

SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-SEVENTH DAY

(Tuesday, May 10, 2011)

The Senate met at 11:18 a.m. pursuant to adjournment and was called to order by the President.

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

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

Monsignor Louis Pavlicek, Saint Helen Catholic Church, Georgetown, was introduced by Senator Ogden and offered the invocation as follows:

Loving and gracious God, the giver of life and sustainer of life, we pray for the Members of the Senate of the State of Texas. They have been entrusted with the responsibility of the highest deliberative and legislative function of our state. Bless them with the gift of wisdom in decision making and governance. May the laws which they enact in cooperation with the other governing bodies be permeated with the eternal values which reflect Your vision for all of creation, namely, the sanctity of human life, justice, equality, truthfulness, peace, and a concern for the common good. May their efforts to be good stewards be pleasing to You, we pray, now and forever. Amen.

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

The motion prevailed without objection.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Tuesday, May 10, 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 274

Creighton

Relating to the reform of certain remedies and procedures in civil actions and family law matters.

SB 887

Carona

Sponsor: Riddle

Relating to the penalty for theft of an automated teller machine or the contents or components of an automated teller machine.

SB 977

Hinojosa

Sponsor: Torres

Relating to the imposition and use of the municipal hotel occupancy tax by certain eligible central municipalities.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Timothy Vachris of Austin as the Physician of the Day.

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

SENATE RESOLUTION 955

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the 50th anniversary of the Freedom Rides of 1961 and to welcome Robert Farrell, a participant in those historic efforts, which played a key role in the struggle for racial equality in the United States; and

WHEREAS, In May of 1961, an interracial group of bus riders set out to test the new law that forbade segregation in interstate transportation; organized by the Congress of Racial Equality and the Student Nonviolent Coordinating Committee, these riders employed the strategy of nonviolence to draw attention to the multiple injustices of segregation; and

WHEREAS, The rides began in Washington, D.C., where two teams of riders boarded buses to travel to New Orleans, with their route taking them through the deep South and exposing them to the threat of violent reprisals; the start of the trip went well, and the group was welcomed in Atlanta by Dr. Martin Luther King, Jr.; later along the route, however, the buses were attacked and riders were beaten by crowds; and

WHEREAS, The Freedom Riders' refusal to be intimidated, their steadfast and righteous defiance, and their brave commitment to their mission helped bring about the nationwide public realization that integration was a moral imperative while also inspiring the immediate and direct support of hundreds of young people, both black and white, who came from across the country to join them; and

WHEREAS, In August of that same year, another group of riders, including Robert Farrell, set forth from Los Angeles by train to further the cause of helping our nation implement the ideals of its founding; these riders were arrested and jailed in Houston for nonviolently attempting to desegregate that city's Union Station Coffee Shop; and

WHEREAS, These struggles for equality brought to the forefront many young people whose experiences in the Freedom Rides inspired them to become leaders in the civil rights movement and in their communities; leaders such as Congressman John Lewis of Georgia and longtime Los Angeles Councilman Robert Farrell have served as an inspiration to generations of activists working to effect societal change; and

WHEREAS, The Freedom Rides played a vital role in bringing attention to the inequities faced by African Americans in this country; it is truly fitting that they be recognized as a vital part of our shared history on the occasion of their 50th anniversary; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend the Freedom Riders on their courage and their dedication to equal rights and call on all Texans to recognize their historic contributions to bringing our nation closer to its principles and ideals; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this significant occasion in our nation's history.

ELLIS
WEST

SR 955 was read and was adopted without objection.

GUEST PRESENTED

Senator Ellis was recognized and introduced to the Senate Robert Farrell.

The Senate welcomed its guest.

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.

ACKNOWLEDGEMENT

Senator Patrick was recognized and acknowledged May 10, 1888, as the date of the first Senate session held in this Capitol.

REPORT OF COMMITTEE ON NOMINATIONS

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

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

Members, Assistive and Rehabilitative Services Council: Jon Edward Arnold-Garcia, Bexar County; Tommy G. Fordyce, Walker County; Thomas William Graham, Smith County.

Members, Board of Directors, Coastal Water Authority: Alan Dee Conner, Liberty County; Zebulun Nash, Harris County; Douglas E. Walker, Chambers County.

Members, Finance Commission of Texas: David Jesus Cibrian, Bexar County; Cynthia F. Lyons, El Paso County; Jonathan Bennett Newton, Harris County; Hilliard Judge Shands, Angelina County; William James White, Williamson County.

Members, Real Estate Research Advisory Committee: Mario A. Arriaga, Montgomery County; Russell Lynn Cain, Calhoun County; Jacquelyn Hawkins, Travis County; Kimberly Anne Shambley, Dallas County.

Members, Board of Directors, Rio Grande Regional Water Authority: Wayne Morris Halbert, Cameron County; Paul Glen Heller, Hidalgo County; Brian E. Macmanus, Cameron County; Roel Rodriguez, Hidalgo County; Samuel Robert Sparks, Cameron County.

Members, State Board for Educator Certification: Laurie Bricker, Harris County; Leonard Curtis Culwell, Dallas County; Kathryn Everest, Tarrant County; Suzanne Garcia McCall, Lubbock County; Christine Dona Pogue, Hays County.

Members, State Board of Dental Examiners: James Wesley Chancellor, Comal County; Renee Susanne Cornett, Travis County; David Bradley Dean, Collin County; Tamela L. Gough, Collin County; Christie McAdams Leedy, Taylor County; Evangelia Vionis Mote, Williamson County; Ann Guthrie Pauli, El Paso County; John Thomas Steen, Harris County.

Members, Task Force on Indigent Defense: Jon H. Burrows, Bell County; Knox Fitzpatrick, Dallas County; Anthony C. Odiome, Potter County; Olen U. Underwood, Montgomery County; B. Glen Whitley, Tarrant County.

Members, Texas Board of Licensure for Professional Medical Physicists: Charles Ward Beasley, Harris County; Douglas Allen Johnson, Brazos County; James Robert Marbach, Bexar County; Alvin Lee Schlichtemeier, Collin County; Kiran Kantilal Shah, Fort Bend County.

Members, Governing Board, Texas Department of Rural Affairs: Nina Remelle Marlow Farrar, Foard County; Bryan Keith Tucker, Childress County; Patrick Lee Wallace, Henderson County.

Members, Texas Medical Board: Julie K. Attebury, Potter County; Stanley Suchy Wang, Travis County; George Willeford, Travis County; Irvin Edwin Zeitler, Concho County.

Members, Texas State Board of Social Worker Examiners: Theresa Argumaniz Gomez, El Paso County; Nancy Ann Pearson, Washington County; Denise V. Pratt, Harris County.

NOTICE OF CONSIDERATION OF NOMINATIONS

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

CONCLUSION OF MORNING CALL

The President at 11:43 a.m. announced the conclusion of morning call.

(Senator Eltife in Chair)

HOUSE BILL 444 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 444** at this time on its second reading:

HB 444, Relating to notification of applications for permits for certain injection wells.

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

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

HOUSE BILL 444 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 444** be placed on its third reading and final passage.

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

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

GUESTS PRESENTED

Senator Van de Putte was recognized and introduced to the Senate a SAMinistries delegation: Phillip Bogochow, Erika Hizel, and Pamela Harper.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 908 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 908** at this time on its second reading:

CSHB 908, Relating to the division of community property on dissolution of marriage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 908 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 908** be placed on its third reading and final passage.

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

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

SENATE BILL 371 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 371** at this time on its second reading:

SB 371, Relating to the eligibility for service retirement annuities of certain elected officials convicted of certain crimes.

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 371 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 371** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE

SENATE BILL 669 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 669** at this time on its second reading:

CSSB 669, Relating to requests to inspect or be provided with copies of information under the public information law.

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

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

COMMITTEE SUBSTITUTE

SENATE BILL 669 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 669** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 843 ON SECOND READING**

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 843** at this time on its second reading:

CSHB 843, Relating to the use of electronic means for the delivery of ad valorem tax bills to certain property owners and agents.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 843 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 843** be placed on its third reading and final passage.

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

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

HOUSE BILL 755 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 755** at this time on its second reading:

HB 755, Relating to eligibility of certain dependents for coverage under the state employee group benefits program.

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

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

HOUSE BILL 755 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 755** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1380 ON SECOND READING**

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1380** at this time on its second reading:

CSHB 1380, Relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1380 ON THIRD READING**

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1380** be placed on its third reading and final passage.

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

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

HOUSE BILL 841 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 841** at this time on its second reading:

HB 841, Relating to certain statutory references to the Department of Family and Protective Services.

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

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

HOUSE BILL 841 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 841** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1405 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1405** at this time on its second reading:

CSHB 1405, Relating to provision by a health benefit plan of prescription drug coverage specified by formulary and to modifications of that coverage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1405 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 **CSHB 1405** be placed on its third reading and final passage.

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

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

STATEMENT OF LEGISLATIVE INTENT

Senator Deuell submitted the following statement of legislative intent for **CSHB 1405**:

We recognize that formularies change often and that membership is always changing. It is our intention that this bill requires only one notice per year.

DEUELL

HOUSE BILL 1061 ON SECOND READING

Senator Duncan moved to suspend the regular order of business to take up for consideration **HB 1061** at this time on its second reading:

HB 1061, Relating to the expiration of certain investment authority of the Teacher Retirement System of Texas.

The motion prevailed.

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

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1061** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 825.3012, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b) of this section and any provision of Section 825.301, before September 1, 2019, not more than 10 percent of the value of the total investment portfolio of the retirement system may be invested in hedge funds. This subsection expires September 1, 2019.

The amendment to **HB 1061** was read and was adopted by a viva voce vote.

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

Nays: Fraser, Huffman.

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

HB 1061 as amended was passed to third reading by a viva voce vote.

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

Nays: Fraser.

HOUSE BILL 1061 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 **HB 1061** be placed on its third reading and final passage.

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

Nays: Fraser.

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

COMMITTEE SUBSTITUTE SENATE BILL 471 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 471** at this time on its second reading:

CSSB 471, Relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.

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 471 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 471** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE SENATE BILL 200 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 200** at this time on its second reading:

CSSB 200, Relating to reports, notices, and records required of institutions of higher education.

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

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

COMMITTEE SUBSTITUTE
SENATE BILL 200 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 200** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
HOUSE BILL 2376 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2376** at this time on its second reading:

CSHB 2376, Relating to the regulation of plumbing.

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

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

COMMITTEE SUBSTITUTE
HOUSE BILL 2376 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2376** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
HOUSE BILL 1829 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1829** at this time on its second reading:

CSHB 1829, Relating to an application for emergency detention and to the transfer to a mental hospital of a person admitted for emergency detention.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1829** (senate committee printing) by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Section 573.012, Health and Safety Code, is amended by amending Subsection (h) and adding Subsection (h-1) to read as follows:

(h) A judge or magistrate may permit an applicant who is a physician to present an application by:

(1) e-mail with the application attached as a secure document in a portable document format (PDF); or

(2) secure electronic means, including:

(A) satellite transmission;

(B) [5] closed-circuit television transmission; [5] or

(C) any other method of two-way electronic communication that:

(i) [~~1~~] is secure;

(ii) [~~2~~] is available to the judge or magistrate; and

(iii) [~~3~~] provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the applicant.

(h-1) After the presentation of an application under Subsection (h), the judge or magistrate may transmit a warrant to the applicant:

(1) electronically, if a digital signature, as defined by Article 2.26, Code of Criminal Procedure, is transmitted with the document; or

(2) by e-mail with the warrant attached as a secure document in a portable document format (PDF), if the identifiable legal signature of the judge or magistrate is transmitted with the document.

The amendment to **CSHB 1829** 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 Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1829 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1829 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 **CSHB 1829** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 146 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 146** at this time on its second reading:

CSSB 146, Relating to the offense of smuggling of persons and unlawful transport of an individual; providing penalties.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 146** (Senate Committee Printing) in SECTION 2 of the bill, in added Section 20.05(d), Penal Code (page 1, lines 41 and 42), by striking "third" each place it appears in the subsection and substituting "second".

The amendment to **CSSB 146** 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 Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 146 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 146 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 **CSSB 146** be placed on its third reading and final passage.

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

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

HOUSE BILL 1404 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1404** at this time on its second reading:

HB 1404, Relating to certain temporary orders in a suit affecting the parent-child relationship during a parent's military deployment.

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

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

HOUSE BILL 1404 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1404** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1857 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1857** at this time on its second reading:

CSSB 1857, Relating to the administration of medication for persons with intellectual and developmental disabilities.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1857** (senate committee printing) as follows:

(1) In SECTION 2(a) of the bill (page 3, line 23), strike ", and must end on August 31, 2012".

(2) In SECTION 2(d) of the bill (page 3, line 45), strike "2013" and substitute "2015".

The amendment to **CSSB 1857** was read and was adopted by a viva voce vote.

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

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

CSSB 1857 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 1857 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1857** be placed on its third reading and final passage.

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

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

SENATE BILL 1449 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1449** at this time on its second reading:

SB 1449, Relating to an alternative method of satisfying certain licensing and program participation requirements for chemical dependency treatment facilities.

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

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

SENATE BILL 1449 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1449** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE**SENATE BILL 5 ON SECOND READING**

Senator Zaffirini again moved to suspend the regular order of business to resume consideration of **CSSB 5** at this time on its second reading:

CSSB 5, Relating to the administration and business affairs of public institutions of higher education.

The motion prevailed.

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

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSSB 5** as amended as follows:

Strike all of added Article __, Miscellaneous Provisions, as added by Floor Amendment 8, in its entirety.

The amendment to **CSSB 5** 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. 16.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 17

Amend **CSSB 5** (Senate Committee Printing) in ARTICLE 4 of the bill, by striking Section 4.01 (page 6, lines 48-65), and renumbering subsequent sections accordingly.

The amendment to **CSSB 5** 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. 17.

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

CSSB 5 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: Ogden.

**COMMITTEE SUBSTITUTE
SENATE BILL 5 ON THIRD READING**

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

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

Nays: Ogden.

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

SENATE BILL 1671 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 1671** at this time on its second reading:

SB 1671, Relating to the Teacher Retirement System of Texas.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1671** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (i), Section 411.081, Government Code, as amended by Chapters 183 (H.B. 1830), 780 (S.B. 1056), 816 (S.B. 1599), and 1027 (H.B. 4343), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas Medical Board;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Texas Board of Nursing;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district;

(18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission;

(23) the Department of Aging and Disability Services;

(24) the Texas Education Agency; ~~and~~

(25) the Guardianship Certification Board; ~~and~~

(26) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;

(27) ~~(25)~~ the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

(28) ~~(25)~~ the Court Reporters Certification Board; ~~and~~

(29) ~~(25)~~ the Texas Department of Insurance; and

(30) the Teacher Retirement System of Texas.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0971 to read as follows:

Sec. 411.0971. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEACHER RETIREMENT SYSTEM OF TEXAS. (a) The Teacher Retirement System of Texas is entitled to obtain from the department, the

Federal Bureau of Investigation Criminal Justice Information Services Division, or another law enforcement agency criminal history record information maintained by the department, division, or agency that relates to a person who:

(1) is an employee or an applicant for employment with the retirement system;

(2) is a consultant, contract employee, independent contractor, intern, or volunteer for the retirement system or an applicant to serve in one of those positions;

(3) proposes to enter into a contract with or has a contract with the retirement system to perform services for or supply goods to the retirement system; or

(4) is an employee or subcontractor, or an applicant to be an employee or subcontractor, of a contractor that provides services to the retirement system.

(b) Criminal history record information obtained by the Teacher Retirement System of Texas under Subsection (a) may not be released or disclosed to any person except:

(1) on court order;

(2) with the consent of the person who is the subject of the criminal history record information; or

(3) to a federal agency as required by federal law or executive order.

(c) The Teacher Retirement System of Texas shall destroy criminal history record information obtained under this section after the information is used for the purposes authorized by this section.

(d) The Teacher Retirement System of Texas may provide a copy of the criminal history record information obtained from the department, the Federal Bureau of Investigation Criminal Justice Information Services Division, or other law enforcement agency to the individual who is the subject of the information.

(e) The failure or refusal of an employee or applicant to provide the following on request constitutes good cause for dismissal or refusal to hire:

(1) a complete set of fingerprints;

(2) a true and complete name; or

(3) other information necessary for a law enforcement entity to obtain criminal history record information.

SECTION 3. Subchapter F, Chapter 551, Government Code, is amended by adding Section 551.130 to read as follows:

Sec. 551.130. BOARD OF TRUSTEES OF TEACHER RETIREMENT SYSTEM OF TEXAS: QUORUM PRESENT AT ONE LOCATION. (a) In this section, "board" means the board of trustees of the Teacher Retirement System of Texas.

(b) This chapter does not prohibit the board or a board committee from holding an open or closed meeting by telephone conference call.

(c) The board or a board committee may hold a meeting by telephone conference call only if a quorum of the applicable board or board committee is physically present at one location of the meeting.

(d) A telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must also specify:

(1) the location of the meeting where a quorum of the board or board committee, as applicable, will be physically present; and

(2) the intent to have a quorum present at that location.

(e) The location where a quorum is physically present must be open to the public during the open portions of a telephone conference call meeting. The open portions of the meeting must be audible to the public at the location where the quorum is present and be tape-recorded at that location. The tape recording shall be made available to the public.

(f) The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference call must be clearly stated before the party speaks.

(g) The authority provided by this section is in addition to the authority provided by Section 551.125.

(h) A member of the board who participates in a board or board committee meeting by telephone conference call but is not physically present at the location of the meeting is not considered to be absent from the meeting for any purpose. The vote of a member of the board who participates in a board or board committee meeting by telephone conference call is counted for the purpose of determining the number of votes cast on a motion or other proposition before the board or board committee.

(i) A member of the board may participate remotely by telephone conference call instead of by being physically present at the location of a board meeting for not more than one board meeting per calendar year. A board member who participates remotely in any portion of a board meeting by telephone conference call is considered to have participated in the entire board meeting by telephone conference call. For purposes of the limit provided by this subsection, remote participation by telephone conference call in a meeting of a board committee does not count as remote participation by telephone conference call in a meeting of the board, even if:

(1) a quorum of the full board attends the board committee meeting; or

(2) notice of the board committee meeting is also posted as notice of a board meeting.

(j) A person who is not a member of the board may not speak at the meeting from a remote location by telephone conference call, except as provided by Section 551.129.

SECTION 4. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.153 to read as follows:

Sec. 552.153. EXCEPTION: NAME OF APPLICANT FOR EXECUTIVE DIRECTOR, CHIEF INVESTMENT OFFICER, OR CHIEF AUDIT EXECUTIVE OF TEACHER RETIREMENT SYSTEM OF TEXAS. The name of an applicant for the position of executive director, chief investment officer, or chief audit executive of the Teacher Retirement System of Texas is excepted from the requirements of Section 552.021, except that the board of trustees of the Teacher Retirement System of Texas must give public notice of the names of three finalists being considered for one of those positions at least 21 days before the date of the meeting at which the final action or vote is to be taken on choosing a finalist for employment.

SECTION 5. Section 804.003, Government Code, is amended by amending Subsections (f) and (g) and adding Subsection (p) to read as follows:

(f) A domestic relations order is a qualified domestic relations order only if such order:

- (1) clearly specifies the:
- (A) name[~~social security number,~~] and last known mailing address[~~if any,~~] of:
- (i) the member or retiree; and
- (ii) [~~the name, social security number, and mailing address of~~] each alternate payee covered by the order; and
- (B) social security number, or an express authorization for the parties to use an alternate method acceptable to the public retirement system to verify the social security number, of the member or retiree and each alternate payee covered by the order;
- (2) clearly specifies the amount or percentage of the member's or retiree's benefits to be paid by a public retirement system to each such alternate payee or the manner in which such amount or percentage is to be determined;
- (3) clearly specifies the number of payments or the period to which such order applies;
- (4) clearly specifies that such order applies to a designated public retirement system;
- (5) does not require the public retirement system to provide any type or form of benefit or any option not otherwise provided under the plan;
- (6) does not require the public retirement system to provide increased benefits determined on the basis of actuarial value;
- (7) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; and
- (8) does not require the payment of benefits to an alternate payee before the retirement of a member, the distribution of a withdrawal of contributions to a member, or other distribution to a member required by law.
- (g) A public retirement system may reject a domestic relations order as a qualified domestic relations order unless the order:
- (1) provides for a proportional reduction of the amount awarded to an alternate payee in the event of the retirement of the member before normal retirement age;
- (2) does not purport to require the designation of a particular person as the recipient of benefits in the event of a member's or annuitant's death;
- (3) does not purport to require the selection of a particular benefit payment plan or option;
- (4) provides clearly for each possible benefit distribution under plan provisions;
- (5) does not require any action on the part of the retirement system contrary to its governing statutes or plan provision other than the direct payment of the benefit awarded to an alternate payee;
- (6) does not make the award of an interest contingent on any condition other than those conditions resulting in the liability of a retirement system for payments under its plan provisions;
- (7) does not purport to award any future benefit increases that are provided or required by the legislature; [~~and~~]

(8) provides for a proportional reduction of the amount awarded to an alternate payee in the event that benefits available to the retiree or member are reduced by law; and

(9) if required by the retirement system, conforms to a model order adopted by the retirement system.

(p) A public retirement system may assess administrative fees on a party who is subject to a domestic relations order for the review of the order under this subchapter and, as applicable, for the administration of payments under an order that is determined to be qualified. In addition to other methods of collecting fees that a retirement system may establish, the retirement system may deduct fees from payments made under the order.

SECTION 6. Subdivision (15), Section 821.001, Government Code, is amended to read as follows:

(15) "School year" means[=

~~[(A)] a 12-month period beginning [approximately] September 1 and ending [approximately] August 31 of the next calendar year[; or~~

~~[(B) for a member whose contract or oral or written work agreement begins after June 30 and continues after August 31 of the same calendar year, a period not to include more than 12 months beginning on the date the contract or agreement begins].~~

SECTION 7. Section 821.008, Government Code, is amended to read as follows:

Sec. 821.008. PURPOSE OF RETIREMENT SYSTEM. (a) The purpose of the retirement system is to invest and protect funds of the retirement system and to deliver the benefits provided by statute, not to advocate or influence legislative action or inaction or to advocate higher benefits.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

SECTION 8. Section 823.002, Government Code, is amended by adding Subsection (b) to read as follows:

(b) A member shall notify the retirement system in writing of membership service that has not been properly credited by the retirement system on an annual statement. The member must provide verification and make deposits as required by the retirement system before the service may be credited. A member must notify the retirement system of the service in writing on or before the last day of the fifth school year after the end of the school year in which the service was rendered for the service to be credited.

SECTION 9. The heading to Section 823.304, Government Code, is amended to read as follows:

Sec. 823.304. USERRA ~~[REEMPLOYED VETERAN'S]~~ CREDIT.

SECTION 10. Subsections (a), (c), and (d), Section 823.304, Government Code, are amended to read as follows:

(a) A person eligible to establish USERRA ~~[reemployed-veteran's]~~ credit is one who qualifies under the Uniformed Services Employment and [Veteran's] Reemployment Rights Act of 1994, 38 U.S.C. Section 4301 [2021] et seq., for the benefits of reemployment in a position included within the membership of the retirement system and who is entitled under that Act to additional credit and benefits from the retirement system because of the person's active duty in the armed forces of the United States.

(c) A person may establish credit under this section by depositing with the retirement system for each year of service claimed an amount equal to[~~:-~~

~~[(+)]~~ the member contributions to the retirement system, as determined by the retirement system, that the person would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person is to receive retirement credit;~~:- and~~

~~[(2) a fee of five percent, compounded annually, of the required contribution from the date of the person's first eligibility to establish the credit to the date of deposit].~~

(d) To the extent required by the Uniformed Services Employment and [Veteran's] Reemployment Rights Act of 1994 and permitted by Sections 401(a) and 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

(1) grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with the retirement system if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period of active duty for the purpose of determining whether the person meets the length-of-service eligibility requirements for retirement or other benefits administered by the retirement system as if the person had established the credit; and

(2) include in relevant benefit computations under this subtitle the annual compensation, as determined by the retirement system, that would have been otherwise received by the person for service covered by the retirement system during any year in which the person had active duty in the armed forces.

SECTION 11. Subsection (c), Section 823.401, Government Code, is amended to read as follows:

(c) A member eligible to establish credit under this section is one who has at least five years of service credit in the retirement system for actual service in public schools, including at least one year completed after the relevant out-of-state service.

SECTION 12. Subsections (c), (d), and (e), Section 823.402, Government Code, are amended to read as follows:

(c) A member eligible to establish credit under this section is one who:

(1) has at least five years of service credited [credit] in the retirement system before the developmental leave occurs; [and]

(2) has, [is an employee of a public school] at the time the required deposits for the credit are paid, at least one year of membership service credit in the retirement system following the developmental leave; and

(3) has at least five years of service credited in the retirement system at the time the required deposits for the credit are paid [is sought].

(d) On or before the date a member takes developmental leave, the member must [shall] file with the retirement system a notice of intent to take developmental leave, and the member's employer must [shall] file with the retirement system a certification that the leave meets the requirements of Subsection (b). The notice of intent and the certification must be in the form required by the retirement system. Leave is not creditable in the retirement system if the member does not submit notice of intent and obtain the certification required by this subsection.

(e) A member may establish credit under this section by depositing with the retirement system for each year of developmental leave certified the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees [elaimed an amount equal to the sum of:

[1) the rate of member contributions required during the year of leave, times the member's annual rate of compensation during the member's most recent year of creditable service that preceded the year of leave; plus

[2) the amount that the state would have contributed had the member performed membership service during the year of leave at the member's annual rate of compensation during the most recent year of service that preceded the leave].

SECTION 13. Subsection (c), Section 823.501, Government Code, is amended to read as follows:

(c) A member may reinstate canceled credit under this section by depositing with the retirement system:

(1) the amount withdrawn or refunded; plus

(2) a reinstatement fee of eight [six] percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit.

SECTION 14. Subchapter A, Chapter 824, Government Code, is amended by adding Section 824.008 to read as follows:

Sec. 824.008. DEDUCTIONS FROM AMOUNTS PAYABLE BY THE RETIREMENT SYSTEM. (a) Notwithstanding Section 821.005, the retirement system may deduct the amount of a person's indebtedness to the retirement system from an amount payable by the retirement system to the person or the person's estate and the distributees of the estate.

(b) If the retirement system makes a payment to a participant who is deceased and the payment is not payable, the retirement system may deduct the amount of the payment from any amount payable by the retirement system to a person who received the payment or to that person's estate and distributees of the estate.

SECTION 15. Section 824.1013, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c), a beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the

beneficiary's life if the beneficiary designated at the time of the retiree's retirement is a trust and the beneficiary designated under this section is the sole beneficiary of that trust.

SECTION 16. Subsection (a), Section 824.103, Government Code, is amended to read as follows:

(a) Benefits payable on the death of a member or annuitant, except an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), are payable, and rights to elect survivor benefits, if applicable, are available, to one of the classes of persons described in Subsection (b), if:

- (1) the member or annuitant fails to designate a beneficiary before death;
- (2) a designated beneficiary does not survive the member or annuitant; ~~or~~
- (3) a designated beneficiary, under Section 824.004, waives claims to benefits payable on the death of the member or annuitant;
- (4) a beneficiary designation is revoked under Section 824.101(g); or
- (5) a person is not eligible to receive a benefit under Section 824.105.

SECTION 17. Section 824.105, Government Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) A benefit payable on the death of a member or annuitant may not be paid to a person who has been convicted of causing that death or who is otherwise ineligible under Subsection (f) but instead is payable to a person who would be entitled to the benefit had the convicted or otherwise ineligible person predeceased the decedent.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted or otherwise ineligible person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to pay benefits under this section unless it receives actual notice of the conviction or other ground of ineligibility of a beneficiary. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(f) A person is ineligible to receive a benefit payable on the death of a member or annuitant if the person is:

- (1) found not guilty by reason of insanity under Chapter 46C, Code of Criminal Procedure, of causing the death of the member or annuitant; or
- (2) the subject of an indictment, information, complaint, or other charging instrument alleging that the person caused the death of the member or annuitant and the person is determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

SECTION 18. Subsections (a-1) and (b-1), Section 824.202, Government Code, are amended to read as follows:

(a-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007 ~~[2006]~~. A member subject to this subsection is eligible to retire and receive a standard service retirement annuity if:

- (1) the member is at least 65 years old and has at least five years of service credit in the retirement system; or

(2) the member is at least 60 years old and has at least five years of service credit in the retirement system and the sum of the member's age and amount of service credit in the retirement system equals the number 80.

(b-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007 [~~2006~~]. If a member subject to this subsection is at least 55 years old and has at least five years of service credit in the retirement system, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from the following table:

Age at date of retirement	55	56	57	58	59	60	61	62	63	64	65
Percentage of standard annuity receivable	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

SECTION 19. Section 824.405, Government Code, is amended to read as follows:

Sec. 824.405. TABLES FOR DETERMINATION OF DEATH BENEFIT ANNUITY. For the purpose of computing a death benefit annuity under Section 824.402(a)(4) or Section 824.403, the board of trustees shall extend the tables[+:

~~[(4)]~~ in Section 824.202 [~~824.202(b) or (b-1), as applicable,~~] to ages earlier than indicated in the tables [~~55 years~~] by actuarially reducing the benefit available under the applicable table [~~at the age of 55 years~~] to the actuarial equivalent at the attained age of the member [~~beneficiary, and~~

~~[(2) in Section 824.202(b) or (d-1), as applicable, to ages earlier than the earliest retirement age by actuarially reducing the benefit available at the earliest retirement age to the actuarial equivalent at the attained age of the beneficiary].~~

SECTION 20. Section 824.601, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1) or Section 824.602, a retiree is not entitled to service or disability retirement benefit payments, as applicable, for any month in which the retiree is employed in any position by a Texas public educational institution.

(b-1) Subsection (b) does not apply to a retiree under Section 824.202 whose effective date of retirement is on or before January 1, 2011.

SECTION 21. Subsection (a), Section 824.602, Government Code, as amended by Chapters 674 (S.B. 132) and 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months [~~work occurs in not more than six months of a school year that begins~~] after the retiree's effective date of retirement; or

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree[;

~~[(5) in a position as a classroom teacher on as much as a full time basis, if the retiree has retired under Section 824.202(a) or (a 1), is certified under Subchapter B, Chapter 21, Education Code, to teach the subjects assigned, is teaching in an acute shortage area as determined by the board of trustees of a school district as provided by Subsection (m), and has been separated from service with all public schools for at least 12 months;~~

~~[(6) in a position as a principal, including as an assistant principal, on as much as a full time basis, if the retiree has retired under Section 824.202(a) or (a 1) without reduction for retirement at an early age, is certified under Subchapter B, Chapter 21, Education Code, to serve as a principal, and has been separated from service with all public schools for at least 12 months;~~

~~[(7) as a bus driver for a school district on as much as a full time basis, if the retiree has retired under Section 824.202(a) or (a 1), and the retiree's primary employment is as a bus driver; or~~

~~[(8) as a faculty member, during the period beginning with the 2005 fall semester and ending on the last day of the 2015 spring semester, in an undergraduate professional nursing program or graduate professional nursing program, as defined by Section 54.221, Education Code, and if the retiree has been separated from service with all public schools for at least 12 months].~~

SECTION 22. Subsection (g), Section 824.602, Government Code, is amended to read as follows:

(g) The exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. The retirement system nevertheless may not withhold a monthly benefit payment under Section 824.601 if:

(1) a disability retiree is employed in a Texas public educational institution in a position, other than as a substitute, for a period not to exceed three consecutive months [~~of the school year~~];

(2) the work occurs in a period, designated by the disability retiree, of no more than three consecutive months [~~of a school year~~];

(3) the disability retiree executes on a form and at a time prescribed by the retirement system a written election to have this exception apply on a one-time trial basis in determining whether benefits are to be suspended for the months of employment after retirement and in determining whether a disability retiree is no longer mentally or physically incapacitated for the performance of duty; and

(4) the disability retiree has not previously elected to avoid loss of monthly benefits [~~in a school year~~] under this subsection.

SECTION 23. Section 824.603, Government Code, is amended to read as follows:

Sec. 824.603. EXCLUSION FROM CREDIT. Employment of a retiree described by Section 824.601(b-1) or 824.602(a) does not entitle the [a] retiree to additional service credit, and the retiree so employed is not required to make contributions to the system from compensation for that employment.

SECTION 24. Section 825.002, Government Code, is amended by amending Subsections (f) and (g) and adding Subsection (h) to read as follows:

(f) Persons considered for nomination under Subsection (c), (d), or (e) must have been nominated ~~[by written ballot]~~ at an election conducted under rules adopted by the board of trustees.

(g) To provide for the nomination of persons for appointment under Subsection (d), the board shall send to each retiree of the retirement system:

- (1) notice of the deadline for filing as a candidate for nomination;
- (2) information on procedures to follow in filing as a candidate; and

(3) instructions on how to request a paper ballot or vote in another manner established by the board, including by telephone or other electronic means ~~[a written ballot]~~.

(h) If only two persons are nominated under Subsection (c), (d), or (e), the governor shall appoint a member of the board to the applicable trustee position from the slate of two nominated persons. If only one person is nominated under Subsection (c), (d), or (e), the governor shall appoint that person to the applicable trustee position. If no member or retiree is nominated for a position under Subsection (c), (d), or (e), the governor shall appoint to the applicable trustee position a person who otherwise meets the qualifications required for the position.

SECTION 25. Subsection (c), Section 825.206, Government Code, is amended to read as follows:

(c) The board of trustees annually shall evaluate the performance of the actuary during the previous year. At least once every four ~~[three]~~ years, the board shall redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

SECTION 26. Section 825.215, Government Code, is amended to read as follows:

Sec. 825.215. ADVOCACY PROHIBITED. (a) An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

(b) This section does not prohibit comments by an employee of the retirement system on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

SECTION 27. Section 825.315, Government Code, is amended to read as follows:

Sec. 825.315. PROHIBITED USE OF ASSETS. (a) Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or

committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

(b) This section does not prohibit the use of system assets by an employee of the retirement system to comment on federal laws, regulations, or other official actions or proposed actions affecting or potentially affecting the retirement system that are made in accordance with policies adopted by the board.

SECTION 28. Subsections (h) and (j), Section 825.403, Government Code, are amended to read as follows:

(h) If deductions were previously required but not paid, the retirement system may not provide benefits based on the service or compensation unless the deposits required by this section have been fully paid. The person's employer at the time the unreported service was rendered or compensation was paid must verify the service or compensation as required by Subsection (j) and the person must submit the verification to the retirement system not later than five years after ~~[member shall pay the amount of those deductions plus a fee computed at a rate of five percent a year on the unpaid amount from]~~ the end of the school year in which the service was rendered or compensation was paid. To establish the service or compensation credit, the person must deposit with the retirement system the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees ~~[deductions first became due or the end of the 1974-75 school year, whichever is later, to the date of payment]~~. The board of trustees shall:

- (1) prescribe terms for payments under this subsection; and
- (2) credit the person ~~[member]~~ for prior service to which the person ~~[member]~~ is entitled under this subtitle; ~~and~~
- ~~[(3) deposit the fee required by this subsection in the state contribution account].~~

(j) If deductions were previously required ~~[of a member]~~ but not paid, proof of service satisfactory to the retirement system must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the person's ~~[member's]~~ employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. ~~[A member may submit in lieu of employer documentation internal revenue, social security, bank, or other written records that were made at or near the time of service and that establish the amount of time worked and salary earned.]~~ An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection. A person who does not obtain proof of service as required by this section may not establish the service or compensation credit.

SECTION 29. Section 825.408, Government Code, is amended to read as follows:

Sec. 825.408. INTEREST ON CONTRIBUTIONS AND FEES; DEPOSITS IN TRUST. (a) An employer [~~employing district~~] that fails to remit, before the seventh day after the last day of a month, all member and employer deposits and documentation of the deposits required by this subchapter to be remitted by the employer [~~district~~] for the month shall pay to the retirement system, in addition to the deposits, interest on the unpaid or undocumented amounts at an annual rate compounded monthly. The rate of interest is the rate established under Section 825.313(b)(1), plus two percent. Interest required under this section is creditable to the interest account. On request, the retirement system may grant a waiver of the deadline imposed by this subsection based on an employer's [~~a district's~~] financial or technological resources.

(b) An employer [~~employing district~~] and its trustees or other governing body hold amounts due to the retirement system under this subtitle in trust for the retirement system and its members and may not divert the amounts to any other purpose.

SECTION 30. Subsection (b), Section 825.507, Government Code, is amended to read as follows:

(b) The retirement system may release records of a participant, including a participant to which Chapter 803 applies, to:

(1) the participant or the participant's attorney or guardian or another person who the executive director determines is acting on behalf of the participant;

(2) the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary, or if an executor or administrator of the deceased participant's estate has not been named, a person or entity who the executive director determines is acting in the interest of the deceased participant's estate, or an heir, legatee, or devisee of the deceased participant;

(3) a spouse or former spouse of the participant if the executive director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(4) an administrator, carrier, consultant, attorney, or agent acting on behalf of the retirement system;

(5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs to share the information to perform the purposes of the retirement system, as determined by the executive director;

(6) a person authorized by the participant in writing to receive the information;

(7) a federal, state, or local criminal law enforcement agency that requests a record for a law enforcement purpose;

(8) the attorney general to the extent necessary to enforce child support; or

(9) a party in response to a subpoena issued under applicable law if the executive director determines that the participant will have a reasonable opportunity to contest the subpoena.

SECTION 31. Subsection (a), Section 825.515, Government Code, is amended to read as follows:

(a) At least annually, the retirement system shall acquire and maintain records identifying members and the types of positions they hold as members. The type of position shall be identified as Administrative/Professional, Teacher/Full-Time Librarian, Support, ~~or~~ Bus Driver, or Peace Officer. For each member identified as a Peace Officer, the records must specify whether the member is an employee of an institution of higher education or of a public school that is not an institution of higher education. An employer shall provide the information required by this section in the form and manner specified by the retirement system.

SECTION 32. Subdivision (1), Section 1575.003, Insurance Code, is amended to read as follows:

(1) "Dependent" means:

(A) the spouse of a retiree;

(B) an unmarried child of a retiree or deceased active member if the child is younger than 25 years of age, including:

(i) an adopted child;

(ii) a foster child, stepchild, or other child who is in a regular parent-child relationship; or

(iii) a recognized natural child;

(C) a retiree's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or has his or her care provided by the retiree or surviving spouse on a regular basis regardless of the child's age, if the child has a mental disability ~~[is mentally retarded]~~ or is physically incapacitated to an extent that the child is dependent on the retiree or surviving spouse for care or support, as determined by the trustee; or

(D) a deceased active member's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship, without regard to the age of the child, if, while the active member was alive, the child:

(i) lived with or had the child's care provided by the active member on a regular basis; and

(ii) had a mental disability ~~[was mentally retarded]~~ or was physically incapacitated to an extent that the child was dependent on the active member or surviving spouse for care or support, as determined by the trustee.

SECTION 33. Section 1575.206, Insurance Code, is amended to read as follows:

Sec. 1575.206. CONTRIBUTIONS HELD IN TRUST FOR FUND. An employing public school ~~[district]~~ and its governing body ~~[trustees]~~:

(1) hold contributions required by this subchapter in trust for the fund and its participants; and

(2) may not divert the contributions for any other purpose.

SECTION 34. Section 1575.207, Insurance Code, is amended to read as follows:

Sec. 1575.207. INTEREST ASSESSED ON LATE PAYMENT OF DEPOSITS BY EMPLOYING PUBLIC SCHOOLS ~~[SCHOOL DISTRICTS]~~. (a) An employing public school ~~[district]~~ that does not remit to the trustee all contributions required by this subchapter before the seventh day after the last day of the month shall pay to the fund:

- (1) the contributions; and
- (2) interest on the unpaid amounts at the annual rate of six percent compounded monthly.

(b) On request, the trustee may grant a waiver of the deadline imposed by this section based on an employing public school's ~~[district's]~~ financial or technological resources.

SECTION 35. Section 1579.004, Insurance Code, is amended to read as follows:

Sec. 1579.004. DEFINITION OF DEPENDENT. In this chapter, "dependent" means:

- (1) a spouse of a full-time employee or part-time employee;
- (2) an unmarried child of a full-time or part-time employee if the child is younger than 25 years of age, including:
 - (A) an adopted child;
 - (B) a foster child, stepchild, or other child who is in a regular parent-child relationship; and
 - (C) a recognized natural child;
- (3) a full-time or part-time employee's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or has his or her care provided by the employee or the surviving spouse on a regular basis, regardless of the child's age, if the child has a mental disability ~~[is mentally retarded]~~ or is physically incapacitated to an extent that the child is dependent on the employee or surviving spouse for care or support, as determined by the board of trustees; and

- (4) notwithstanding any other provision of this code, any other dependent of a full-time or part-time employee specified by rules adopted by the board of trustees.

SECTION 36. (a) The following sections of the Government Code are repealed:

- (1) Subsection (i), Section 823.401;
- (2) Subsections (g) and (h), Section 823.402;
- (3) Subsection (e), Section 823.501;
- (4) Subsections (c), (d), (m), (p), and (q), Section 824.602; and
- (5) Section 825.3021.

(b) Section 57, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, is repealed.

SECTION 37. The change in law made by this Act to Section 804.003, Government Code, applies only to a qualified domestic relations order entered on or after the effective date of this Act. A qualified domestic relations order entered before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 38. Subdivision (15), Section 821.001, Government Code, as amended by this Act, applies beginning with the 2012-2013 school year.

SECTION 39. A member of the Teacher Retirement System of Texas who seeks credit under Subsection (b), Section 823.002, Government Code, as added by this Act, for service rendered before September 1, 2011, but not properly credited to a

member's annual statement, must notify the retirement system not later than the date specified in Subsection (b), Section 823.002, Government Code, as added by this Act, or August 31, 2016, whichever is later.

SECTION 40. Subsections (d) and (e), Section 823.401, Government Code, as amended by Section 10, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, effective September 1, 2005, apply to a person who was a member of the Teacher Retirement System of Texas on December 31, 2005, and to out-of-state service performed before January 1, 2006, notwithstanding Section 57 of that Act.

SECTION 41. The changes in law made by this Act to Section 824.105, Government Code, apply only to the death of a member or annuitant of the Teacher Retirement System of Texas that is caused by conduct that occurs on or after the effective date of this Act. The death of a member or annuitant that is caused by conduct that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 42. (a) A person who resumed employment after retirement and whose benefit payments were suspended under Section 824.601, Government Code, as that section existed before amendment by this Act, is entitled to the resumption of monthly benefit payments if the person meets the requirements of Section 824.601(b-1), Government Code, as added by this Act, or Section 824.602, Government Code, as amended by this Act.

(b) The Teacher Retirement System of Texas shall resume making monthly benefit payments to a person described by Subsection (a) of this section on the first payment date occurring on or after the effective date of this Act.

(c) A person who is entitled to the resumption of monthly benefit payments under this section is not entitled to recover benefit payments not made during the period the person's benefit was suspended under Section 824.601, Government Code, as that section existed before amendment by this Act.

SECTION 43. The change in law made by this Act to Section 825.002, Government Code, applies only to a vacancy on the board of trustees of the Teacher Retirement System of Texas for a term that expires on or after the effective date of this Act. A vacancy for a term that expires before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 44. For unreported service rendered or unreported compensation paid before the effective date of this Act, the verification required under Subsection (h), Section 825.403, Government Code, as amended by this Act, must be received by the Teacher Retirement System of Texas not later than August 31, 2016.

SECTION 45. (a) Notwithstanding the service credit cost provisions of Section 40 of this Act and Subsection (e), Section 823.402, Subdivision (2), Subsection (c), Section 823.501, and Subsection (h), Section 825.403, Government Code, as amended by this Act, a person may establish service credit by paying the deposits and fees required under Sections 823.402, 823.501, and 825.403, Government Code, and by Section 57, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, as those sections existed before amendment or repeal by this Act, if:

(1) the person otherwise meets all eligibility requirements under those sections as amended by this Act;

(2) the service for which credit is sought to be established was rendered, or the compensation for which credit is sought was paid, before the effective date of this Act; and

(3) the person makes payment for the service credit, or enters into an installment agreement for payment, not later than August 31, 2013.

(b) If a person has an installment agreement under Subsection (a) of this section that is terminated after August 31, 2013, before the person has made all of the payments, the person may establish credit only as provided by Sections 823.402, 823.501, and 825.403, Government Code, as amended by this Act, and by Section 40 of this Act.

SECTION 46. The change in law made by this Act to Subsection (b), Section 825.507, Government Code, applies only to the release of records by the Teacher Retirement System of Texas on or after the effective date of this Act. The release of records before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 47. (a) Notwithstanding Subsection (a), Section 825.404, Government Code, for the state fiscal year ending August 31, 2012, the amount of the state contribution to the Teacher Retirement System of Texas under that section may be less than the amount contributed by members during that fiscal year.

(b) Notwithstanding Subsection (a), Section 1575.202, Insurance Code, for the state fiscal year ending August 31, 2013, the state may contribute an amount to the retired school employees group insurance fund that is less than one percent of the salary of each active employee.

SECTION 48. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 49. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

The amendment to **SB 1671** was read and was adopted by a viva voce vote.

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

Absent: Williams.

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

SB 1671 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:

Absent: Williams.

SENATE BILL 1671 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 1671** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Williams.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILLS ON FIRST READING

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

HB 274 to Committee on State Affairs.

HB 388 to Committee on Veteran Affairs and Military Installations.

HB 710 to Committee on Health and Human Services.

HB 751 to Committee on Administration.

HB 1224 to Committee on Education.

HB 1278 to Committee on Intergovernmental Relations.

HB 1418 to Committee on State Affairs.

HB 1638 to Committee on Criminal Justice.

HB 1788 to Committee on Agriculture and Rural Affairs.

HB 2029 to Committee on Business and Commerce.

HB 2038 to Committee on Health and Human Services.

HB 2042 to Committee on Finance.

HB 2197 to Committee on Intergovernmental Relations.

HB 2329 to Committee on Criminal Justice.

HB 2610 to Committee on Health and Human Services.

HB 2678 to Committee on Transportation and Homeland Security.

HB 2704 to Committee on Education.

HB 2814 to Committee on State Affairs.

HB 2902 to Committee on Economic Development.

HB 3393 to Committee on Jurisprudence.

HB 3473 to Committee on Criminal Justice.

HB 3483 to Committee on Business and Commerce.

HOUSE CONCURRENT RESOLUTION 133 REREFERRED**(Motion In Writing)**

Senator Hinojosa submitted a Motion In Writing requesting that **HCR 133** be withdrawn from the Committee on Government Organization and rereferred to the Committee on Administration.

The Motion In Writing prevailed without objection.

(President in Chair)**HOUSE BILL 1917 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1917** at this time on its second reading:

HB 1917, Relating to the removal of appointed emergency services commissioners by a commissioners court.

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

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

HOUSE BILL 1917 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 **HB 1917** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE**HOUSE BILL 370 ON SECOND READING**

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

CSHB 370, Relating to the eligibility of a student to participate in extracurricular activities or competitions after transferring or moving from one public school to another.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 370** (senate committee report) by inserting into the bill the following appropriately numbered new SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.0832 to read as follows:

Sec. 33.0832. EQUAL OPPORTUNITY FOR ACCESS TO UNIVERSITY INTERSCHOLASTIC LEAGUE ACTIVITIES OTHER THAN FOOTBALL OR BASKETBALL. (a) In this section, "private school" has the meaning assigned by Section 39.033(d).

(b) The University Interscholastic League shall provide private and parochial schools with equal opportunity to become members of the league for the purpose of providing their students with access to league activities other than football or basketball.

(c) This section does not exempt a private or parochial school or its students from satisfying each rule or eligibility requirement imposed by this subchapter or the league for participating in an activity or league district sponsored by the league.

(d) A private or parochial school seeking to participate in a league activity or to become a member of a league district shall apply to the league on a signed form prescribed by the league. The school must certify its eligibility under this subchapter and league rules in the application and must attach proof of accreditation. The league may not impose eligibility requirements for private or parochial schools that exceed the requirements of this subchapter or league rules for public schools or require proof of eligibility that exceeds the proof required of public schools. On approval of an application, the league shall issue a certificate of approval to the applicant school. The application and certificate of approval are governmental records for purposes of Section 37.10, Penal Code.

(e) The league shall determine the appropriate league district in which an eligible private or parochial school will participate using the same standard the league applies to public schools, provided that the private or parochial school may not be placed in a league district lower than the 1A level.

(f) The league shall adopt rules that prohibit an eligible private or parochial school from recruiting any student to attend the school for the purpose of participating in a league activity. A rule adopted under this subsection may not discriminate against an eligible private or parochial school.

(g) To be eligible under this section, a private or parochial school must:

(1) be accredited by an accrediting organization recognized by the agency;
(2) not have had its ability or eligibility to participate in an association similar to the league compromised, revoked, or suspended for violating the rules or codes of that association within the five-year period preceding the date of application to participate in the league;

(3) offer a four-year high school curriculum;

(4) offer interscholastic competition; and

(5) require daily student attendance at a specific location.

(h) Nothing in this section affects the right of a private school participating in league activities during the 2010-2011 school year to continue participating in league activities in subsequent school years in a manner comparable to the school's participation during the 2010-2011 school year.

(i) Notwithstanding any other provision of this section, but subject to Subsection (h), the league shall implement this section by providing private and parochial schools with equal opportunity to participate in:

(1) league academic activities beginning with the 2011-2012 school year;

(2) league athletic activities, other than football or basketball, at the 1A and 2A league district levels beginning with the spring semester of the 2011-2012 school year;

(3) league athletic activities, other than football or basketball, at the 3A league district level beginning with the 2012-2013 school year;

(4) league athletic activities, other than football or basketball, at the 4A league district level beginning with the 2013-2014 school year; and

(5) league athletic activities, other than football or basketball, at the 5A league district level beginning with the 2014-2015 school year.

(j) Subsection (i) and this subsection expire September 1, 2015.

The amendment to **CSHB 370** was read and was adopted by the following vote: Yeas 28, Nays 3.

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

Nays: Nichols, Uresti, Wentworth.

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

CSHB 370 as amended was passed to third reading by a viva voce vote.

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

Nays: Eltife, Nichols.

COMMITTEE SUBSTITUTE HOUSE BILL 370 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 370** 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, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Nichols.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

HOUSE BILL 2360 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2360** at this time on its second reading:

HB 2360, Relating to the creation of the Corn Hill Regional Water Authority; providing authority to issue bonds.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2360** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 8364.102, Special District Local Laws Code (page 2, line 40), strike "the powers and duties necessary to accomplish the purposes" and substitute "only the powers and duties necessary to accomplish the purposes stated under Section 8364.004".

(2) In SECTION 1 of the bill, strike added Section 8364.103, Special District Local Laws Code (page 2, lines 42-46), and substitute the following:

Sec. 8364.103. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES; LIMITATIONS. (a) Except as provided by Subsections (b) and (c), the authority has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

(b) The authority may not provide wastewater, drainage, solid waste disposal, or road facilities or services.

(c) The authority does not have any power that the member entities do not have.

The amendment to **HB 2360** 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.

HB 2360 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2360 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 **HB 2360** be placed on its third reading and final passage.

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

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

BILLS SIGNED

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

SB 501, SB 656, SB 893, SB 980, SB 1104, SB 1153, SB 1160, SB 1168, SB 1341, SB 1680, HB 74.

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

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

ACKNOWLEDGEMENT

Senator Wentworth was recognized and acknowledged May 10, 1888, as the date of the first Senate session held in this Capitol.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Jackson and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Economic Development might meet and consider the following bills tomorrow:

HB 970, HB 990, HB 1040, HB 1178, HB 1245, HB 1643, HB 1711, HB 2579, HB 2853, HB 3302, HB 3465.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Eltife and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider **SB 1871** today.

CO-AUTHOR OF SENATE BILL 146

On motion of Senator Hinojosa, Senator Patrick will be shown as Co-author of **SB 146**.

CO-AUTHORS OF SENATE BILL 975

On motion of Senator Hinojosa, Senators Patrick, Seliger, Shapiro, and West will be shown as Co-authors of **SB 975**.

CO-SPONSOR OF HOUSE BILL 34

On motion of Senator Shapiro, Senator West will be shown as Co-sponsor of **HB 34**.

CO-SPONSOR OF HOUSE BILL 716

On motion of Senator Fraser, Senator Hinojosa will be shown as Co-sponsor of **HB 716**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 950 by Ellis, In memory of Inez Rogers.

SR 962 by Van de Putte and Uresti, In memory of Phil A. Grothues of San Antonio.

HCR 131 (Jackson), In memory of Howard Victor Reed of Austin.

Congratulatory Resolutions

SR 925 by Van de Putte, Recognizing Eric S. Cooper for receiving the 2011 Executive Director of the Year award from Feeding America.

SR 945 by Gallegos, Recognizing Teresa Recio on the occasion of her retirement from the Greater Houston Area Chapter of the American Red Cross.

SR 946 by Deuell, Recognizing the Van Independent School District on the occasion of its official Texas Historical Marker dedication.

SR 948 by Ellis, Commemorating the anniversary of the unveiling of the African American Texas Legislators Monument at the Texas State Cemetery.

SR 949 by Ellis, Recognizing Jamicia Ellis on the occasion of her high school graduation.

SR 951 by Ellis, Commending Alexander B. Denard for achieving the rank of Eagle Scout.

SR 952 by Harris, Recognizing Arlington Municipal Airport for receiving the 2011 Reliever Airport of the Year Award.

SR 953 by Harris, Recognizing the City of Dalworthington Gardens on the occasion of its 75th anniversary.

SR 954 by Harris, Recognizing Steven E. Simmons for his service to the Texas Department of Transportation.

SR 956 by Zaffirini, Recognizing Sandra Cavazos on the occasion of her retirement from the United Independent School District.

SR 957 by Carona, Recognizing Darren Lathen for his service to the Garland City Council.

SR 958 by Carona, Recognizing Barbara Chick for her service to the Garland City Council.

SR 959 by Carona, Recognizing Christina Yampanis of Dallas for her service to her community.

SR 960 by West, Recognizing Elvis Williams for his service to the Dallas Independent School District.

SR 961 by Van de Putte, Recognizing Asher Samuel Woodhouse for his service to the state and nation as a member of the United States Air Force.

HCR 119 (Jackson), Congratulating James Alford Davis on being named the 2011 Citizen of the Year by the Menard County Chamber of Commerce.

HCR 132 (Jackson), Honoring the Texas State Association of Parliamentarians on the occasion of their annual convention.

Official Designation Resolution

SR 963 by Birdwell, Celebrating May 17, 2011, as BEST Robotics Day at the Capitol.

Legislative Policy Resolution

SR 947 by Whitmire, Granting the Texas DeMolay Association permission to use the Senate Chamber in the State Capitol on February 11 and 12, 2012.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:35 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

May 10, 2011

ECONOMIC DEVELOPMENT — **CSSB 891**

STATE AFFAIRS — **CSHB 2154, CSHB 2959**

INTERNATIONAL RELATIONS AND TRADE — **HB 1254, HB 2002**

CRIMINAL JUSTICE — **CSSB 1358, CSSB 1658, CSSB 1843, CSHB 2014**

ADMINISTRATION — **HCR 33, HCR 69, CSHB 3726**

BUSINESS AND COMMERCE — **HB 3141, HB 3004, HB 3570, HB 1401, HB 2495, HB 3487, HB 3389, HB 1390, HB 2727, HB 989, HB 2033, HB 2067, HB 2468, HB 2615, HB 2342**

BILLS ENGROSSED

May 9, 2011

SB 303, SB 905, SB 1213, SB 1334, SB 1386, SB 1581, SB 1616, SB 1809, SB 1866, SB 1895

BILLS AND RESOLUTIONS ENROLLED

May 9, 2011

SB 501, SB 656, SB 893, SB 980, SB 1104, SB 1153, SB 1160, SB 1168, SB 1341, SB 1680, SR 916, SR 935, SR 939, SR 940, SR 941, SR 942, SR 943, SR 944

SIGNED BY GOVERNOR

May 9, 2011

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

SENT TO GOVERNORMay 10, 2011**SB 501, SB 656, SB 893, SB 980, SB 1104, SB 1153, SB 1160, SB 1168, SB 1341,
SB 1680**