

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FIFTY-NINTH DAY**

(Thursday, May 12, 2011)

The Senate met at 11:08 a.m. pursuant to adjournment and was called to order by President Pro Tempore Ogden.

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

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

The Reverend Larry Coulter, Shepherd of the Hills Presbyterian Church, Austin, offered the invocation as follows:

Almighty God, in whom we live and breathe and have our very being, we give You thanks for our country and our state. Cause us to never take the freedoms that we enjoy here for granted, but instead give us the single purpose to use those freedoms with attendant responsibility so that all people can experience an equality of justice and opportunity. We ask that You would look with favor upon all who are gathered today in these chambers to work to better the lives of the people of the State of Texas. Grant that they may set aside thoughts of self-aggrandizement in order to seek the common good. Give them wisdom and discernment in their deliberations, that reason may overcome rancor and that the outcomes of their labor may raise the opportunities, the hopes, and dreams of young and old alike. Give them courage to make the right choices and not simply the expedient ones, recognizing that they are a part of a long history of governance whose combined implications set the course of state that we all love. We ask that You would extend a special measure of Your grace to the families of the men and women who serve here. We are grateful for the sacrifices they make so that all those who labor here may work the long hours necessary for the Senate and the House to finish well. Finally, Lord, we ask that You would unite all our citizens in a common commitment to the good of all, that justice and mercy might be the true order of the day, and that the next season in our life together may be the best season for our great state. 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

Thursday, May 12, 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 13** Kolkhorst

Relating to the Medicaid program and alternate methods of providing health services to low-income persons in this state.

**HB 272** Smithee

Relating to the operation and name of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

**HB 590** Thompson

Relating to amended sales tax reports and the reallocation of sales tax revenue.

**HB 1128** Menendez

Relating to consent to certain medical treatments by a surrogate decision-maker on behalf of certain inmates.

**HB 1228** Dutton

Relating to foreclosure of a property owners' association assessment lien.

**HB 1355** Orr

Relating to title insurance coverage for minerals and surface damage resulting from mineral extraction and development.

**HB 1359** Veasey

Relating to authorization for a caregiver who is a relative to enroll a child in school.

**HB 1766** Crownover

Relating to the creation of a voluntary consumer-directed health plan for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their qualified dependents.

**HB 1784** Farias

Relating to requiring an interagency memorandum of understanding regarding the Public Assistance Reporting Information System and to the use of data from that system.

- HB 1797** Naishtat  
Relating to a person's eligibility to obtain a license in social work.
- HB 1951** Taylor, Larry  
Relating to the continuation and operation of the Texas Department of Insurance and the operation of certain insurance programs; imposing administrative penalties.
- HB 2096** Thompson  
Relating to the filing of writs of habeas corpus in mental health cases.
- HB 2102** Hernandez Luna  
Relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.
- HB 2103** Jackson, Jim  
Relating to the consideration of a letter of credit issued by a federal home loan bank as an eligible security for collateral to secure public funds.
- HB 2190** Elkins  
Relating to the deadlines by which provisional ballots must be processed and the state canvass must be conducted for certain elections.
- HB 2247** King, Phil  
Relating to the eligibility of the adjutant general's department to receive Foundation School Program funding for students enrolled in the Texas ChalleNGe Academy.
- HB 2316** Coleman  
Relating to county powers, duties, and services, including the powers and duties of certain districts, and the authorization of certain health care programs and studies.
- HB 2359** Hopson  
Relating to direct campaign expenditures.
- HB 2363** Flynn  
Relating to the creation of the Bearpen Creek Municipal Utility District of Hunt County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.
- HB 2425** Thompson  
Relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.
- HB 2492** Naishtat  
Relating to the family allowance, treatment of exempt property, and an allowance in lieu of exempt property in the administration of a decedent's estate.
- HB 2510** Lavender  
Relating to exempting the intrastate manufacture of certain incandescent light bulbs from federal regulation.
- HB 2595** Isaac  
Relating to the electronic submission and recording of documents associated with voting by mail.

- HB 2702** Solomons  
Relating to the application of statutes that classify political subdivisions according to population.
- HB 2707** Burnam  
Relating to the holding of an interest in certain alcoholic beverage licenses, permits, or premises by certain persons whose alcoholic beverage license or permit has been revoked.
- HB 2746** Martinez Fischer  
Relating to liability for the additional tax imposed on land appraised for ad valorem tax purposes as qualified open-space land in the event of a change of use of the land if the land is transferred to a charitable organization for purposes of building housing for sale without profit to a low-income individual or family.
- HB 2960** Darby  
Relating to vehicles used for the purpose of participating in equine activities or attending livestock shows.
- HB 2982** Orr  
Relating to the composition of the Finance Commission of Texas.
- HB 2994** Miles  
Relating to the creation, operation, and funding of the urban farm microenterprise support program.
- HB 2996** Miles  
Relating to the creation of the Texas Urban Agricultural Innovation Authority.
- HB 2997** Miles  
Relating to the creation and funding of the urban farming pilot program and the creation of the Select Committee on Urban Farming.
- HB 3001** Thompson  
Relating to the monitoring of and provision of certain information regarding certain high-risk sex offenders; providing a penalty.
- HB 3036** Alvarado  
Relating to the municipal sales and use tax for street maintenance.
- HB 3079** Darby  
Relating to dealer agreements regarding the purchase and sale of certain equipment or machinery used for agricultural, construction, industrial, mining, outdoor power, forestry, and landscaping purposes.
- HB 3111** Craddick  
Relating to fees to finance capital improvements in certain municipalities.
- HB 3125** Thompson  
Relating to the offenses of unauthorized duplication, unauthorized recording, unauthorized operation of recording device, and improper labeling of recordings.
- HB 3152** Torres  
Relating to recovery of the value of fraudulently obtained health care services provided or paid by the Nueces County Hospital District.

**HB 3216**

Otto

Relating to electronic communication between property owners and chief appraisers, appraisal districts, appraisal review boards, or any combination of those persons.

**HB 3283**

Guillen

Relating to the authority of certain development corporations to undertake projects with respect to community libraries.

**HB 3369**

King, Susan

Relating to the registration of certain physical therapy facilities by the Texas Board of Physical Therapy Examiners.

**HB 3387**

Rodriguez, Eddie

Relating to the regulation of food prepared, stored, distributed, or sold at farmers' markets.

**HB 3399**

Legler

Relating to the requirements for grant programs funded through the Texas emissions reduction plan.

**HB 3475**

Gallego

Relating to the recusal and disqualification of municipal judges.

**HB 3595**

Chisum

Relating to energy efficiency goals and energy efficiency programs.

**HB 3647**

Turner

Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

**HB 3723**

Guillen

Relating to optional fees on the registration of a vehicle imposed by a county.

**HB 3730**

Martinez, "Mando"

Relating to certain privatization of maintenance contracts awarded by the Texas Department of Transportation.

**HB 3797**

Gallego

Relating to the validation of the creation of, and certain acts related to, a venue project, and the dissolution of certain venue districts.

**HCR 135**

Legler

Honoring Bill Bailey, retiring constable for Precinct 8 of Harris County.

**HCR 142**

Davis, John

Congratulating Clear Lake High School junior Cameron Blizzard on overcoming cancer.

**HCR 143**

Davis, Sarah

Honoring Debra L. Friedkin for her support of the ongoing anthropological research at the Debra L. Friedkin site by Texas A&M University's Center for the Study of the First Americans.

**HCR 154** Craddick

Congratulating Stephen Hartmann of Midland on his retirement as executive director of University Lands for The University of Texas System.

**HJR 109** Orr

Proposing a constitutional amendment to clarify references to the permanent school fund and to allow the General Land Office or other entity to distribute revenue derived from permanent school fund land or other properties to the available school fund.

**SB 551** Williams Sponsor: Otto

Relating to liability for interest on ad valorem taxes on improvements that escaped taxation in a previous year.

**SB 1125** Carona Sponsor: Anchia

Relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets. (Committee Substitute/Amended)

**SB 1505** Uresti Sponsor: Lewis

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

**SCR 45** Fraser

Recognizing Otto P. Scharth on the occasion of his 88th birthday.

**SCR 46** Ellis

Commemorating the 70th anniversary of The University of Texas MD Anderson Cancer Center.

**SCR 52** Watson

Recognizing Donn and Arlene Adelman for their efforts on behalf of Crime Stoppers.

**SJR 28** Rodriguez Sponsor: Marquez

Proposing a constitutional amendment relating to the provision of parks and recreational facilities by conservation and reclamation districts in El Paso County.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**GUESTS PRESENTED**

Senator Eltife was recognized and introduced to the Senate a Texas Bank and Trust of Longview delegation.

The Senate welcomed its guests.

**(Senator Eltife in Chair)****SENATE RESOLUTION 909**

Senator Ogden offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Joemarie Ortiz for his heroic actions in rescuing four people from a burning vehicle; and

WHEREAS, A specialist in the Texas Army National Guard, Joemarie Ortiz was present at the scene when a vehicle passed through an intersection and struck a utility pole head-on, leaving all four passengers of the vehicle dazed and trapped; and

WHEREAS, Disregarding his own safety, Specialist Ortiz immediately crossed the street and led onlookers in a rescue effort, breaking out windows, cutting seat belts, and removing the driver and all the passengers only moments before the entire vehicle was engulfed in flames; and

WHEREAS, In the performance of this selfless act, Specialist Ortiz has brought honor to himself, his family, and the Texas Army National Guard; his compassion and selflessness are truly an inspiration to us all, and it is fitting that he receive recognition for his extraordinary valor; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 82nd Legislature, hereby commend Joemarie Ortiz on his bravery and quick thinking and extend to him best wishes for success in all his endeavors; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

**SR 909** was read and was adopted without objection.

#### **GUESTS PRESENTED**

Senator Ogden was recognized and introduced to the Senate Specialist Joemarie Ortiz, Command Sergeant Major Leveda McDaniel, Elizabeth Doremus, Christopher Doremus, Clayton Julian, and Nicole Julian.

The Senate welcomed its guests.

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

#### **PHYSICIAN OF THE DAY**

Senator Lucio, on behalf of Senator Davis, was recognized and presented Dr. Richard Young of Fort Worth as the Physician of the Day.

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

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

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

There was no objection.

#### **SENATE RESOLUTION 967**

Senator Lucio offered the following resolution:

**SR 967**, Recognizing Rolando Castañeda on his retirement from the Texas Department of Public Safety.

LUCIO  
HINOJOSA

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Lucio, joined by Senator Hinojosa, was recognized and introduced to the Senate Rolando Castañeda, Ester Castañeda, Monica Castañeda, Alberto Garcia, and Ismael Garza.

The Senate welcomed its guests.

**SENATE RESOLUTION 892**

Senator Davis offered the following resolution:

**SR 892**, Commending the Fort Worth Metropolitan Black Chamber of Commerce and its PATHS Forward leadership development program.

The resolution was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Davis was recognized and introduced to the Senate members of the Fort Worth Metropolitan Black Chamber of Commerce, accompanied by representatives of its PATHS Forward leadership development program.

The Senate welcomed its guests.

**HOUSE CONCURRENT RESOLUTION 154**

The President Pro Tempore laid before the Senate the following resolution:

**HCR 154**, Congratulating Stephen Hartmann of Midland on his retirement as executive director of University Lands for The University of Texas System.

SELIGER

The resolution was read.

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

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

**GUESTS PRESENTED**

Senator Seliger was recognized and introduced to the Senate Stephen Hartmann, former Executive Director of University Lands, and his wife, Georgia, joined by John Hartmann and Evan Hartmann.

The Senate welcomed its guests.

**SENATE RESOLUTIONS**

Senator Watson offered the following resolutions:

**SR 766**, Congratulating Ronnie D. Shores for receiving the 2011 Student of the Year Award from Communities In Schools of Texas.

The resolution was again read.

**SR 767**, Congratulating Jenny Grow for receiving the 2011 Teacher of the Year Award from Communities In Schools of Texas.

The resolution was again read.

**SR 768**, Congratulating Reyna Rivera for receiving the Parent of the Year Award from Communities In Schools of Texas.

The resolution was again read.

**SR 769**, Congratulating Suki Steinhauser for receiving the Executive Director of the Year Award from Communities In Schools of Texas.

The resolution was again read.

**SR 766**, **SR 767**, **SR 768**, and **SR 769** were previously adopted on Wednesday, April 13, 2011.

### GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Jenny Grow and Suki Steinhauser.

The Senate welcomed its guests.

### CONCLUSION OF MORNING CALL

The President Pro Tempore at 11:49 a.m. announced the conclusion of morning call.

### COMMITTEE SUBSTITUTE HOUSE BILL 563 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 563** at this time on its second reading:

**CSHB 563**, Relating to the purposes and designation of a transportation reinvestment zone.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSHB 563** (senate committee report) in SECTION 5 of the bill, after added Section 222.110(f), Transportation Code (page 5, between lines 63 and 64), by adding the following:

(g) Not later than the 30th day before the date the governing body of a municipality or county proposes to designate a portion or amount of sales tax increment under Subsection (b), the governing body shall hold a public hearing on the designation of the sales tax increment. At the hearing an interested person may speak for or against the designation of the sales tax increment. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the county or municipality, as appropriate.

(h) The hearing required under Subsection (g) may be held in conjunction with a hearing held under Section 222.106(e) or 222.107(e) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106 or 222.107 also designates a sales tax increment under Subsection (b).

The amendment to **CSHB 563** 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 Nichols and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 563** 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 563 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 **CSHB 563** 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 1164 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 1164** at this time on its second reading:

**CSSB 1164**, Relating to optional annuity increases and annual supplemental payments for certain retirees and beneficiaries of the Texas Municipal Retirement System.

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 1164 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 1164** 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 1572 ON SECOND READING**

Senator Watson moved to suspend the regular order of business to take up for consideration **CSSB 1572** at this time on its second reading:

**CSSB 1572**, Relating to the operations and monitoring of fusion centers in this state.

The motion prevailed.

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

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

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

Nays: Nichols.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1572 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1572** be placed on its third reading and final passage.

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

Nays: Nichols.

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 270 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 270** at this time on its second reading:

**CSSB 270**, Relating to newborn hearing screenings.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 270** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 47.001(2), Health and Safety Code, is amended to read as follows:

(2) "Birthing facility" means:

(A) a hospital licensed under Chapter 241 that offers obstetrical services [~~and is located in a county with a population of more than 50,000~~]; [~~or~~]

(B) a birthing center licensed under Chapter 244;

(C) a children's hospital; or

(D) a facility, maintained or operated by this state or an agency of this state, that provides obstetrical services [~~that is located in a county with a population of more than 50,000 and that has 100 or more births per year~~].

SECTION 2. Section 47.003, Health and Safety Code, is amended by amending Subsections (a), (c), (d), and (e) and adding Subsections (a-1) and (f) to read as follows:

(a) A birthing facility, through a program certified by the department under Section 47.004, shall perform, either directly or through a transfer agreement, ~~[offer the parents of a newborn]~~ a hearing screening ~~[for the newborn]~~ for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility unless:

(1) the parent declines the screening;

(2) the newborn or infant is transferred to another facility before the screening is performed; or

(3) the screening has previously been completed.

(a-1) The birthing facility ~~[screening]~~ shall inform the parents ~~[be offered]~~ during ~~[the birth]~~ admission that:

(1) the facility is required by law to screen a newborn or infant for hearing loss; and

(2) the parents may decline the screening~~[- and the parents shall be informed that information may be provided to the department upon their written consent].~~

(c) Subject to Section 47.008, the ~~[The]~~ department shall ~~[may]~~ maintain data and information on each newborn or infant who receives a hearing screening under Subsection (a) [services under a program].

(d) The department shall ensure that intervention is available to families for a newborn or infant identified as having hearing loss and that the intervention is managed by state programs operating under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(e) The department shall ensure that the intervention described by Subsection (d) is available for a newborn or infant identified as having hearing loss not later than the sixth month after the newborn's or infant's birth and through the time the child is an infant unless the infant has been hospitalized since birth.

(f) If a newborn or an infant receives medical intervention services, including a hearing aid or cochlear implant, the intervention specialist shall report the results of the intervention to the department.

SECTION 3. Chapter 47, Health and Safety Code, is amended by adding Section 47.0031 to read as follows:

Sec. 47.0031. FOLLOW-UP SCREENING. (a) The program that performed the hearing screening under Section 47.003 shall provide the newborn's or infant's parents with the screening results. A birthing facility, through the program, shall offer a follow-up hearing screening to the parents of a newborn or infant who does not pass the screening, or refer the parents to another program for the follow-up hearing screening. The follow-up hearing screening should be performed not later than the 30th day after the date the newborn or infant is discharged from the facility.

(b) If a newborn or an infant does not pass the screening in a follow-up hearing screening, the program that performed the follow-up hearing screening on the newborn or infant shall:

(1) provide the newborn's or infant's parents with the screening results;

(2) assist in scheduling a diagnostic audiological evaluation for the newborn or infant, consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement, or refer the newborn or infant to a licensed audiologist

who provides diagnostic audiological evaluations for newborns or infants that are consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement; and

(3) refer the newborn or infant to early childhood intervention services.

SECTION 4. Sections 47.004(b) and (d), Health and Safety Code, are amended to read as follows:

(b) In order to be certified, the program must:

(1) provide hearing screening using equipment recommended by the department;

(2) use appropriate staff to provide the screening;

(3) maintain and report data electronically as required by the department;

(4) distribute family, health care provider, and physician educational materials standardized by the department; ~~and~~

(5) provide information, as recommended by the department, to the parents on follow-up services for newborns and infants who do not pass the ~~[with abnormal]~~ screening; and

(6) be supervised by:

(A) a physician;

(B) an audiologist;

(C) a registered nurse; or

(D) a physician assistant [results].

(d) The department may renew the certification of a program on a periodic basis as established by board rule in order to ensure quality services to newborns, infants, and families.

SECTION 5. Section 47.005, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) A birthing facility that operates a program shall distribute to the parents of each newborn or infant who is screened educational materials that are standardized by the department regarding screening results and follow-up care.

(b) A birthing facility that operates a program shall report screening results to:

(1) the parents;

(2) [;] the newborn's or infant's attending physician, primary care physician, or other applicable health care provider; [;] and

(3) the department.

(d) The department may coordinate the diagnostic audiological evaluation required under Section 47.0031(b)(2). A diagnostic audiological evaluation must be completed on the newborn or infant:

(1) not later than the third month after the newborn's or infant's birth unless the newborn or infant has been hospitalized since birth; or

(2) upon referral by the newborn's or infant's primary care physician or other applicable health care provider.

(e) An audiologist who performs a diagnostic audiological evaluation under this chapter shall report the results of the evaluation to:

(1) the parents;

(2) the newborn's or infant's primary care physician or other applicable health care provider; and

(3) the department under Section 47.007(b).

SECTION 6. Section 47.007, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (d), (e), (f), (g), and (h) to read as follows:

(b) Subject to Section 47.008, a [A] qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist shall [may] access the information management, reporting, and tracking system to provide information[~~, where available,~~] to the department and may obtain information from the department[~~, including information~~] relating to:

(1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

(3) [~~1~~] infants who receive follow-up care;

(4) [~~2~~] infants identified with hearing loss;

(5) [~~3~~] infants who are referred for intervention services; and

(6) [~~4~~] case level information necessary to report required statistics to:

(A) the Maternal and Child Health Bureau on an annual basis; and

(B) the federal Centers for Disease Control and Prevention.

(d) A birthing facility described by Subsection (a) shall report the resulting information in the format and within the time frame specified by the department.

(e) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a program under this chapter shall:

(1) provide the services needed by the newborn or infant or refer the newborn or infant to a person who provides the services needed by the newborn or infant; and

(2) provide, with the consent of the newborn's or infant's parent, the following information to the department or the department's designee:

(A) results of follow-up care;

(B) results of audiologic testing of an infant identified with hearing loss; and

(C) reports on the initiation of intervention services.

(f) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who provides services to an infant who is diagnosed with hearing loss shall provide, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of follow-up care;

(2) results of audiologic testing; and

(3) reports on the initiation of intervention services.

(g) A hospital that provides services under this chapter shall use the information management, reporting, and tracking system described by this section, access to which has been provided to the hospital by the department, to report, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of all follow-up services for an infant who does not pass the screening described by Section 47.003(a) if the hospital provides the follow-up services; or

(2) the name of the provider or facility to which the hospital refers an infant who does not pass the screening described by Section 47.003(a) for follow-up services.

(h) Subject to Section 47.008, a qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist may obtain information from the department relating to:

(1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

(3) infants who receive follow-up care;

(4) infants identified with hearing loss; and

(5) infants who are referred for intervention services.

SECTION 7. Chapter 47, Health and Safety Code, is amended by adding Sections 47.010 and 47.011 to read as follows:

Sec. 47.010. RULEMAKING. (a) The executive commissioner of the Health and Human Services Commission may adopt rules for the department to implement this chapter.

(b) If the executive commissioner adopts rules, the executive commissioner shall consider the most current guidelines established by the Joint Committee on Infant Hearing.

Sec. 47.011. DUTIES OF MIDWIFE. (a) In this section, "midwife" has the meaning assigned by Section 203.002, Occupations Code, and includes a nurse midwife described by Section 301.152, Occupations Code.

(b) A midwife who attends the birth of a newborn:

(1) is not required to offer the parents of the newborn a hearing screening for the newborn for the identification of hearing loss; and

(2) shall refer the parents of the newborn to a birthing facility or a provider that participates in the program and make a record of the referral.

SECTION 8. Section 47.002, Health and Safety Code, is repealed.

SECTION 9. (a) Not later than January 1, 2012, the executive commissioner of the Health and Human Services Commission shall prescribe a form to document a parent's decision to decline screening under Section 47.003(a)(1), Health and Safety Code, as added by this Act, in consultation with persons and organizations interested in newborn hearing screening.

(b) The Department of State Health Services may post the form prescribed under Subsection (a) of this section on the department's Internet website.

(c) A person or facility is not required to comply with the changes in law made by this Act to Chapter 47, Health and Safety Code, until January 1, 2012.

SECTION 10. This Act takes effect September 1, 2011.

The amendment to **CSSB 270** 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 Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSSB 270** 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 270 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 270** 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 1787 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1787** at this time on its second reading:

**SB 1787**, Relating to the information provided by a peace officer before requesting a specimen to determine intoxication.

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 1787 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 **SB 1787** 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 1441 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1441** at this time on its second reading:

**SB 1441**, Relating to the correction of an ad valorem tax appraisal roll.

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 1441 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1441** 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 1843 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1843** at this time on its second reading:

**CSSB 1843**, Relating to investigations of certain offenses involving the Internet-based sexual exploitation of a minor; creating the Internet crimes against children account to support those activities.

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 1843 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1843** 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.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Thursday, May 12, 2011 - 2

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 2194** Taylor, Larry  
Relating to the conduct and administration of elections and of state conventions of political parties.

**SB 279** Davis Sponsor: Laubenberg  
Relating to inclusion of pets and other companion animals in protective orders; providing a penalty.

**SB 602** Rodriguez Sponsor: Marquez  
Relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and the calculation of certain deadlines under the public information law.  
(Amended)

**SB 647** Hegar Sponsor: Taylor, Larry  
Relating to the continuation and operation of the office of public insurance counsel.  
(Amended)

**SB 1087** Carona Sponsor: Hilderbran  
Relating to state-issued certificates of franchise authority to provide cable service and video service.  
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

#### REMARKS ORDERED PRINTED

On motion of Senator Watson and by unanimous consent, the remarks by Senators Huffman and Watson regarding **CSHB 2694** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Watson:** Thank you, thank you, Senator Huffman.

**Senator Huffman:** Yes, Sir.

**Senator Watson:** I'm very concerned about a few amendments that were added to this bill over in the House. They've already been somewhat, but they may become even more important points in negotiation between the House and the Senate when it gets to conference committee.

**Senator Huffman:** Yes.

**Senator Watson:** You and I have already discussed a number of these provisions, and I want to know, I want to make sure we're all clear on what your intent is with regard to keeping some of the more objectionable amendments off the bill. First, there was an amendment in the House, it was Floor Amendment No. 40 that—

**Senator Huffman:** Yes.

**Senator Watson:** —that amendment would shift, Members, you need to hear what this does, what it would do is, it would shift the burden of proof away from the applicant for a permit in a contested case hearing. And it's my understanding that you agree that this amendment is an amendment that should not be on the Sunset Bill. I believe that that amendment isn't in the public interest and harms the rights of parties that are affected by a permit application, but that you agree that it would, you would

not want to see that as part of the Sunset Bill, and would be in a position to work to not allow that amendment to be on that bill and, frankly, wouldn't be supportive of the TCEQ Sunset Bill if it were part of it.

**Senator Huffman:** That's absolutely true, Senator Watson. I agree with you that it was an inappropriate shifting of burdens. As you know, the EPA had also written a letter expressing concerns to Sunset about that. Of course, it was added on the House. And I would point out it's significant that when I presented this bill to Natural Resources, I stripped the House amendment, so I stripped all of them.

**Senator Watson:** I understand, but as we progress through this process, I want to make sure that the Members hear what the intent is, and what you just said was, that you thought that amendment was inappropriate, and you wouldn't be supportive of it being on the TCEQ Sunset Bill when it comes back, if that's part of what comes out of conference committee.

**Senator Huffman:** Absolutely, you're correct, Senator Watson.

**Senator Watson:** And I want to put a fine point on something else that you just said, when you mentioned that EPA, and I do know the Environmental Protection Agency has actually written a letter indicating that this change, this floor amendment that was made, has the potential to cause significant concerns with the federal authorization for the state's permitting programs, and that's one of the reasons you wouldn't be in favor of the TCEQ's Sunset Bill if that amendment were a part of it, and would vote against it is as part of the conference committee report.

**Senator Huffman:** That's correct. It's my intention, it will not be on the final bill.

**Senator Watson:** Thank you.

**Senator Huffman:** Yes, Sir.

**Senator Watson:** There was also another amendment and that was Floor Amendment No. 39. And, Members, what Floor Amendment No. 39 would do is, it would eliminate, do away with the opportunity for a contested case hearing. So your constituents would no longer have an opportunity for a contested case hearing on any amendment to an air pollution permit held by an electric generating facility, like a coal-fired power plant, seeking to implement new controls on hazardous air pollutants such as mercury and air toxics. This amendment replaces the contested case with what is essentially a public meeting. It's called a public hearing in the amendment, but it's really more akin to what we know in Texas as a public meeting and the public comment period, which many see as, basically, a meaningless kind of public venting process, is about what you would have here. What happened, Members, is this process allows for no affected person, an affected person is a term of art, it allows for no affected person to termination, no referral of a case to the State Office of Hearing Examiners for a quasi-judicial proceeding before an administrative law judge, no discovery, no cross-examination of witnesses, no burden of proof on the applicant, no leverage to force any applicant to the negotiating table to try to negotiate greater reductions in the emissions of hazardous air pollutants than the applicant TCEQ have already agreed to. Now, with that as background, Members, that's very important to

your constituents, that big change. So, Senator Huffman, let me ask you, as the author of this bill, it's my understanding that you also oppose this amendment and would vote against it if it were part of the bill?

**Senator Huffman:** That's correct.

**Senator Watson:** So when, if we suspend and if this passes and it goes to conference committee and this somehow, first of all, you're going to fight in conference committee, but if it comes back over here, you're out-voted, you would help lead voting against that, if that amendment is on the TCEQ Sunset Bill?

**Senator Huffman:** I'm going to do everything I can to keep it off in conference. I agree with you, it has no place on the Sunset Bill. I agree with you that the concept is not a good one, that Representative Chisum was promoting, which was a stand-alone bill which, actually, I think, died in Calendars over in the House. And I agree with you, shouldn't be on the bill.

**Senator Watson:** Great, thank you.

**Senator Huffman:** Yes, Sir.

**Senator Watson:** Let me ask you about another amendment. And that relates to compliance, history, and notice of violations. An issue that the Sunset report and the Sunset Commission didn't take a position on in their consideration of this bill, was issues related to NOVs, what are known as NOVs in compliance history. They didn't take a position on the consideration of this bill, but it became an issue, again, over on the House version of this bill. Right?

**Senator Huffman:** Yes, and on Senator, not Senator, Representative Wayne Smith linked the amendment on compliance history, yes.

**Senator Watson:** Now, currently, it's my understanding that TCEQ's penalty policy allows for up to five years of compliance history to be used as a penalty enhancement. In other words, if you can look at five years of bad acts, I guess, and, you know, I keep thinking of that bill you had where you and Senator West and Senator Hinojosa had some pretty heated debate because you were in favor in that bill of looking at prior bad acts, even though there might not be a conviction.

**Senator Huffman:** Right.

**Senator Watson:** Well, in this instance, currently, TCEQ can look back for five years—

**Senator Huffman:** Right.

**Senator Watson:** —at past notices of violations and compliance history to make a determination about what the penalty ought to be. Is that right?

**Senator Huffman:** Yes. As I understand it, yes.

**Senator Watson:** And what happened is, the House Bill caps enhancement and its escalation of penalties at 100 percent of the base penalty. And it also says that individual notices of violation are not to be considered as part of penalty enhancement. Is that right?

**Senator Huffman:** As I understand the reading of that amendment, yes, or as the engrossed version of the bill with, as amended, yes.

**Senator Watson:** Now, based on the penalties assessed in the year 2010, it's my understanding, and tell me if you, if it's your understanding that TCEQ's director of enforcement estimates that this will reduce TCEQ penalty authority by about 20 percent.

**Senator Huffman:** Let me make sure that's correct, because there's some difference, depending on which of those they enacted—

**Senator Watson:** I understand.

**Senator Huffman:** —it says, because he had an original, but it said, under Smith's original bill, TCEQ would lose 40 percent of the administrative penalty and in the current bill, yes, I guess the amendment, it would be 20 percent. So I think you're correct, yes.

**Senator Watson:** Alright, so doing that, doing the math on that, in 2010, in 2010 the agency assessed 17.1 million dollars in penalties and fines, so what that means is, if this amendment is part of the final bill, just using 2010, this would've reduced that to 13.3 million dollars.

**Senator Huffman:** That sounds about right, yes, Sir.

**Senator Watson:** Now, it's my understanding, and I want to make sure I know where you are on this, that you support consideration of notices of violation, just like you did in the bill that you had. And you support consideration of compliance history for penalty enhancement, maybe not for five years but for at least a period of time such as one year.

**Senator Huffman:** Yes, that's correct.

**Senator Watson:** And is that, if we vote to suspend on this, can we count on you, as part of the conference committee, if it comes back, to be opposed to something that does away with the ability to make those sorts of considerations?

**Senator Huffman:** That's correct, and I think what you and I talked about was the one-year range, not saying it might be more, but it would be at least the one-year range.

**Senator Watson:** And at minimum of one year.

**Senator Huffman:** Yes, Sir, yes.

**Senator Watson:** The bill that we have before us calls on the commission by rule to adopt enforcement policies. What's your intent with that provision?

**Senator Huffman:** Well, I believe that we will still let the commission, following the guidelines that are set up in statute, to establish those rules.

**Senator Watson:** Okay, well, the House adopted, let's talk about, again, one of these House amendments.

**Senator Huffman:** And if you want to direct me to a specific amendment, because there are a lot of them, yeah.

**Senator Watson:** And you'll be familiar with this. The House adopted an amendment that has a slight revision of what appears in the Senate Bill that would call on the policies to also include penalty calculations that would be a deterrent to prevent the economic benefit of noncompliance. In other words, if you're not complying, we don't want you to gain an economic benefit.

**Senator Huffman:** And I strongly support that concept.

**Senator Watson:** Yeah, you and I have discussed that provision. It's my understanding you're supportive of that language staying in the bill, being a part of the bill, and be what we ultimately vote on when it comes back from conference.

**Senator Huffman:** It makes good sense, yes, Sir.

**Senator Watson:** Okay, thank you. Let me ask you a couple of questions about the Public Interest Counsel—

**Senator Huffman:** Okay.

**Senator Watson:** —and what you, as the, what you deem to be in the public interest. The bill makes some changes to the Office of Public Interest Counsel, and I think the recommendations that lead to these changes are strong, and I support the changes. I just want to make sure that the intent of those changes are clear. The bill clarifies that the primary duty of the office is to represent the public interest and give the commission the right to establish rules that will increase control over OPIC. My only concern is that this new authority could limit the independence of this office and could reduce its ability to determine what's in the public interest and to adequately assist the citizens. So let me ask you a couple of questions about that.

**Senator Huffman:** Okay.

**Senator Watson:** And has OPIC, the Office of Public Interest Counsel, historically provided procedural assistance to the public regarding the contested case hearing process?

**Senator Huffman:** Yes, yes.

**Senator Watson:** And under the revised statutory description of OPIC's responsibilities, will OPIC maintain its ability to answer procedural questions from people participating as a party in a contested case hearing?

**Senator Huffman:** It's my understanding that OPIC will continue to represent the public as a party in contested case hearings.

**Senator Watson:** So the language change isn't intended to eliminate the Public Interest Counsel's role in providing public assistance.

**Senator Huffman:** I believe that it is not.

**Senator Watson:** Okay. And that's your understanding, and for legislative intent purposes, that would be the legislative intent.

**Senator Huffman:** That is my understanding, and then, of course, the bill also sets out, and I'll have to find which page that's on, but it also sets out what factors are to be considered when determining exactly what the functions of OPIC will be. And I'll

have to find it in just a minute. And I think it's Section 5.276 of the bill that says, factors for public interest, representation, and it gives guidance on what factors are to be considered to determine the nature and extent of the public interest.

**Senator Watson:** But that's the key part of what I want to make sure we're entering here.

**Senator Huffman:** Okay.

**Senator Watson:** Is, even though those provisions are there, the language isn't intended to eliminate the Public Interest Counsel's current role in providing public assistance.

**Senator Huffman:** Correct, it's just setting the parameters of the issues, is my understanding.

**Senator Watson:** And let me ask the question slightly differently. Is there any case where we would not want to protect the ability of the public to participate in the permitting process?

**Senator Huffman:** Absolutely not. And I really believe that the objective of the, of Sunset and of the commission was to make the process work better and, you know, OPIC had been spread thinly. It wasn't really operating like it should operate, and so, the intent is to make the process better, and that's the legislative intent. Let's make it better. Let's make it easier for the public to get information, to find out about the process, to participate in the process. That's the intent.

**Senator Watson:** And so, there, you don't see, and there's no intent to say that providing procedural assistance to the public during the permitting process, that there's a conflict, conflict of interest somehow between that role, providing assistance, and OPIC's role as an advocate for the public interest.

**Senator Huffman:** That would be the intention, yes.

**Senator Watson:** You don't see a conflict.

**Senator Huffman:** There should not be a conflict. And it should be set up in such a way that there's not a conflict.

**Senator Watson:** The factors that you just listed to require, to establish performance measures, in developing those factors and performance measures, you agree that the commission should also preserve OPIC's ability to function independently.

**Senator Huffman:** You know, I'm going to have to look at the legislation carefully on that, because I don't want to say something that I'm not sure of in that regard.

**Senator Watson:** Well, the Office of Public Interest Counsel, you agree, ought to be independent in what, independent from the commission, otherwise it can't always represent the public interest. Right?

**Senator Huffman:** Well, I agree that they should be able to make independent decisions. I guess I'm getting thrown by you saying, operating independently, when they may be housed, or be work with TCEQ in, to fulfill its functions.

**Senator Watson:** In other words, they don't have to take direction from the commissioners?

**Senator Huffman:** That's correct, yes.

**Senator Watson:** Okay, thank you, Senator Huffman. I appreciate you giving me the time.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2694 ON SECOND READING**

On motion of Senator Huffman and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2694** at this time on its second reading:

**CSHB 2694**, Relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.

The bill was read second time.

Senator Huffman offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 2694** (senate committee printing) as follows:

(1) In SECTION 2.02 of the bill, in added Section 91.0115(c), Natural Resources Code (page 2, line 33), strike "only".

(2) In ARTICLE 2 of the bill, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION 2.\_\_. Subchapter D, Chapter 91, Natural Resources Code, is amended by adding Section 91.1015 to read as follows:

Sec. 91.1015. GROUNDWATER PROTECTION REQUIREMENTS. The commission shall adopt rules to establish groundwater protection requirements for operations that are within the jurisdiction of the commission, including requirements relating to the depth of surface casing for wells.

(3) In SECTION 2.05 of the bill, in amended Section 27.046(a), Water Code (page 2, line 58), between "until the" and "commission", insert "railroad".

(4) In SECTION 4.01 of the bill, in added Section 5.753(d-1), Water Code (page 4, line 35), strike "other".

(5) In SECTION 4.05 of the bill, in added Section 7.067(a-2), Water Code (page 5, line 27), strike "rules requiring" and substitute "a requirement for".

(6) In SECTION 4.05 of the bill, in added Section 7.067(a-2)(1), Water Code (page 5, line 28), strike "entity's" and substitute "respondent's".

(7) In SECTION 4.05 of the bill, in added Section 7.067(a-2)(2), Water Code (page 5, line 30), strike "ability of the entity" and substitute "respondent's ability".

(8) In SECTION 4.08 of the bill, in added Section 26.351(c-1), Water Code (page 6, line 3), strike "remediate" and substitute "remove".

(9) In SECTION 4.08 of the bill, in added Section 26.351(c-2), Water Code (page 6, line 7), strike "remediate" and substitute "remove".

(10) In SECTION 4.11 of the bill, in Subsection (c) of the transition language (page 7, line 17), strike "a petroleum" and substitute "an underground".

(11) In SECTION 4.11 of the bill (page 7, between lines 18 and 19), insert the following:

(d) The fee applicable to a delivery in Section 26.3574(b), Water Code, as that subsection existed immediately before the effective date of this Act, remains in effect until the Texas Commission on Environmental Quality adopts and implements a fee applicable to that delivery under Section 26.3574(b-1), Water Code, as added by this article.

(12) In the recital to SECTION 5.01 of the bill (page 7, line 21), strike "(e), and (f)" and substitute "(e), (f), and (g)".

(13) In SECTION 5.01 of the bill, in amended Section 11.031, Water Code (page 7, between lines 32 and 33), insert the following:

(g) Subsections (e) and (f) do not affect the authority of a watermaster to obtain water use information under other law.

(14) In SECTION 6.01 of the bill, in amended Section 401.246(a), Health and Safety Code (page 8, line 20), between "Waste" and "Compact", insert "Disposal".

(15) In SECTION 6.03 of the bill, in amended Section 5.701(n)(3), Water Code (page 8, lines 59-60), strike "only to the commission or to the Public Utility Commission of Texas" and substitute "by a rider to the General Appropriations Act to an agency with duties related to water and sewer utility regulation or representation of residential and small commercial consumers of water and sewer utility services".

(16) In ARTICLE 6 of the bill, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 6.\_\_. The changes in law made by Section 5.701, Water Code, as amended by this article, apply only to a fee assessed on or after January 1, 2012. A fee assessed before January 1, 2012, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(17) In SECTION 7.01 of the bill, strike added Section 13.1325, Water Code (page 9, lines 35-40), and substitute the following:

Sec. 13.1325. ELECTRONIC COPIES OF RATE INFORMATION. On request, the state agency with jurisdiction over rates charged by water and sewer utilities shall provide, at a reasonable cost, electronic copies of all information provided to the agency under Sections 13.016, 13.043, and 13.187 to the extent that the information is available and is not confidential. Copies of all information provided to the agency shall be provided to the Office of Public Utility Counsel, on request, at no cost to the office.

(18) In SECTION 8.05 of the bill, in amended Section 367.009, Health and Safety Code (page 10, line 40), between "Money" and "appropriated", insert "collected and".

The amendment to **CSHB 2694** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 2694** (senate committee report) in SECTION 5.02 of the bill by striking added Section 11.053, Water Code (page 7, lines 35 through 50), and substituting the following:

Sec. 11.053. EMERGENCY ORDER CONCERNING WATER RIGHTS. (a) During a period of drought or other emergency shortage of water, as defined by commission rule, the executive director by order may, in accordance with the priority of water rights established by Section 11.027:

(1) temporarily suspend the right of any person who holds a water right to use the water; and

(2) temporarily adjust the diversions of water by water rights holders.

(b) The executive director in ordering a suspension or adjustment under this section shall ensure that an action taken:

(1) maximizes the beneficial use of water;

(2) minimizes the impact on water rights holders;

(3) prevents the waste of water;

(4) takes into consideration the efforts of the affected water rights holders to develop and implement the water conservation plans and drought contingency plans required by this chapter;

(5) to the greatest extent practicable, conforms to the order of preferences established by Section 11.024; and

(6) does not require the release of water that, at the time the order is issued, is lawfully stored in a reservoir under water rights associated with that reservoir.

(c) The commission shall adopt rules to implement this section, including rules:

(1) defining a drought or other emergency shortage of water for purposes of this section; and

(2) specifying the:

(A) conditions under which the executive director may issue an order under this section;

(B) terms of an order issued under this section, including the maximum duration of a temporary suspension or adjustment under this section; and

(C) procedures for notice of, an opportunity for a hearing on, and the appeal to the commission of an order issued under this section.

The amendment to **CSHB 2694** was read and was adopted by a viva voce vote.

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

Senator Eltife offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSHB 2694** (Senate Committee Printing) by inserting a new subsection (b-1) on page 2, line 4, as follows:

(b-1) The commission may enter into an agreement with an owner of a dam who is required to reevaluate the adequacy of an existing dam or spillway. The agreement may include timelines to achieve compliance with the commission's design criteria and may authorize deferral of compliance with the criteria, as appropriate.

The amendment to **CSHB 2694** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following amendment to the bill:

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

Amend **CSHB 2694** (Senate Committee Printing) by inserting new subsections (e-1), (e-2), (e-3), and (e-4) on page 2, line 4, as follows:

(e-1) The commission shall exempt an owner of a dam located on private property from meeting requirements related to dam safety if the dam:

(1) at maximum capacity impounds less than 500 acre feet;

(2) has a hazard classification of low or significant; and,

(3) is located in a county with a population of less than 215,000 according to the 2010 population census.

(e-2) Notwithstanding Subsection (e-1), an owner of a dam shall comply with operation and maintenance requirements established by a commission rule.

(e-3) This section does not apply to a dam that is located inside the jurisdictional limits of a municipality.

(e-4) The exemption in subsection (e-1) expires on August 31, 2013.

The amendment to **CSHB 2694** was read and failed of adoption by the following vote: Yeas 12, Nays 18.

Yeas: Davis, Duncan, Eltife, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Seliger, Uresti, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Deuell, Estes, Fraser, Harris, Huffman, Nelson, Nichols, Ogden, Patrick, Rodriguez, Shapiro, Van de Putte, Watson, Wentworth, West, Williams.

Absent: Ellis.

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

**CSHB 2694** as amended was passed to third reading by the following vote: Yeas 31, Nays 0.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 2694 ON THIRD READING**

Senator Huffman moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2694** 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 Rodriguez was recognized and introduced to the Senate an El Paso Harmony Science Academy delegation: Haylee Barraza, Manuel Lopez, Fernando Melendez, David Lopez, and Seth Martin, accompanied by their teacher, Allanur Agaberdiev.

The Senate welcomed its guests.

**(Senator Eltife in Chair)**

### **COMMITTEE SUBSTITUTE**

#### **SENATE JOINT RESOLUTION 14 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSJR 14** at this time on its second reading:

**CSSJR 14**, Proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

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

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

### **COMMITTEE SUBSTITUTE**

#### **SENATE JOINT RESOLUTION 14 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSJR 14** be placed on its third reading and final passage.

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

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

### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 516 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 516** at this time on its second reading:

**CSSB 516**, Relating to the exemption from ad valorem taxation of all or part of the appraised value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

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 516 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 **CSSB 516** 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 578 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 578** at this time on its second reading:

**SB 578**, Relating to the testimony of children in criminal cases.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 578** (senate committee report) in SECTION 1 of the bill, in proposed Section 2, Article 38.074, Code of Criminal Procedure (page 1, line 19), between "offense" and the underlined period, by inserting ", other than the testimony of a child in a hearing or proceeding in a criminal case in which that child is the defendant".

The amendment to **SB 578** was read and was adopted by a viva voce vote.

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

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

**SB 578** as amended was passed to engrossment by a viva voce vote.

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

**SENATE BILL 578 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 578** 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 1175 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1175** at this time on its second reading:

**CSSB 1175**, Relating to the Texas Enterprise Fund and the Texas emerging technology fund.

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 1175 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1175** 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 1402 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1402** at this time on its second reading:

**CSSB 1402**, Relating to motor vehicles; providing penalties.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1402** (senate committee printing) in SECTION 163 of the bill by striking amended Sections 502.491(b) and (c), Transportation Code (page 70, lines 37-48) and substituting:

(b) On a sale or transfer of a motor vehicle in which neither party holds a general distinguishing number issued under Chapter 503, the [A license plate removed from a motor vehicle under Subsection (a) or (a-1) must be:

~~[(1) disposed of in the manner specified by the department; or~~

~~[(2) transferred to another vehicle owned by the seller or transferor as provided by Section 502.452.~~

~~[(c) The]~~ part of the registration period remaining at the time of the sale or transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 501.145 ~~[520.034]~~.

(c) On the sale or transfer of a motor vehicle to a dealer, as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the registration period remaining at the time of the sale or transfer expires at the time of the sale or transfer. On the sale of a used motor vehicle by a dealer, the dealer shall issue to the buyer new registration documents for an entire registration year.

The amendment to **CSSB 1402** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1402** (Senate Committee Report) as follows:

(1) On page 29, line 45 to line 58, strike subsection (b) and (c) and substitute the following:

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must not exceed the charges incurred by the state because of the use of the electronic funds transfer, credit card, or debit card.

(c) For online transactions the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to any fee charged in accordance Government Code, Section 2054.2591.

(2) On page 50, line 4 to line 17, strike subsection (c) and (d) and substitute the following:

(c) The department may collect a fee for processing a payment by electronic funds transfer, credit card, or debit card. The amount of the fee must not exceed the charges incurred by the state because of the use of the electronic funds transfer, credit card, or debit card.

(d) For online transactions the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to the amount of any fee charged in accordance Government Code, Section 2054.2591.

The amendment to **CSSB 1402** was read and was adopted by a viva voce vote.

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

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

**CSSB 1402** 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 1402 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1402** 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 BILLS AND RESOLUTIONS ON FIRST READING**

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

- HB 272** to Committee on Business and Commerce.
- HB 398** to Committee on Education.
- HB 590** to Committee on Finance.
- HB 1128** to Committee on Administration.
- HB 1228** to Committee on Intergovernmental Relations.
- HB 1355** to Committee on Business and Commerce.
- HB 1359** to Committee on Jurisprudence.
- HB 1797** to Committee on Health and Human Services.
- HB 1951** to Committee on Government Organization.
- HB 2078** to Committee on Finance.
- HB 2096** to Committee on Criminal Justice.
- HB 2098** to Committee on State Affairs.
- HB 2102** to Committee on State Affairs.
- HB 2103** to Committee on Business and Commerce.
- HB 2190** to Committee on State Affairs.
- HB 2247** to Committee on Education.
- HB 2316** to Committee on Intergovernmental Relations.
- HB 2340** to Committee on Economic Development.
- HB 2359** to Committee on State Affairs.
- HB 2363** to Committee on Intergovernmental Relations.
- HB 2425** to Committee on State Affairs.
- HB 2492** to Committee on Jurisprudence.
- HB 2510** to Committee on Natural Resources.
- HB 2595** to Committee on State Affairs.
- HB 2702** to Committee on Administration.
- HB 2707** to Committee on Business and Commerce.
- HB 2746** to Committee on Finance.
- HB 2960** to Committee on Transportation and Homeland Security.
- HB 2994** to Committee on Agriculture and Rural Affairs.
- HB 2996** to Committee on Agriculture and Rural Affairs.
- HB 2997** to Committee on Agriculture and Rural Affairs.
- HB 3001** to Committee on Criminal Justice.
- HB 3036** to Committee on Intergovernmental Relations.
- HB 3079** to Committee on Transportation and Homeland Security.
- HB 3111** to Committee on Intergovernmental Relations.
- HB 3125** to Committee on Jurisprudence.
- HB 3152** to Committee on State Affairs.
- HB 3216** to Committee on Intergovernmental Relations.
- HB 3283** to Committee on Economic Development.
- HB 3369** to Committee on Health and Human Services.
- HB 3387** to Committee on Health and Human Services.
- HB 3399** to Committee on Natural Resources.
- HB 3475** to Committee on Jurisprudence.

**HB 3595** to Committee on Business and Commerce.

**HB 3647** to Committee on Finance.

**HB 3723** to Committee on Transportation and Homeland Security.

**HB 3730** to Committee on Transportation and Homeland Security.

**HB 3797** to Committee on Economic Development.

**HCR 42** to Committee on Transportation and Homeland Security.

**HJR 109** to Committee on Finance.

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Carona and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider the following bills today: **SB 1920, HB 8.**

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

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

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

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

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

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

**CO-AUTHOR OF SENATE BILL 1652**

On motion of Senator Watson, Senator Patrick will be shown as Co-author of **SB 1652.**

**CO-AUTHOR OF SENATE BILL 1724**

On motion of Senator Zaffirini, Senator Birdwell will be shown as Co-author of **SB 1724.**

**CO-AUTHOR OF SENATE JOINT RESOLUTION 14**

On motion of Senator Van de Putte, Senator Williams will be shown as Co-author of **SJR 14.**

**CO-SPONSOR OF HOUSE BILL 5**

On motion of Senator Nelson, Senator Nichols will be shown as Co-sponsor of **HB 5.**

**CO-SPONSOR OF HOUSE BILL 123**

On motion of Senator Nelson, Senator Lucio will be shown as Co-sponsor of **HB 123**.

**CO-SPONSOR OF HOUSE BILL 2014**

On motion of Senator Van de Putte, Senator Davis will be shown as Co-sponsor of **HB 2014**.

**CO-SPONSOR OF HOUSE BILL 2624**

On motion of Senator Van de Putte, Senator Davis will be shown as Co-sponsor of **HB 2624**.

**CO-SPONSORS OF HOUSE BILL 3000**

On motion of Senator Van de Putte, Senators Davis and Lucio will be shown as Co-sponsors of **HB 3000**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 973** by Van de Putte, In memory of Manuel Ortiz, Jr., of San Antonio.

**SR 977** by Wentworth, In memory of Travis D. Bailey, Jr., of San Antonio.

**SR 978** by Wentworth, In memory of Louis Herbert Stumberg of San Antonio.

**Congratulatory Resolutions**

**SR 970** by Gallegos, Congratulating Olga Ramirez Gallegos on receiving an honorary degree from Houston Community College.

**SR 971** by Williams, Congratulating Jaime Villanueva and Cory McCollough on the birth of their daughter, Lucia Christine Villanueva McCollough.

**SR 974** by Van de Putte, Recognizing Jose B. Alcorta on the occasion of his 92nd birthday.

**SR 976** by Harris, Recognizing Janice McAfee of Arlington on the occasion of her retirement.

**SR 979** by Lucio, Recognizing Crescencia Compean Treviño on the occasion of her retirement from the Harlingen Consolidated Independent School District.

**SR 980** by Lucio, Recognizing Guadalupe Aguilar on the occasion of her retirement from the Harlingen Consolidated Independent School District.

**SR 981** by Hinojosa, Congratulating Bridget McKeever of Corpus Christi on her installation as president of the Texas Medical Association Alliance.

**SR 982** by Hinojosa, Recognizing Sophie Redwine Susser on the occasion of her Bat Mitzvah.

**SR 983** by Hinojosa, Recognizing the Veterans Band of Corpus Christi on the occasion of its 25th anniversary.

**HCR 135** (Jackson), Honoring Bill Bailey, retiring constable for Precinct 8 of Harris County.

### Official Designation Resolutions

**SR 972** by Nelson, Proclaiming May of 2011 to be American Stroke Month in Texas.

**SR 975** by Van de Putte, Commemorating May of 2011 as National Water Safety Month.

### ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:43 p.m. adjourned until 10:00 a.m. tomorrow.

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## APPENDIX

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### COMMITTEE REPORTS

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

May 12, 2011

BUSINESS AND COMMERCE — **CSSB 1425, CSHB 1146**

GOVERNMENT ORGANIZATION — **SB 1460**

CRIMINAL JUSTICE — **CSHB 1754, CSHB 2725, HB 215, HB 649, HB 976, HB 1028, HB 1106, HB 1215, HB 1381, HB 1529, HB 1666, HB 2354, HB 2385, HB 2633, HB 2482**

JURISPRUDENCE — **HB 549, HB 627, HB 901, HB 942, HB 962, HB 1048, HB 1426, HB 1559, HB 1614, HB 1633, HB 3174**

CRIMINAL JUSTICE — **CSHB 200, CSHB 350**

JURISPRUDENCE — **CSSB 1807, CSHB 2488**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 378**

GOVERNMENT ORGANIZATION — **CSHB 2499**

FINANCE — **CSHB 275**

BUSINESS AND COMMERCE — **CSSB 923**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HB 282, HB 1514, HB 1665, HB 2624, HB 2851, HB 2928, HB 3179, HB 3470**

CRIMINAL JUSTICE — **CSSB 1503**

HIGHER EDUCATION — **HB 2937, HB 2908, CSHB 3577, HB 399, CSHB 2907, SB 774**

NATURAL RESOURCES — **CSHB 1814, CSHB 3372**

FINANCE — **CSHB 252, CSHB 268, HB 533**

ADMINISTRATION — **CSHB 1168**

OPEN GOVERNMENT — **HB 3307**

HIGHER EDUCATION — **CSHJR 130**

CRIMINAL JUSTICE — **HB 1908, HCR 68, CSSB 1713**

EDUCATION — **CSSB 1871**

**BILLS ENGROSSED**

May 11, 2011

**SB 197, SB 975, SB 995, SB 1074, SB 1265, SB 1360, SB 1493, SB 1588, SB 1610, SB 1611, SB 1829**

**BILLS AND RESOLUTIONS ENROLLED**

May 11, 2011

**SB 198, SB 250, SB 529, SB 748, SB 758, SB 1024, SB 1107, SB 1478, SR 964, SR 965, SR 966, SR 968, SR 969**