTION \_\_\_\_\_. Sections 46.05(a), (d), and (e), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [~~he~~] intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machine gun;
- (3) a short-barrel firearm;
- (4) a firearm silencer;
- (5) a switchblade knife;
- (6) knuckles;
- (7) armor-piercing ammunition;
- (8) a chemical dispensing device; [~~or~~]
- (9) a zip gun; or
- (10) a tire deflation device.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) was incidental to dealing with a switchblade knife, springblade knife, [~~or~~] short-barrel firearm, or tire deflation device solely as an antique or curio; [~~or~~]

(2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b); or

(3) was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b).

(e) An offense under Subsection (a)(1), (2), (3), (4), (7), (8), or (9) [this section] is a felony of the third degree. An offense [unless it is committed] under Subsection (a)(5) or (a)(6)[, in which event, it] is a Class A misdemeanor. An offense under Subsection (a)(10) is a state jail felony.

HINOJOSA

LUCIO

The amendment to **CSSB 9** 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.

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

**CSSB 9** 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, Fraser, Gallegos, Nelson, Rodriguez.

### **COMMITTEE SUBSTITUTE SENATE BILL 9 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 9** be placed on its third reading and final passage.

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

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

Nays: Birdwell, Fraser, Gallegos, Nelson, Rodriguez, Wentworth.

#### **Reason for Vote**

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

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 9**, 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 9** 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 26, Nays 5.

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

Nays: Birdwell, Fraser, Gallegos, Nelson, Rodriguez.

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

#### **SENATE BILL 1723 REREFERRED (Motion In Writing)**

Senator Zaffirini submitted a Motion In Writing requesting that **SB 1723** be withdrawn from the Committee on Veteran Affairs and Military Installations and rereferred to the Committee on Higher Education.

The Motion In Writing prevailed without objection.

#### **REMARKS ORDERED PRINTED**

On motion of Senator Seliger and by unanimous consent, his remarks regarding John Paul Castro were ordered reduced to writing and printed in the *Senate Journal* as follows:

Thank you, Mr. President. Members, in the last week or so, we have celebrated Passover and Easter, times of peace and spiritual comfort, a time to hold our families close. Like Senator Eltife, I have a 22-year-old son and got to spend the weekend with him. And like many of the families represented in this room, in the gallery, and on the floor, we are a demonstrative family. But recent events made me wonder during the last weekend, of that fine young man, if I hugged him often enough and hard enough. And in case the answer is no, like many of you, I resolve to make up for that this next weekend. Because David Castro, Sr., and Carmen Armendariz Castro, who live in the Permian Basin in my district, some time ago when they hugged their 25-year-old son, John Paul Castro, little did they know that it would be for the last time. Because Sergeant John Paul Castro, who lived in Senator Eltife's district in Clarksville, on Friday last, Good Friday, was killed by small arms fire in Afghanistan. He is the kind of young man that Andrews, where he was born, Clarksville, where he lived and where he leaves a wife, Delia, and a young daughter, were that proud of him. Because after joining the Army in October of 2004, he was a recipient of the Bronze Star, the Purple Heart, the Army Commendation, Army Good

Conduct, the National Defense Service Medal, the Global War on Terrorism Service, and the Army Service Ribbon, the NATO and Army Meritorious Unit Commendation. He'll never make it back to Clarksville, but the things that he fought for and went to Afghanistan are there today, a family who lives at peace and safety and security because of the sacrifice of this brave American and Texan. Therefore, in honor and in memory of Sergeant John Paul Castro, I would ask that the Senate adjourn today in his memory and honor. Thank you.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today: **SB 649, SB 665.**

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

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

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 5:19 p.m. agreed to adjourn, in memory of John Paul Castro, upon completion of the introduction of bills and resolutions on first reading, until 9:00 a.m. tomorrow.

**HOUSE BILLS ON FIRST READING**

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

- HB 5** to Committee on Health and Human Services.
- HB 273** to Committee on Health and Human Services.
- HB 290** to Committee on Criminal Justice.
- HB 417** to Committee on State Affairs.
- HB 890** to Committee on Transportation and Homeland Security.
- HB 1112** to Committee on Transportation and Homeland Security.
- HB 1146** to Committee on Business and Commerce.
- HB 1168** to Committee on Administration.
- HB 1261** to Committee on Jurisprudence.
- HB 1283** to Committee on Intergovernmental Relations.
- HB 1488** to Committee on Intergovernmental Relations.
- HB 1529** to Committee on Criminal Justice.
- HB 1545** to Committee on State Affairs.
- HB 1566** to Committee on Criminal Justice.
- HB 1666** to Committee on Criminal Justice.
- HB 1759** to Committee on Intergovernmental Relations.
- HB 1760** to Committee on Intergovernmental Relations.
- HB 1853** to Committee on Business and Commerce.

**HB 1899** to Committee on Transportation and Homeland Security.  
**HB 1936** to Committee on Business and Commerce.  
**HB 2004** to Committee on Government Organization.  
**HB 2118** to Committee on Criminal Justice.  
**HB 2132** to Committee on Jurisprudence.  
**HB 2162** to Committee on Intergovernmental Relations.  
**HB 2229** to Committee on Health and Human Services.  
**HB 2327** to Committee on Transportation and Homeland Security.  
**HB 2330** to Committee on Jurisprudence.  
**HB 2385** to Committee on Criminal Justice.  
**HB 2482** to Committee on Criminal Justice.  
**HB 2725** to Committee on Criminal Justice.  
**HB 2792** to Committee on Transportation and Homeland Security.  
**HB 2793** to Committee on Administration.  
**HB 2859** to Committee on Natural Resources.  
**HB 3287** to Committee on Business and Commerce.  
**HB 3804** to Committee on Intergovernmental Relations.

**CO-AUTHOR OF SENATE BILL 9**

On motion of Senator Williams, Senator Lucio will be shown as Co-author of **SB 9**.

**CO-AUTHORS OF SENATE BILL 23**

On motion of Senator Nelson, Senators Patrick and Wentworth will be shown as Co-authors of **SB 23**.

**CO-AUTHOR OF SENATE BILL 529**

On motion of Senator Huffman, Senator Van de Putte will be shown as Co-author of **SB 529**.

**CO-AUTHOR OF SENATE BILL 1348**

On motion of Senator Van de Putte, Senator Watson will be shown as Co-author of **SB 1348**.

**CO-AUTHOR OF SENATE BILL 1533**

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SB 1533**.

**CO-AUTHOR OF SENATE BILL 1734**

On motion of Senator Van de Putte, Senator Hinojosa will be shown as Co-author of **SB 1734**.

**CO-AUTHOR OF SENATE BILL 1796**

On motion of Senator Van de Putte, Senator Hinojosa will be shown as Co-author of **SB 1796**.

**CO-AUTHOR OF SENATE BILL 1878**

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

**CO-SPONSOR OF HOUSE BILL 15**

On motion of Senator Patrick, Senator Birdwell will be shown as Co-sponsor of **HB 15**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 862** by Williams, In memory of Peggy Jo Mason of Harris County.

**SR 868** by Ellis, In memory of Erma Kate Johnson of Oakland, California.

**SR 871** by Lucio, In memory of Luis Romero of Los Fresnos.

**SR 873** by Patrick, In memory of William Arnold McMinn, Jr.

**Welcome and Congratulatory Resolutions**

**SR 861** by Williams, Recognizing Dohn LaBiche for receiving the 2011 Dr. Robert A. Swerdlow Small Business Person of the Year Award in the Retail-Service Category.

**SR 863** by Williams, Recognizing Becky Ames for receiving the Athena Award from the Greater Beaumont Chamber of Commerce.

**SR 864** by Jackson, Welcoming the doctors of chiropractic who are visiting our state from Japan.

**SR 869** by Zaffirini, Joining the citizens of Live Oak in observing National Police Week.

**SR 870** by Zaffirini, Ogden, Watson, and Wentworth, Congratulating Grupo Fantasma for winning a Grammy Award.

**SR 872** by Lucio, Commending Mike Garcia for achieving the rank of Eagle Scout.

**Official Designation Resolution**

**SR 867** by Ellis, Recognizing April 30, 2011, as XX Concurso Día del Niño Day.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 5:29 p.m. adjourned, in memory of John Paul Castro, until 9:00 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 28, 2011

EDUCATION — **CSSB 1557**

JURISPRUDENCE — **CSHB 1674, CSSB 1196**

BUSINESS AND COMMERCE — **CSSB 63, CSSB 1399**

EDUCATION — **CSHB 1555**

NATURAL RESOURCES — **CSSB 105, CSSB 467, CSSB 1070, CSSB 1073**

TRANSPORTATION AND HOMELAND SECURITY — **SB 947, CSSB 1649, CSSB 1742, SB 1237**

BUSINESS AND COMMERCE — **CSSB 1806**

CRIMINAL JUSTICE — **CSSB 1636**

OPEN GOVERNMENT — **HB 1147**

HIGHER EDUCATION — **SB 1731**

**BILLS AND RESOLUTION ENGROSSED**

April 27, 2011

**SB 627, SB 1035, SB 1248, SJR 13**

**BILLS AND RESOLUTIONS ENROLLED**

April 27, 2011

**SB 416, SB 488, SB 605, SB 630, SB 692, SB 729, SB 777, SB 873, SB 874, SB 914, SB 1230, SCR 43, SCR 44, SCR 48, SR 826, SR 844, SR 846, SR 847, SR 848, SR 849, SR 851, SR 852, SR 853, SR 854, SR 855, SR 856, SR 857, SR 858, SR 859**

**SENT TO GOVERNOR**

April 28, 2011

**SB 85, SB 323, SB 416, SB 439, SB 488, SB 527, SB 605, SB 630, SB 638, SB 692, SB 729, SB 777, SB 873, SB 874, SB 914, SB 1226, SB 1230, SB 1846, SCR 43, SCR 44, SCR 48**