

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

THIRD DAY

(Friday, June 14, 2013)

The Senate met at 1:02 p.m. pursuant to adjournment and was called to order by Senator Eltife.

The roll was called and the following Senators were present: Birdwell, Campbell, Davis, Ellis, Eltife, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Paxton, Rodríguez, Schwertner, Seliger, Taylor, Uresti, Watson, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

The Presiding Officer announced that a quorum of the Senate was present.

Senator Kelly Hancock offered the invocation as follows:

Heavenly Father, we praise You for the opportunity to be in this place and to be used as Your instruments to fulfill the goodwill to the citizens of the great State of Texas. God, we pray as we move forward in deliberation and agreement and disagreement, that we would remember Your scriptures that tell us that we are to be wise, not as the unwise, that we are to make the most of every opportunity. And I pray that today as we go about our business and Your business as You work through us, that we would do just that, that we use the wisdom that You provide, make the most of the opportunities both for our constituents but also for the great State of Texas. In Your name, I pray. Amen.

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

The motion prevailed without objection.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Carona was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Deuell was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Duncan was granted leave of absence for today on account of important business.

On motion of Senator Whitmire, Senator Van de Putte was granted leave of absence for today on account of important business.

(President in Chair)

**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.

CONCLUSION OF MORNING CALL

The President at 1:05 p.m. announced the conclusion of morning call.

SENATE BILL 2 ON THIRD READING

The President laid before the Senate **SB 2** by Senator Seliger at this time on its third reading and final passage:

SB 2, Relating to the composition of districts for the election of members of the Texas Senate.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

SENATE BILL 4 ON THIRD READING

The President laid before the Senate **SB 4** by Senator Seliger at this time on its third reading and final passage:

SB 4, Relating to the composition of districts for the election of members of the United States House of Representatives from Texas.

The bill was read third time and was passed by the following vote: Yeas 16, Nays 11.

Yeas: Birdwell, Campbell, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

STATEMENT REGARDING SENATE BILL 4

Senator Garcia submitted the following statement regarding **SB 4**:

I proposed amendments in the Senate Select Committee on Redistricting that are labeled C243 and C244 and available online on District Viewer. First I want to make

clear that I would never support a map or plan that retrogresses or harms the integrity of an African American or an Hispanic opportunity district anywhere in Texas, and especially in Harris County.

My plan C243 is an attempt to remove the fracturing that is created by CD 2 inserting itself into inner Houston and an attempt to unpack the three existing minority opportunity districts to create an additional Hispanic opportunity district that reflects the tremendous minority growth in Harris County.

In our election analysis of all four minority opportunity districts created by plan C243, Congressional Districts 9 and 18 will still easily perform as African American opportunity districts. Congressional District 9 goes from 39.6% Black Voting Age population to 35.1% and from 34% Hispanic Voting Age Population to 29.7%. In 2012 President Obama received over 70% of the vote in CD 9 in this configuration down from 78% in the court ordered interim map. U.S. Senate candidate Paul Sadler received 76% of the vote in this configuration.

Congressional District 18 goes from 41.4% Black Voting Age population to 39.4%. and from 34.5% Hispanic Voting Age population to 26.2%. In 2012 President Obama received 71% of the Vote in CD 18 in this configuration down from 78% in the Court ordered interim map. U.S. Senate candidate Paul Sadler received 74% of the vote in 2012 in this configuration.

There is no doubt that all four Congressional districts will remain effective minority opportunity districts and I would not pursue this if I was not completely confident in the performance levels for both the African American and the Latino communities.

In the Houston field hearing on June 8, 2013 at the University of Houston nearly all of the 73 witnesses opposing the map supported additional representation for minority candidates of choice in the Harris County area. Nearly all the growth in Harris County was attributable to Latinos, Blacks and Asian Americans, but minority representation in Congress made no gains in Harris county.

I believe it's time I set the record straight in the Texas Senate on the need for additional minority representation in Harris that reflects the growth over the last decade. I intend to keep working with the NAACP, MALDEF, LULAC and other minority voting rights advocates to pursue representation that does not dilute the voice of Blacks and Latinos in Texas and in Harris County.

GARCIA

SENATE BILL 3 ON THIRD READING

The President laid before the Senate **SB 3** by Senator Seliger at this time on its third reading and final passage:

SB 3, Relating to the composition of districts for the election of members of the Texas House of Representatives.

The bill was read third time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **SB 3** (senate committee printing) on third reading by striking SECTION 2 of the bill (page 1, lines 36 through 57) and renumbering the remaining SECTIONS of the bill accordingly.

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The amendment to **SB 3** was read.

On motion of Senator Seliger, Floor Amendment No. 1 on Third Reading was tabled by the following vote: Yeas 16, Nays 11.

Yeas: Birdwell, Campbell, Eltife, Estes, Fraser, Hancock, Hegar, Huffman, Nelson, Nichols, Patrick, Paxton, Schwertner, Seliger, Taylor, Williams.

Nays: Davis, Ellis, Garcia, Hinojosa, Lucio, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

SB 3 was finally passed by the following vote: Yeas 16, Nays 11. (Same as previous roll call)

REMARKS ORDERED PRINTED

On motion of Senator Zaffirini and by unanimous consent, the remarks by Senators Zaffirini and Seliger regarding Floor Amendment No. 1 to **SB 3** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in an addendum to this day's Journal.

STATEMENT REGARDING SENATE BILL 3 AND SENATE BILL 4

Senator Zaffirini submitted the following statement regarding **SB 3** and **SB 4**:

Today I voted against SB 3 and SB 4 because they do not reflect a prudent approach to the redistricting process. The legal issues related to Texas redistricting are complex and continue to be litigated in the federal court system. Meanwhile, this Legislature has a poor track record of determining accurately what is constitutionally and statutorily required. I am very concerned about the Legislature's approving these maps, especially because of the number and scope of pending legal cases that could have an impact on them.

SB 3 and SB 4 each contain a problematic section that would enact legislative findings that the interim maps are in compliance with federal and state constitutional provisions and with federal and state laws applicable to redistricting plans. Whether court decisions are applied properly or redistricting maps comply with constitutional and statutory requirements is not in the purview of the Legislature, but rather in that of the judicial system.

The prudent approach would have been to wait for guidance from the courts before moving forward. The San Antonio U.S. District Court said the interim maps were by no means a final ruling on the merits of challenges to the discriminatory maps passed by the Legislature in 2011. In fact, the court said its interim district lines were based on "preliminary conclusions that may be revised upon full analysis."

That full analysis is ongoing in the courts system, and the Legislature should let it play out, instead of wading in prematurely and potentially making the situation worse.

These interim maps were implemented by the San Antonio court before it was established by the D.C. federal court that the original maps implemented by the Legislature reflected retrogression and did not comply with Section 5 of the Voting Rights Act. As the D.C. court rightly found, there was more evidence of discriminatory intent in those maps than the court had the space to address in its opinion. All along, the interim maps were understood to be a temporary—not permanent—solution to the problematic maps created during the 2011 redistricting process.

Part of the problem in 2011 was that minority groups were not listened to during the process. Now, in 2013, it appears that the Legislature is still not listening to minority groups. While the two field hearings the Senate Redistricting Committee held in Corpus Christi and Houston were welcome, they did not allow for testimony from anywhere on the Border, West Texas, East Texas, Central Texas, or the Dallas-Ft. Worth Metroplex. What's more, none of the suggested changes provided by witnesses—minority or otherwise—were adopted, and since the maps remain unchanged, it can be assumed that information gathered at the two field hearings was not seriously considered.

Indeed, the Legislature has squandered an opportunity to use that feedback to draw maps that are fair and not discriminatory and that address all the deficiencies identified by the courts thus far. Accordingly, I voted against Senate Bills 3 and 4.

ZAFFIRINI

SENATE BILL 23 ON THIRD READING

The President laid before the Senate **SB 23** by Senator Huffman at this time on its third reading and final passage:

SB 23, Relating to the punishment for a capital felony committed by an individual younger than 18 years of age.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

SENATE RULE 14.02 (Notice Rule)

Senator Hegar moved to suspend Senate Rule 14.02 as it relates to notice given for nominations.

The motion prevailed without objection.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions.

Senator Hegar moved confirmation of the nominees reported today by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 27, Nays 0.

Absent-excused: Carona, Deuell, Duncan, Van de Putte.

Commissioner of Insurance: Julia Jeffrey Rathgeber, Travis County.

Members, Board of Directors, Lower Colorado River Authority: Pamela Jo Ellison, Washington County; Robert D. Lewis, Bastrop County; Thomas Michael Martine, Blanco County; Franklin Scott Spears, Travis County; Timothy Theodor Timmerman, Travis County.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 1:41 p.m. agreed to recess, in memory of Ramiro Muñoz, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 11:00 a.m. Tuesday, June 18, 2013.

RECESS

Pursuant to a previously adopted motion, the Senate at 5:00 p.m. Monday, June 17, 2013, recessed, in memory of Ramiro Muñoz, until 11:00 a.m. Tuesday, June 18, 2013.

APPENDIX

COMMITTEE REPORTS

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

June 14, 2013

FINANCE — **CSSJR 2**

HEALTH AND HUMAN SERVICES — **CSSB 5, SB 24, CSSB 13, CSSB 18**