

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**FIFTY-FOURTH DAY**

(Friday, May 8, 2009)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by President Pro Tempore Duncan.

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

Absent-excused: Carona.

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

The Reverend Sherman D. Stenson, Saint Paul Lutheran Church, Austin, offered the invocation as follows:

Lord God, heavenly Father, as we begin this day anew, we thank You for the blessing of freedom You have granted our nation and our state, mindful that this freedom does not come without toil and sacrifice. You have also granted us the opportunity to serve You through service to our many neighbors as we each carry out our various vocations in our families, our faith, our professions, and our citizenship. Grant us wisdom, patience, strength, and humility as we carry out our tasks, always striving for the good beyond our own, and always seeking Your guidance as You have revealed it to us in Your eternal, unchanging word. Through that incarnate word, we pray. Amen.

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

The motion prevailed without objection.

## **LEAVE OF ABSENCE**

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

## **CO-AUTHOR OF SENATE BILL 1023**

On motion of Senator Ogden, Senator Nichols will be shown as Co-author of **SB 1023**.

**CO-AUTHOR OF SENATE BILL 1028**

On motion of Senator Watson, Senator Zaffirini will be shown as Co-author of **SB 1028**.

**CO-AUTHOR OF SENATE BILL 1425**

On motion of Senator Williams, Senator Zaffirini will be shown as Co-author of **SB 1425**.

**CO-AUTHOR OF SENATE BILL 1984**

On motion of Senator Uresti, Senator Hegar will be shown as Co-author of **SB 1984**.

**CO-AUTHORS OF SENATE BILL 2407**

On motion of Senator Zaffirini, Senators Davis and Ellis will be shown as Co-authors of **SB 2407**.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 42**

On motion of Senator Duncan, Senator Nichols will be shown as Co-author of **SJR 42**.

**CO-SPONSOR OF HOUSE BILL 1736**

On motion of Senator Duncan, Senator West will be shown as Co-sponsor of **HB 1736**.

**CO-SPONSOR OF HOUSE BILL 2032**

On motion of Senator Harris, Senator Zaffirini will be shown as Co-sponsor of **HB 2032**.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 8, 2009

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 136**, Relating to providing notification to parents of eligible children of the availability of prekindergarten programs.

**HB 192**, Relating to the absence of a student from school for activities in connection with obtaining United States citizenship or to visit with a parent or guardian who will be or has been deployed to a combat zone.

**HB 200**, Relating to continuing education requirements for public school principals.

**HB 221**, Relating to delaying parole eligibility for an individual convicted of certain violent offenses who evades arrest and to the punishment prescribed for the offense of evading arrest or detention.

**HB 233**, Relating to the creation of an advisory committee to establish and recommend qualifications for certain health care translators and interpreters.

**HB 319**, Relating to an exemption from jury service for certain persons with legal custody of a child.

**HB 459**, Relating to county abatement and regulation of nuisances and certain massage parlors; providing civil and criminal penalties.

**HB 570**, Relating to requiring the disclosure of certain information to purchasers and renters of residential property.

**HB 626**, Relating to educational agreements setting forth the respective responsibilities of students, parents, and school personnel in public schools.

**HB 770**, Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.

**HB 912**, Relating to the enforcement by contempt of certain orders in family law proceedings.

**HB 999**, Relating to the closure of a school campus by the board of trustees of certain school districts.

**HB 1041**, Relating to school district policies addressing sexual abuse of children.

**HB 1090**, Relating to the powers and duties of the Oak Point Water Control and Improvement District No. 4 of Denton County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**HB 1309**, Relating to the date by which the comptroller must certify the apportioned amount of the market value of railroad rolling stock to a county assessor-collector.

**HB 1358**, Relating to the Cancer Prevention and Research Institute of Texas.

**HB 1420**, Relating to the regulation of the transportation of oil and gas drill cuttings; providing a criminal penalty.

**HB 1425**, Relating to the determination of the population of a county required to develop a juvenile justice alternative education program.

**HB 1457**, Relating to procedures concerning verification of certain information submitted in a voter registration application.

**HB 1533**, Relating to notice of applications for permits to drill certain gas wells.

**HB 1796**, Relating to the offshore geologic storage of carbon dioxide.

**HB 1890**, Relating to notification of applications for permits for certain injection wells.

**HB 1935**, Relating to the establishment of the Jobs and Education for Texans (JET) Grant Program to support adult and postsecondary education and workforce development.

**HB 1966**, Relating to an e-prescribing implementation plan under the Medicaid and child health plan programs.

**HB 1968**, Relating to the estates of decedents.

**HB 2121**, Relating to participation in the process for evaluating an application for a low income housing tax credit.

**HB 2240**, Relating to creating the offense of continuous violence against the family.

**HB 2295**, Relating to the continuation and functions of the Texas Residential Construction Commission; providing penalties.

**HB 2547**, Relating to the use of a description of employment in determining the safety and appropriateness of a return to employment by an injured employee.

**HB 2548**, Relating to membership of certain advisory bodies to the Texas Department of Licensing and Regulation.

**HB 2584**, Relating to the right of certain child crime victims to a speedy trial and to be considered with respect to a defendant's motion for continuance.

**HB 2649**, Relating to the regulation and practice of engineering.

**HB 2682**, Relating to the authority of municipalities to alter speed limits.

**HB 2697**, Relating to the licensing and regulation of plumbers.

**HB 2888**, Relating to recipients of financial assistance administered by the Texas Department of Housing and Community Affairs.

**HB 2954**, Relating to authorizing an increase in the student center fee at Texas Southern University.

**HB 2994**, Relating to the powers and duties of the Reagan Hospital District.

**HB 3005**, Relating to the mandatory testing of persons suspected of exposing employees of a juvenile probation department to certain diseases.

**HB 3119**, Relating to the creation of a pilot program to provide certain taxable entities with a franchise tax credit for the acquisition and installation of certain air quality monitoring devices to monitor the emission of air contaminants.

**HB 3181**, Relating to authorizing injunctive relief during proceedings to cancel or suspend certain alcoholic beverage permits and licenses.

**HB 3226**, Relating to the payment of temporary housing costs for certain individuals who are released or are eligible for release on parole or to mandatory supervision.

**HB 3276**, Relating to a study of priorities for awards of TEXAS grants.

**HB 3287**, Relating to the amendment of restrictions affecting real property in certain subdivisions.

**HB 3356**, Relating to the issuance of AMBER alert system specialty license plates.

**HB 3526**, Relating to the adoption of rules by the Texas Water Development Board regarding supplemental funding resulting from federal economic recovery legislation.

**HB 3674**, Relating to the licensing requirements for a foreign-trained physician applicant.

**HB 3829**, Relating to the per diem for members of the Texas Alcoholic Beverage Commission.

**HB 3850**, Relating to importation and shipment of alcoholic beverages for personal consumption; providing a criminal penalty.

**HB 3861**, Relating to the financing by the Texas Water Development Board of the proposed Lake Columbia reservoir project.

**HB 3977**, Relating to the capture and transport of certain deer; providing a penalty.

**HB 4343**, Relating to access to certain criminal history record information maintained by the Department of Public Safety.

**HB 4412**, Relating to the arbitration deposit required for an appeal through binding arbitration of appraisal review board orders involving multiple tracts of land.

**HB 4424**, Relating to operations fees and child support service fees assessed by domestic relations offices.

**HB 4492**, Relating to annuities registered under the Securities Act of 1933.

**HB 4525**, Relating to qualified manufacturing project zones.

**HB 4754**, Relating to the creation of the Guadalupe County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**SB 1495**, Relating to the taxation of motor fuels; providing penalties.  
(Amended)

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 1382** (140 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### 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.

### PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Maureen Swenson of Austin as the Physician of the Day.

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

**BILLS AND RESOLUTION SIGNED**

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

**SB 405, SB 1071, SB 1253, SB 1371, SB 1711, SB 1755, SB 1811, SB 2163, HB 752, HB 782, HB 1213, HB 1615, HB 1637, HB 2546, HCR 205.**

**SENATE RESOLUTION 860**

Senator Van de Putte offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Bexar County educators who have been selected as finalists for the 2009 Trinity Prize for Excellence in Teaching by Trinity University; and

WHEREAS, The prestigious Trinity Prize for Excellence in Teaching recognizes educators for their exceptional achievements in the classroom as well as their leadership as members of their profession and community; and

WHEREAS, Finalists for the prize have distinguished themselves in their profession and were chosen for their outstanding performance as teachers; the finalists from Senate District 26 for the 2009 Trinity Prize for Excellence in Teaching are Dianna M. Rabago from Edgewood Independent School District, Louis Sifuentes from Fort Sam Houston Independent School District, Michelle Wallish from North East Independent School District, Karen La Porte Pumphrey from Northside Independent School District, Maritha Tate from San Antonio Independent School District, and Dr. Chris Michael Gamel from The Winston School of San Antonio; and

WHEREAS, Children are the Lone Star State's most precious resource, and it is essential that they receive a high-quality education if they are to become successful adults; the finalists for the Trinity Prize for Excellence in Teaching have demonstrated the ability to inspire and motivate students and help them prepare for a bright and promising future; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby congratulate these dedicated educators on being named finalists for the 2009 Trinity Prize for Excellence in Teaching by Trinity University and extend to them best wishes for continued success; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of high regard from the Texas Senate.

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

**GUESTS PRESENTED**

Senator Van de Putte was recognized and introduced to the Senate Dianna M. Rabago, Michelle Wallish, Maritha Tate, and Dr. Chris Michael Gamel, finalists for the 2009 Trinity Prize for Excellence in Teaching, accompanied by Karen La Porte Pumphrey, winner.

The Senate welcomed its guests.

**SENATE RESOLUTION 859**

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Marcus Wong, who has been named Laredo's 2009 Youth of the Year; and

WHEREAS, The Youth of the Year program is sponsored by the United States Border Patrol and State Senator Judith Zaffirini with the support of several local business partners; it annually recognizes an outstanding student who excels academically and serves as a leader in the community; and

WHEREAS, A senior at J. B. Alexander High School, Marcus has applied his exceptional work ethic to achieve a grade point average of 106.17 that ranks second in a class of 564; he has consciously enrolled in the most difficult classes in the belief that their rigor will better prepare him for today's complex world; and

WHEREAS, In addition to performing exceptional work in the classroom, Marcus has participated actively in extracurricular activities, including the National Honor Society, Student Council, the Science National Honor Society, the swimming team, and University Interscholastic League physics, and he has volunteered his time and energy in support of numerous humanitarian endeavors; and

WHEREAS, Marcus is an exemplary young man whose sterling qualities and notable achievements are a source of much pride to his family, his school, and his community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Marcus Wong on his many outstanding accomplishments and extend to him congratulations on being named Laredo's 2009 Youth of the Year; 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 859** was read and was adopted without objection.

**GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate Marcus Wong, 2009 Laredo Youth of the Year, accompanied by his father, Michael Wong; his mother, Soo Chin Tan; his sister, Nicole; and Chief Patrol Agent Rosendo Hinojosa, United States Border Patrol Laredo Sector.

The Senate welcomed its guests.

**GUESTS PRESENTED**

Senator Deuell was recognized and introduced to the Senate students and their teacher from the W. H. Ford High School in Quinlan.

The Senate welcomed its guests.

**SENATE RESOLUTION 864**

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Shane Wilson for his community outreach and his efforts to channel the enthusiasm of young people into productive activities through the sport of fishing; and

WHEREAS, An experienced educator and the principal of the Point Isabel Independent School District's Discipline Alternative Education Center, Mr. Wilson understands that children need to learn in a variety of ways, and he wanted to find another way to make a difference in their lives; with a partner, he created Fishing's Future, a nonprofit corporation designed to bring children and their parents together through an enjoyable outdoor experience; and

WHEREAS, Fishing's Future teaches families the basics of fishing, providing children and parents the opportunity to interact, bond, and create lasting memories and planting the seeds of environmental stewardship; and

WHEREAS, Mr. Wilson's Leave No Trace philosophy is an integral part of the Kid's Camps that Fishing's Future sponsors; his antilitter campaign has set Guinness World Records in successive years for the amount of trash and debris removed from beaches; and

WHEREAS, Mr. Wilson also serves as president of Sea Turtle, Incorporated, and Friends of Laguna Atascosa Wildlife Refuge; he is truly deserving of recognition for his many accomplishments and his contributions to his community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Shane Wilson on his commitment to creating an atmosphere of family bonding and environmental stewardship through the sport of fishing; and, be it further

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

**(Senator Wentworth in Chair)**

**SR 864** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Lucio was recognized and introduced to the Senate Shane Wilson and his wife, Stephanie.

The Senate welcomed its guests.

### **SENATE RESOLUTION 850**

Senator Duncan offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Texas AgriLife Research and Extension Center at Lubbock on the occasion of its 100th anniversary; and

WHEREAS, The Texas AgriLife Research and Extension Center at Lubbock was created in 1909 after the Texas Legislature established funding for a series of experiment stations to be a part of the Agricultural and Mechanical College of Texas, now The Texas A&M University System; and

WHEREAS, Through the years, the center has made many important contributions to the development of agricultural products, processes, and equipment; its scientists have developed the storm-proof cotton boll and varieties of cotton resistant to bacterial blight, and 95 percent of the grain sorghum acreage in the state can trace its origin to pure line selections or varieties from the center; and

WHEREAS, With a staff of 22 research scientists and 16 extension scientists, the center continues to seek breakthroughs and innovations that, like the low-energy precision-application irrigation method, will keep our state in the forefront of agricultural production; and

WHEREAS, The center is truly deserving of recognition for 100 years of service to our state and nation; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend the scientists and staff of the Texas AgriLife Research and Extension Center at Lubbock for their many contributions to the field of agriculture and extend to them best wishes for a memorable 100th anniversary celebration; and, be it further

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

**SR 850** was read and was adopted without objection.

### **GUESTS PRESENTED**

Senator Duncan was recognized and introduced to the Senate Jaroy Moore, Resident Director, Texas AgriLife Research and Extension Center at Lubbock; Miles Dabovich, District Extension Administrator; Dr. Jane Dever, Assistant Professor; Dr. Bill Dugus, Interim Director; and Dr. Ed Smith, Director.

The Senate welcomed its guests.

**(Senator Ellis in Chair)**

### **SENATE CONCURRENT RESOLUTION 63**

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, The Legislature of the State of Texas is pleased to recognize the inaugural class of Governor William P. Clements, Jr., Scholars, for their commitment to public service and public policy; and

WHEREAS, These young students are participating in the Conservative Legislative Study Program, which is hosted by the Texas Conservative Coalition Research Institute; this exemplary program seeks to train, support, and sustain the next generation of leaders and public servants, instilling in them the values and work ethic of former Governor William P. Clements, Jr.; and

WHEREAS, Governor William P. Clements, Jr., overcame the misfortunes that befell his family during the Great Depression to create the world's largest offshore drilling company; he won an upset victory to become the state's first Republican governor since Reconstruction, bringing his business acumen to state government and focusing on such issues as sound budgeting, crime prevention, and economic diversification; and

WHEREAS, The Conservative Legislative Study Program is the only program of its kind to bring conservative students to Austin so that they may gain valuable experience in leadership and public service by working directly with members of the Texas Legislature; and

WHEREAS, The members of the inaugural class of this special program are Molly Banas, Ben Garner, Grant Cox, and Tony McDonald; their time at the Texas Legislature will augment their college coursework in civics, government, and history and will provide a unique learning experience as they pursue their interest in public service; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby commend the Governor William P. Clements, Jr., Scholars on their dedication to public policy and service to their state and nation and extend to them best wishes for success in all their future endeavors; and, be it further

RESOLVED, That a copy of this resolution be prepared for them as an expression of high regard from the Texas Legislature.

PATRICK

**SCR 63** was read.

On motion of Senator Patrick, 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 except as follows:

Absent-excused: Carona.

#### **GUESTS PRESENTED**

Senator Patrick was recognized and introduced to the Senate Molly Banas, Ben Garner, Grant Cox, and Tony McDonald, participants in the Conservative Legislative Study Program.

The Senate welcomed its guests.

**(Senator Wentworth in Chair)**

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

The Presiding Officer at 10:19 a.m. announced the conclusion of morning call.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1714 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1714** at this time on its second reading:

**CSSB 1714**, Relating to evidence of beneficial use and other matters in connection with the issuance of permits by a groundwater conservation district in accordance with its management plan.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

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

Amend **CSSB 1714** (committee printing) as follows:

- (1) On page 1, line 21 between "in" and "agriculture" insert "conservation in"
- (2) On page 1, line 51 after "district" strike "and this state as established in the adopted state water plan, including any water management strategy dependent on use of the district's groundwater resources"

(3) On page 1, line 60 strike "dependent on a district's groundwater resources to meet a water management strategy identified in the adopted state water plan" and substitute "located in the management area"

(4) On page 2, line 54 after "area" strike "and this state as established by the adopted state water plan"

(5) On page 2, line 67 after "area" strike "to meet a water management strategy identified in the adopted state water plan"

(6) On page 3, line 21 after "group" strike "dependent on the groundwater resources"

(7) On page 3, line 23 after "adopted" strike "state" and substitute "regional"

(8) On page 3, line 33 between "of" and "beneficial" insert "an actual and reasonable"

(9) On page 3, line 38 after "applicant" strike "has" and substitute "cannot"

(10) On page 3, line 39 after "permit" strike "but" and substitute "and"

(11) On page 3, line 48 after "district" strike "shall" and substitute "may"

(12) On page 3, line 50 between "permit" and ";" insert "if the permittee has complied with all current district rules"

(13) On page 3, line 65 after "district" strike "for municipal use unless the municipal use is established by a contractual obligation described by Section 36.001(28-a)(B)" and substitute "unless the applicant provides evidence of beneficial use as described by Section 36.001(28-a)"

The amendment to **CSSB 1714** was read.

Senator Hegar withdrew Floor Amendment No. 1.

On motion of Senator Hegar, further consideration of **CSSB 1714** was temporarily postponed to a time certain of 11:30 a.m. today.

Question — Shall **CSSB 1714** be passed to engrossment?

### COMMITTEE SUBSTITUTE SENATE BILL 2080 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 2080** at this time on its second reading:

**CSSB 2080**, Relating to the establishment of a strategy for reducing child abuse and neglect and improving child welfare.

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:

Absent-excused: Carona.

### COMMITTEE SUBSTITUTE SENATE BILL 2080 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 2080** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1723 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1723** at this time on its second reading:

**CSSB 1723**, Relating to an informational manual for voluntary caregivers who provide temporary care for children who are the subject of an investigation by the Department of Family and Protective Services.

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

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

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1723 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1723** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

**HOUSE BILL 2560 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2560** at this time on its second reading:

**HB 2560**, Relating to delinquent payment of an alcoholic beverage retailer's account for liquor.

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

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

Absent: Ogden.

Absent-excused: Carona.

**HOUSE BILL 2560 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2560** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Ogden.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE BILL 1707 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1707** at this time on its second reading:

**SB 1707**, Relating to the use of proceeds from criminal asset forfeiture to provide college scholarships to children of peace officers killed in the line of duty and to an annual report regarding the total value of forfeited property in this state.

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:

Absent: Ogden.

Absent-excused: Carona.

**SENATE BILL 1707 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1707** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Ogden.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**(Senator Eltife in Chair)**

**COMMITTEE SUBSTITUTE****SENATE BILL 2222 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 2222** at this time on its second reading:

**CSSB 2222**, Relating to authorizing the creation of regional military sustainability commissions around military installations.

The motion prevailed by the following vote: Yeas 23, Nays 6.

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

Nays: Fraser, Harris, Nelson, Nichols, Patrick, Seliger.

Absent: Williams.

Absent-excused: Carona.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

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

Amend **CSSB 2222** by striking all below the enacting clause, and substituting the following:

SECTION 1. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

#### CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS RELATING TO MILITARY INSTALLATIONS

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

Sec. 397A.002. APPLICABILITY. (a) A regulation or compatible development standard adopted under this chapter does not apply to:

(1) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(2) a tract of land in agricultural use;

(3) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(4) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A municipality and a county that, with respect to the same active military installation, constitute a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) Except as provided by Subsection (d), a commission's territory consists of the unincorporated area located within two miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) If a military installation is engaged in flight training at the time a commission is established under this section, the commission's territory consists of the unincorporated area located within three miles of the boundary line of the military installation.

(e) A commission is a political subdivision of the state, is subject to Section 245.006, and is entitled to immunity as described by Chapter 101, Civil Practice and Remedies Code.

(f) This chapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the

creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The governing body of a regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of the governing body of a commission.

(c) A member of a governing body of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the commission's authority over the area expires. The commission regains the authority in an area if the municipality disannexes the area.

Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS.

(a) Before exercising the authority granted by Section 397A.006, a commission shall recommend and adopt compatible development standards for the territory. The commission must consider and may adopt, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that services aircraft and helicopters. The commission shall submit compatible development standards adopted under this section to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority of the participating governmental entities. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend and approve amendments to approved compatible development standards. The participating governmental entities may approve the commission's amended standards under procedures adopted by the entities.

Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES.

The compatible development standards and regulations adopted under this chapter must be coordinated with:

(1) the county plan for growth and development of a participating county or a county located in the commission's territory;

(2) the comprehensive plan of a participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this chapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.010. FUNDS. (a) A commission does not have power to tax.

(b) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.011. RESTRICTIONS. (a) A commission shall comply with laws applicable to participating governmental entities relating to:

(1) reimbursement for travel expenses;

(2) nepotism;

(3) conflicts of interest; and

(4) registration of lobbyists.

(b) To the extent of a conflict between laws applicable to participating governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A commission that regulates territory around a military installation that is closed by the federal government and the regional compatible development standards adopted by the commission may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this chapter, a landowner aggrieved by a report submitted by the commission or by a permit application decision of the participating governmental entity under this chapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment to **CSSB 2222** was read.

Senator Van de Putte offered the following amendment to Floor Amendment No. 1:

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

Amend Floor Amendment No. 1 by Wentworth to **CSSB 2222** as follows:

(1) In SECTION 1 of the bill as substituted, in added Section 397A.003(a), Local Government Code (page 3, lines 5-7), strike "A municipality and a county that, with respect to the same active military installation, constitute a defense community,"

and substitute "All counties with unincorporated area and municipalities with extraterritorial jurisdiction located within five miles of the boundary line of a military installation, each of which, with respect to the same military installation, constitutes a defense community,".

(3) In SECTION 1 of the bill as substituted, in added Section 397A.006(c), Local Government Code (page 5, line 22), strike "15th" and substitute "30th".

(4) In SECTION 1 of the bill as substituted, in added Section 397A.006(c), Local Government Code (page 5, line 26), strike "as part of the report" and substitute "if the fiscal impact is determinable based on the project description and other information provided by the developer".

(5) In SECTION 1 of the bill as substituted, in added Section 397A.007(a), Local Government Code (page 6, line 12), strike "standards," and substitute "standards, standards required by".

(6) In SECTION 1 of the bill as substituted, in added Section 397A.007(a), Local Government Code (page 6, lines 13-14), strike "regarding height restrictions surrounding a military installation that services" and substitute "for military installations that service".

(7) In SECTION 1 of the bill as substituted, in added Section 397A.014, Local Government Code (page 9, line 3), strike ", county court, or county court at law".

The amendment to Floor Amendment No. 1 to **CSSB 2222** 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 except as follows:

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 2222**, the amendment as amended was adopted by a viva voce vote.

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

Nays: West.

Absent-excused: Carona.

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

**CSSB 2222** as amended was passed to engrossment by a viva voce vote.

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

Nays: Fraser, Harris, Hegar, Nelson, Nichols, Patrick, Seliger.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2222 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2222** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Nelson, Nichols, Seliger.

Absent: Williams.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 7.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Huffman, Jackson, Lucio, Ogden, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Hegar, Nelson, Nichols, Patrick, Seliger.

Absent: Williams.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 204 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSSB 204** at this time on its second reading:

**CSSB 204**, Relating to a prohibition of foods containing trans fat.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Jackson, Seliger, Williams.

Absent-excused: Carona.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 204** (Senate committee printing) in SECTION 1 of the bill, by striking proposed Section 437.022(e)(1), Health and Safety Code (page 1, lines 59 and 60), and substituting the following:

(1) a trans fat used to produce bakery items, yeast dough, or cake batter; or

The amendment to **CSSB 204** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Huffman offered the following amendment to the bill:

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

Amend **CSSB 204** (Senate committee printing) in SECTION 1 of the bill, by striking proposed Section 437.022(b)(1), Health and Safety Code (page 1, lines 24 through 27), and substituting the following:

(1) a nonprofit organization;

The amendment to **CSSB 204** was read and was adopted by the following vote: Yeas 26, Nays 3.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Jackson, Ogden, Seliger.

Absent: Williams.

Absent-excused: Carona.

Senator Huffman offered the following amendment to the bill:

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

Amend **CSSB 204** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 437.022(b)(6), Health and Safety Code (page 1, line 44), strike "or" and substitute ";".

(2) In SECTION 1 of the bill, in proposed Section 437.022(b)(7), Health and Safety Code (page 1, line 47), strike "consumers." and substitute the following:  
consumers; or

(8) a grocery store, except for a separately owned restaurant located inside a grocery store to which this section otherwise applies.

The amendment to **CSSB 204** was read and was adopted by a viva voce vote.

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

Nays: Jackson, Seliger.

Absent-excused: Carona.

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

**CSSB 204** as amended was passed to engrossment by the following vote: Yeas 23, Nays 7.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Gallegos, Harris, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Hegar, Jackson, Seliger, Williams.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 204 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 204** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Gallegos, Harris, Hegar, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Jackson, Seliger, Williams.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 7.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Gallegos, Harris, Hinojosa, Huffman, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Estes, Fraser, Hegar, Jackson, Seliger, Williams.

Absent-excused: Carona.

**SENATE BILL 872 WITH HOUSE AMENDMENT**

Senator Lucio called **SB 872** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 872** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 615.003, Government Code, is amended to read as follows:

Sec. 615.003. APPLICABILITY. This chapter applies only to eligible survivors of the following individuals:

(1) an individual elected, appointed, or employed as a peace officer by the state or a political subdivision of the state under Article 2.12, Code of Criminal Procedure, or other law;

(2) a paid probation officer appointed by the director of a community supervision and corrections department who has the duties set out in Section 76.002 and the qualifications set out in Section 76.005, or who was appointed in accordance with prior law;

(3) a parole officer employed by the pardons and paroles division of the Texas Department of Criminal Justice who has the duties set out in Section 508.001 and the qualifications set out in Section 508.113 or in prior law;

(4) a paid jailer;

(5) a member of an organized police reserve or auxiliary unit who regularly assists peace officers in enforcing criminal laws;

(6) a member of the class of employees of the institutional division or the state jail division of the Texas Department of Criminal Justice formally designated as custodial personnel under Section 615.006 by the Texas Board of Criminal Justice or its predecessor in function;

(7) a jailer or guard of a county jail who is appointed by the sheriff and who:

(A) performs a security, custodial, or supervisory function over the admittance, confinement, or discharge of prisoners; and

(B) is certified by the Commission on Law Enforcement Officer Standards and Education;

(8) a juvenile correctional employee of the Texas Youth Commission;

(9) an employee of the Texas Department of Mental Health and Mental Retardation who:

(A) works at the department's maximum security unit; or

(B) performs on-site services for the Texas Department of Criminal Justice;

(10) an individual who is employed by the state or a political or legal subdivision and is subject to certification by the Texas Commission on Fire Protection;

(11) an individual employed by the state or a political or legal subdivision whose principal duties are aircraft crash and rescue fire fighting;

(12) a member of an organized volunteer fire-fighting unit that:

(A) renders fire-fighting services without remuneration; and

(B) conducts a minimum of two drills each month, each two hours long;

(13) an individual who:

(A) performs emergency medical services or operates an ambulance;

(B) is employed by a political subdivision of the state or is an emergency medical services volunteer as defined by Section 773.003, Health and Safety Code; and

(C) is qualified as an emergency care attendant or at a higher level of training under Section 773.046, 773.047, 773.048, 773.049, or 773.0495, Health and Safety Code; ~~or~~

(14) an individual who is employed or formally designated as a chaplain for:

(A) an organized volunteer fire-fighting unit or other fire department of this state or of a political subdivision of this state;

(B) a law enforcement agency of this state or of a political subdivision of this state; or

(C) the Texas Department of Criminal Justice; or

(15) an individual who is employed by the state or a political subdivision of the state and who is considered by the governmental employer to be a trainee for a position otherwise described by this section.

SECTION \_\_\_\_\_. Section 615.021(e), Government Code, is amended to read as follows:

(e) In this section:

(1) "Personal injury" means an injury resulting from an external force, an activity, or a disease caused by or resulting from:

(A) a line-of-duty accident; or

(B) an illness caused by line-of-duty work under hazardous conditions.

(2) "Line of duty" means an action an individual listed under Section 615.003 is required or authorized by rule, condition of employment, or law to perform. The term includes:

(A) an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer; and

(B) an action performed as part of a training program the individual is required or authorized by rule, condition of employment, or law to undertake.

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 872**.

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

Absent-excused: Carona.

### SENATE BILL 1373 WITH HOUSE AMENDMENT

Senator Lucio called **SB 1373** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 1373** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED

#### AN ACT

relating to the operation and continuation of the law authorizing the issuance of oversize or overweight vehicle permits by certain port authorities.

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

#### ARTICLE 1. AMENDMENT OF SUBCHAPTER K, CHAPTER 623, BEFORE EXPIRATION

SECTION 1.01. Section 623.214(b), Transportation Code, is amended to read as follows:

(b) Fees collected under Subsection (a), less administrative costs, shall be used solely to provide funds for the maintenance and improvement of state highways subject to this subchapter. The [payments provided for under Section 623.213 less]

administrative costs, which ~~may~~ ~~[shall]~~ not exceed 15 percent of the fees collected, may be retained by the port authority. The [Such] fees, less administrative costs, shall be deposited in the State Highway Fund [6].

SECTION 1.02. Section 623.215(a), Transportation Code, is amended to read as follows:

(a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the port authority;

(4) a statement of the kind of cargo being transported under the permit ~~[over State Highways 48 and 4 between the Gateway International Bridge and the entrance to the Port of Brownsville, or over State Highways 48 and 4 and United States Highways 77 and 83 between Veterans International Bridge at Los Tomates and the entrance to the Port of Brownsville]~~, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported provided the gross weight of such equipment and commodities shall not exceed 125,000 pounds;

(5) a statement of any condition on which the permit is issued;

(6) a statement of the route designated under Section 623.219 ~~[that the cargo shall be transported over the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 and 4 or United States Highways 77 and 83];~~

(7) the name of the driver of the vehicle in which the cargo is to be transported; and

(8) the location where the cargo was loaded.

SECTION 1.03. Section 623.219, Transportation Code, is amended to read as follows:

Sec. 623.219. ROUTE DESIGNATION ~~[EXPIRATION]~~. (a) The commission shall, with the consent of the port authority, designate the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 and 4 or United States Highways 77 and 83 or using United States Highway 77 and United States Highway 83, East Loop Corridor, and State Highway 4.

(b) If the commission designates a route or changes the route designated under this section, the commission shall notify the port authority of the route not later than the 60th day before the date that the designation takes effect ~~[This subchapter expires June 1, 2009].~~

SECTION 1.04. Section 623.213, Transportation Code, is repealed.

## ARTICLE 2. REENACTMENT AND AMENDMENT OF SUBCHAPTER K, CHAPTER 623, AFTER EXPIRATION

SECTION 2.01. Subchapter K, Chapter 623, Transportation Code, is reenacted and amended to read as follows:

## SUBCHAPTER K. PORT AUTHORITY PERMITS

Sec. 623.210. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and bordering the United Mexican States.

Sec. 623.211. DEFINITION. In this subchapter, "port authority" means a port authority created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Sec. 623.212. PERMITS BY PORT AUTHORITY. The department may authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and bordering the United Mexican States.

Sec. 623.213. ~~MAINTENANCE CONTRACTS. A port authority issuing permits under this subchapter shall make payments to the department to provide funds for the maintenance of state highways subject to this subchapter.~~

~~Sec. 623.214.] PERMIT FEES. (a) A port authority may collect a fee for permits issued under this subchapter. The [Such] fees may [shall] not exceed \$80 per trip.~~

~~(b) Fees collected under Subsection (a), less administrative costs, shall be used solely to provide funds for the maintenance and improvement of state highways subject to this chapter. The [payments provided for under Section 623.213 less] administrative costs, which may [shall] not exceed 15 percent of the fees collected, may be retained by the port authority. The [Such] fees, less administrative costs, shall be deposited in the State Highway Fund [6].~~

Sec. 623.214 ~~[623.215].~~ PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the port authority;
- (4) a statement of the kind of cargo being transported under the permit ~~[over State Highways 48 and 4 between the Gateway International Bridge and the entrance to the Port of Brownsville, or over State Highways 48 and 4 and United States Highways 77 and 83 between Veterans International Bridge at Los Tomates and the entrance to the Port of Brownsville],~~ the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported provided the gross weight of such equipment and commodities shall not exceed 125,000 pounds;
- (5) a statement of any condition on which the permit is issued;
- (6) a statement of the route designated under Section 623.219 ~~[that the cargo shall be transported over the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 and 4 or United States Highways 77 and 83];~~
- (7) the name of the driver of the vehicle in which the cargo is to be transported; and
- (8) the location where the cargo was loaded.

(b) A port authority shall report to the department all permits issued under this subchapter.

Sec. 623.215 [~~623.216~~]. TIME OF MOVEMENT. A permit issued under this subchapter shall specify the time in which movement authorized by the permit is allowed.

Sec. 623.216 [~~623.217~~]. SPEED LIMIT. Movement authorized by a permit issued under this subchapter shall not exceed the posted speed limit or 55 miles per hour, whichever is less. Violation of this provision shall constitute a moving violation.

Sec. 623.217 [~~623.218~~]. ENFORCEMENT. The Department of Public Safety shall have authority to enforce the provisions of this subchapter.

Sec. 623.218 [~~623.219~~]. ROUTE DESIGNATION [~~EXPIRATION~~]. (a) The commission shall, with the consent of the port authority, designate the most direct route from the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 and 4 or United States Highways 77 and 83 or using United States Highway 77 and United States Highway 83, East Loop Corridor, and State Highway 4.

(b) If the commission designates a route or changes the route designated under this section, the commission shall notify the port authority of the route not later than the 60th day before the date that the designation takes effect [~~This subchapter expires June 1, 2009~~].

### ARTICLE 3. TRANSITION AND EFFECTIVE DATE PROVISIONS

SECTION 3.01. A vehicle for which a permit is issued under Subchapter K, Chapter 623, Transportation Code, before the date that a route designated by the Texas Transportation Commission under Section 623.219, Transportation Code, as amended by this Act, takes effect must use the route specified in Section 623.215(a)(6), Transportation Code, as that section existed immediately before the effective date of this Act, and that section continues in effect for that purpose.

SECTION 3.02. (a) Article 1 of this Act takes effect only if this Act takes effect before June 1, 2009.

(b) Subchapter K, Chapter 623, Transportation Code, as reenacted and amended by Article 2 of this Act, takes effect only if this Act takes effect on or after June 1, 2009.

SECTION 3.03. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 1373**.

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

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1861 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1861** at this time on its second reading:

**CSSB 1861**, Relating to certain programs and pilot programs administered by the Texas Department of Housing and Community Affairs.

The motion prevailed.

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

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1861** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSSB 1861** was read and was adopted by a viva voce vote.

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

Nays: Hegar, Patrick.

Absent-excused: Carona.

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

**CSSB 1861** as amended was passed to engrossment by a viva voce vote.

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

Nays: Hegar, Patrick.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1861 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 **CSSB 1861** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

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

Nays: Hegar, Patrick.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2151 ON SECOND READING**

Senator Patrick moved to suspend the regular order of business to take up for consideration **CSSB 2151** at this time on its second reading:

**CSSB 2151**, Relating to ambulatory surgical centers and to the provision of services at those centers by certain designated physician groups.

The motion prevailed.

Senator Davis 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: Davis.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2151 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 2151** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Davis.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 2235 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSSB 2235** at this time on its second reading:

**CSSB 2235**, Relating to the names of persons included on a permit or license for certain solid waste facilities under the Solid Waste Disposal Act.

The motion prevailed.

Senators Eltife and Fraser 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: Eltife, Fraser.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2235 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2235** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

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

Nays: Eltife, Fraser.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1616 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 1616** at this time on its second reading:

**CSSB 1616**, Relating to the fees for certain license plates.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1616** (Senate committee printing) as follows:

(1) In SECTION 6 of the bill, in added Section 504.802, Transportation Code (page 2, line 56), strike "state highway" and substitute "general revenue".

(2) In the recital to SECTION 7 of the bill (page 2, line 61), strike "(c), (d)".

(3) In SECTION 7 of the bill, in amended Section 504.851(b), Transportation Code (page 3, line 12), strike "director" and substitute "commission".

(4) In SECTION 7 of the bill, in amended Section 504.851, Transportation Code, strike Subsection (c) of that section (page 3, lines 24-41).

(5) In SECTION 7 of the bill, in amended Section 504.851, Transportation Code, strike Subsection (d) of that section (page 3, lines 44-46).

(6) In SECTION 7 of the bill, in amended Section 504.851(j), Transportation Code (page 3, lines 61 and 62), strike "state highway [~~general revenue~~]" and substitute "general revenue".

(7) In SECTION 8 of the bill, in added Section 504.854(c), Transportation Code (page 4, line 35), after the period add "The department may set a fee to be paid by the transferee to the department for the transfer.".

The amendment to **CSSB 1616** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**CSSB 1616** as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1616 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 1616** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

#### **COMMITTEE SUBSTITUTE SENATE BILL 2439 ON SECOND READING**

Senator Uresti moved to suspend the regular order of business to take up for consideration **CSSB 2439** at this time on its second reading:

**CSSB 2439**, Relating to granting certain local governments general zoning authority around certain military facilities; providing a penalty.

The motion prevailed.

Senators Eltife, Harris, Huffman, Nichols, Patrick, and Seliger asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 2439** by striking all below the enacting clause, and substituting the following:

SECTION 1. Subtitle C, Title 12, Local Government Code, is amended by adding Chapter 397A to read as follows:

**CHAPTER 397A. REGIONAL MILITARY SUSTAINABILITY COMMISSIONS  
RELATING TO MILITARY INSTALLATIONS**

Sec. 397A.001. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas that surround military installations will be frequented for military, national security, and international training purposes by residents from many parts of the state, nation, and world;

(2) compatible development and use of those areas is of concern to the state and nation; and

(3) without adequate regulation, the areas will tend to become incompatible with military missions and will be used in ways that interfere with:

(A) the proper continued use of those areas as secure locations for military installations and missions; and

(B) the effective operation of the military installations and missions.

(b) The regulatory powers granted under this chapter are for the purposes of:

(1) promoting the public health, safety, and general welfare;

(2) protecting and preserving places and areas of military and national security importance and significance;

(3) protecting critical military missions and operations related to those missions; and

(4) ensuring state and national security.

(c) This chapter may not be interpreted to grant regulatory powers to administer Chapter 245 or to amend a protection or benefit provided by Chapter 245.

Sec. 397A.002. APPLICABILITY. (a) A regulation or compatible development standard adopted under this chapter does not apply to:

(1) an area located in a county with a population of less than 5,000 that is adjacent to an international border;

(2) a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision;

(3) a tract of land in agricultural use;

(4) an activity or a structure or appurtenance on a tract of land in agricultural use; or

(5) any activity or a project, as that term is defined by Section 245.001, that is:

(A) occurring or in existence on the effective date of the Act adding this chapter; or

(B) receiving the benefits of or protected under Chapter 245.

(b) In this section:

(1) "Agricultural use" means use or activity involving agriculture.

(2) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a government program or normal crop or livestock rotation procedure; or

(E) engaging in wildlife management.

Sec. 397A.003. CREATION OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) A county with a population of 60,000 or less and a municipality that, with respect to the same active military installation, constitutes a defense community, as defined by Section 397.001, may agree by order, ordinance, or other means to establish and fund a regional military sustainability commission under this chapter in an area that is located:

(1) in the same county as the active military installation; and

(2) in the extraterritorial jurisdiction of the municipality.

(b) Defense communities may not establish more than one commission in a county.

(c) A commission's territory consists of the unincorporated area located within five miles of the boundary line of a military installation designated as the commission's territory when the commission is established.

(d) A commission is a political subdivision of the state, is subject to Section 245.006, and is entitled to immunity as described by Chapter 101, Civil Practice and Remedies Code.

(e) This chapter shall be narrowly construed in conformity with the findings and purposes under Section 397A.001.

Sec. 397A.004. HEARING ON CREATION OF COMMISSION. (a) Not earlier than the 60th day or later than the 30th day before the date the governing body of each participating governmental entity establishes a regional military sustainability commission, each governing body shall hold two public hearings to consider the creation of the proposed commission. Each governing body must, at least seven days before each public hearing, prominently post notice of the hearing in the administrative offices of the governmental entity and publish notice of the hearing in a newspaper of general circulation, if any, in the proposed territory.

(b) The notice required by Subsection (a) must:

(1) state the date, time, and place for the public hearing;

(2) identify the boundaries of the proposed territory, including a map of the proposed territory; and

(3) provide a description of the proposed commission's authority.

Sec. 397A.005. GOVERNING BODY OF REGIONAL MILITARY SUSTAINABILITY COMMISSION. (a) The governing body of a regional military sustainability commission is composed of not more than nine members.

(b) Participating governmental entities may by joint agreement determine the number, qualifications, and method of selecting members of the governing body of a commission.

(c) A member of a governing body of a commission may not be an elected official of a participating county or municipality.

Sec. 397A.006. COMMISSION REVIEW OF NEW PROJECTS. (a) In this section, "new project" means a project, as that term is defined by Section 245.001, for which an application for a permit that will establish a vesting date under Chapter 245 has not been submitted to a regulatory agency before the effective date of the Act adding this chapter, including a water contract, sewer contract, or master plan.

(b) A commission shall establish an advisory committee and appoint six members to the committee. Three of the members appointed to the committee must represent the military installation for which the commission is established and three members must represent landowners in the area surrounding the military installation. The committee shall advise the commission on protecting the critical military missions of the military installation with regard to development.

(c) On receipt of an application for a permit for a new project in the commission's territory, the governing body of the participating governmental entity shall review the application and request a report from the commission regarding the proposed project. The commission, with the advice of the advisory committee, shall review the compatibility of the new project with the military installation's military missions and related operations based on the commission's compatible development standards. The commission shall submit a report of its findings, including a recommendation regarding compatibility, to the reviewing governmental entity not later than the 15th calendar day after the date the request was made. The report must include an estimate of the fiscal impact on the affected property of any recommendations submitted by the commission as part of the report.

(d) The reviewing governmental entity may not take action on the permit application until it receives the report of the commission. If the commission finds that the proposed new project is not compatible with the military installation's missions and recommends denial of the permit application, the reviewing governmental entity may disapprove the permit application.

(e) On annexation of an area in the commission's territory for full or limited purposes by a municipality, the commission's authority over the area expires. The commission regains the authority in an area if the municipality disannexes the area.

Sec. 397A.007. REGIONAL COMPATIBLE DEVELOPMENT STANDARDS. (a) Before exercising the authority granted by Section 397A.006, a commission shall recommend and adopt compatible development standards for the territory. The commission must consider and may adopt, as part of the regional compatible development standards, the Federal Aviation Administration regulations regarding height restrictions surrounding a military installation that services aircraft and helicopters. The commission shall submit compatible development standards adopted under this section to the participating governmental entities for approval.

(b) Before taking action to approve or reject the compatible development standards proposed by the commission, the participating governmental entities shall:

(1) provide notice of the commission's proposed compatible development standards to property owners in the commission's territory, as determined by the most recent county tax roll; and

(2) publish notice of the commission's proposed compatible development standards in a newspaper of general circulation, if any, in the commission's territory.

(c) The failure of notice to reach each property owner under Subsection (b) does not invalidate compatible development standards adopted under this section.

(d) The compatible development standards are final after approval by a majority vote of each participating governmental entity. Notice of the final compatible development standards must be provided to all appropriate taxing entities for filing in the real property records of the county.

(e) The commission may include in the compatible development standards a recommendation to a participating governmental entity to purchase property in the commission's territory as practical to protect a critical military mission.

(f) The commission may recommend and approve amendments to approved compatible development standards. The participating governmental entities may approve the commission's amended standards under procedures adopted by the entities.

Sec. 397A.008. COORDINATION WITH OTHER PLANS AND STUDIES. The compatible development standards and regulations adopted under this chapter must be coordinated with:

(1) the county plan for growth and development of the participating county or a county located in the commission's territory;

(2) the comprehensive plan of the participating municipality; and

(3) the most recent Joint Land Use Study, if the commission makes a finding that the conclusions of the study accurately reflect circumstances in the territory.

Sec. 397A.009. CONFLICT WITH OTHER LAWS. Except with respect to Chapter 245, if a regulation adopted under this chapter conflicts with a standard imposed under another statute or local order or regulation, the more stringent standard controls.

Sec. 397A.010. FUNDS. (a) A commission does not have power to tax.

(b) A participating governmental entity may appropriate funds to the commission for the costs and expenses required in the performance of the commission's purposes.

(c) A commission may apply for, contract for, receive, and expend for its purposes a grant or funds from a participating governmental entity, the state, the federal government, or any other source.

Sec. 397A.011. RESTRICTIONS. (a) A commission shall comply with laws applicable to participating governmental entities relating to:

(1) reimbursement for travel expenses;

(2) nepotism;

(3) conflicts of interest; and

(4) registration of lobbyists.

(b) To the extent of a conflict between laws applicable to participating governmental entities relating to a subject described by Subsection (a), the more stringent requirement controls.

Sec. 397A.012. WITHDRAWAL FROM COMMISSION. A participating governmental entity may withdraw from a commission:

(1) by a two-thirds vote of its governing body; and

(2) after providing notice to the relevant military installation commander not later than the 45th day before the date of the vote under Subdivision (1).

Sec. 397A.013. EXPIRATION AFTER MILITARY INSTALLATION CLOSURE. A commission that regulates territory around a military installation that is closed by the federal government and the regional compatible development standards adopted by the commission may continue in effect until the fourth anniversary of the date the military installation is closed.

Sec. 397A.014. JUDICIAL REVIEW OF COMMISSION OR GOVERNMENTAL ENTITY DECISION. Notwithstanding any other provision of this chapter, a landowner aggrieved by a report submitted by the commission or by a permit application decision of the participating governmental entity under this chapter may appeal all or part of the report or permit application decision to a district court, county court, or county court at law. The court may reverse or modify, wholly or partly, the report submitted by the commission or the permit application decision that is appealed.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment to **CSSB 2439** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**CSSB 2439** as amended was passed to engrossment by a viva voce vote.

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

Nays: Eltife, Fraser, Harris, Hegar, Huffman, Nichols, Patrick, Seliger.

Absent-excused: Carona.

### COMMITTEE SUBSTITUTE SENATE BILL 2439 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 2439** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Lucio, Nelson, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Harris, Huffman, Nichols, Seliger.

Absent: Williams.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 8.

Yeas: Averitt, Davis, Deuell, Duncan, Ellis, Estes, Gallegos, Hinojosa, Jackson, Lucio, Nelson, Ogden, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Eltife, Fraser, Harris, Hegar, Huffman, Nichols, Patrick, Seliger.

Absent: Williams.

Absent-excused: Carona.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1736 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSHB 1736** at this time on its second reading:

**CSHB 1736**, Relating to compensation of and services to persons wrongfully imprisoned.

The motion prevailed.

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

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

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

Amend **CSHB 1736** (Senate committee printing) as follows:

(1) In SECTION 6 of the bill, in the recital (page 2, line 31), strike "Section 103.053" and substitute "Sections 103.053 and 103.054".

(2) In SECTION 6 of the bill, after added Section 103.053, Civil Practice and Remedies Code (page 2, between lines 44 and 45), insert the following:

Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the seventh anniversary of the date the claimant received the pardon or was granted relief as required by Section 103.001, tuition for up to 120 credit hours, including tuition charged under Section 54.0513, Education Code, or any other law granting an educational institution discretion to set the tuition rate, and any mandatory fees associated with attendance at the institution, charged by a career center or public institution of higher education shall be paid on behalf of the claimant.

The amendment to **CSHB 1736** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Duncan offered the following amendment to the bill:

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

Amend **CSHB 1736** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **CSHB 1736** 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 except as follows:

Absent-excused: Carona.

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

**CSHB 1736** as amended was passed to third reading by a viva voce vote.

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

Nays: Huffman, Nelson, Patrick.

Absent-excused: Carona.

### **HOUSE BILL 2101 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **HB 2101** at this time on its second reading:

**HB 2101**, Relating to the place for the convening of a county convention.

The motion prevailed.

Senator Estes 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 third reading by a viva voce vote.

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

Nays: Estes.

Absent-excused: Carona.

**HOUSE BILL 2101 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2101** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Estes.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**PERMISSION TO INTRODUCE BILL**

On motion of Senator Lucio and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bill: **SB 2580**.

**SENATE BILL ON FIRST READING**

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 2580** by Lucio

Relating to actions under the Beer Industry Fair Dealing Law.  
To Committee on Business and Commerce.

**HOUSE BILLS AND RESOLUTION ON FIRST READING**

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

**HB 136** to Committee on Education.

**HB 192** to Committee on Education.

**HB 200** to Committee on Education.

**HB 221** to Committee on Criminal Justice.

**HB 233** to Committee on Health and Human Services.

**HB 319** to Committee on Jurisprudence.

**HB 459** to Committee on Criminal Justice.

**HB 570** to Committee on Business and Commerce.

**HB 626** to Committee on Education.

**HB 770** to Committee on Finance.

**HB 912** to Committee on Jurisprudence.

**HB 999** to Committee on Education.

**HB 1031** to Committee on Health and Human Services.

**HB 1041** to Committee on Education.

**HB 1090** to Committee on Natural Resources.

**HB 1309** to Committee on Finance.

**HB 1358** to Committee on Health and Human Services.

**HB 1420** to Committee on Natural Resources.

**HB 1425** to Committee on Criminal Justice.

**HB 1457** to Committee on State Affairs.

**HB 1518** to Committee on Natural Resources.

**HB 1533** to Committee on Natural Resources.  
**HB 1796** to Committee on Natural Resources.  
**HB 1890** to Committee on Natural Resources.  
**HB 1905** to Committee on Health and Human Services.  
**HB 1966** to Committee on Health and Human Services.  
**HB 1968** to Committee on Jurisprudence.  
**HB 2121** to Committee on Intergovernmental Relations.  
**HB 2240** to Committee on Criminal Justice.  
**HB 2547** to Committee on State Affairs.  
**HB 2548** to Committee on Business and Commerce.  
**HB 2564** to Committee on Business and Commerce.  
**HB 2584** to Committee on Criminal Justice.  
**HB 2649** to Committee on Business and Commerce.  
**HB 2682** to Committee on Transportation and Homeland Security.  
**HB 2888** to Committee on Intergovernmental Relations.  
**HB 2954** to Committee on Higher Education.  
**HB 2994** to Committee on Intergovernmental Relations.  
**HB 3005** to Committee on Criminal Justice.  
**HB 3072** to Committee on Economic Development.  
**HB 3097** to Committee on Transportation and Homeland Security.  
**HB 3119** to Committee on Finance.  
**HB 3128** to Committee on Jurisprudence.  
**HB 3137** to Committee on Health and Human Services.  
**HB 3144** to Committee on Finance.  
**HB 3148** to Committee on Criminal Justice.  
**HB 3181** to Committee on Business and Commerce.  
**HB 3226** to Committee on Criminal Justice.  
**HB 3276** to Committee on Higher Education.  
**HB 3287** to Committee on Intergovernmental Relations.  
**HB 3314** to Committee on Jurisprudence.  
**HB 3356** to Committee on Transportation and Homeland Security.  
**HB 3502** to Committee on Business and Commerce.  
**HB 3526** to Committee on Natural Resources.  
**HB 3547** to Committee on Natural Resources.  
**HB 3635** to Committee on Jurisprudence.  
**HB 3649** to Committee on Criminal Justice.  
**HB 3671** to Committee on Criminal Justice.  
**HB 3674** to Committee on Health and Human Services.  
**HB 3717** to Committee on Health and Human Services.  
**HB 3737** to Committee on Health and Human Services.  
**HB 3829** to Committee on Business and Commerce.  
**HB 3850** to Committee on Business and Commerce.  
**HB 3861** to Committee on Natural Resources.  
**HB 3951** to Committee on Higher Education.  
**HB 3983** to Committee on Economic Development.  
**HB 4068** to Committee on Jurisprudence.

**HB 4091** to Committee on Education.  
**HB 4154** to Committee on Health and Human Services.  
**HB 4265** to Committee on Finance.  
**HB 4343** to Committee on Business and Commerce.  
**HB 4409** to Committee on Transportation and Homeland Security.  
**HB 4412** to Committee on Intergovernmental Relations.  
**HB 4424** to Committee on Jurisprudence.  
**HB 4492** to Committee on State Affairs.  
**HB 4525** to Committee on Economic Development.  
**HB 4545** to Committee on State Affairs.  
**HB 4754** to Committee on Intergovernmental Relations.  
**HCR 16** to Committee on Government Organization.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2407 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 2407** at this time on its second reading:

**CSSB 2407**, Relating to the provision of services to individuals with mental retardation.

The motion prevailed.

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

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 2407** (Senate committee printing) as follows:

Strike Section 9 (page 5, lines 2-36) and replace with the following new sections and renumber sections according:

SECTION \_\_\_\_\_. Subtitle I, Title 4, Government Code, is amended by adding Chapter 536 to read as follows:

CHAPTER 536. STRATEGIC PLAN REGARDING LONG-TERM SERVICES  
AND SUPPORTS FOR INDIVIDUALS WITH DISABILITIES

Sec. 536.001. PURPOSE; INTENT. (a) The purpose of this chapter is to develop a comprehensive plan to reform and rebalance Texas' system of long-term services and supports for individuals with disabilities, including individuals who are eligible for ICF-MR services.

(b) It is the intent of the legislature that the system analysis and planning effort prescribed by this chapter encompass services for individuals with disabilities across different programs and settings.

(c) It is the intent of the legislature that the reformed system:

- (1) be based on principles of self-determination;
- (2) include person-centered planning and maximize opportunities for consumer direction for all eligible individuals;

(3) provide and expand timely access to services and supports in the individual's setting of choice, whether in the community or in an institution;

(4) base service provision on functional need;

(5) simplify and streamline community-based services to ensure that, to the extent possible, all individuals have access to the same array of services regardless of an individual's disability;

(6) improve the quality of services delivered across programs and settings, with particular attention given to services delivered to individuals in state schools and state centers;

(7) strengthen oversight of community-based services; and

(8) increase the cost-effectiveness and sustainability of long-term care services and supports.

Sec. 536.002. PRINCIPLES OF SELF-DETERMINATION. For purposes of this chapter, "self-determination" includes the following principles:

(1) freedom, the opportunity to choose where and with whom one lives and how one organizes all important aspects of one's life with freely chosen assistance as needed;

(2) authority, the ability to control some targeted amount of public dollars;

(3) support, the ability to organize support in ways that are unique to the individual;

(4) responsibility, the obligation to use public dollars wisely and to contribute to one's community; and

(5) confirmation, the recognition that individuals with disabilities must be a major part of the redesign of the human services system of long-term care.

Sec. 536.003. CREATION OF STRATEGIC PLAN. The commission shall create a strategic plan for reform of the services and supports available for individuals with disabilities, including individuals eligible for ICF-MR services. The commission shall develop the plan with the input of the strategic plan advisory committee using a clearly defined process that allows ongoing and meaningful statewide public involvement.

Sec. 536.004. STRATEGIC PLAN ADVISORY COMMITTEE. (a) The strategic plan advisory committee is established to provide information and assist the commission in the creation of the strategic plan under this chapter.

(b) The advisory committee is composed of the following members, appointed by the executive commissioner:

(1) one representative of each of the following:

(A) the commission;

(B) the Department of Aging and Disability Services;

(C) the Department of State Health Services; and

(D) local mental retardation authorities;

(2) one representative who is a direct care employee of a state school;

(3) two representatives of community service providers;

(4) two representatives of an advocacy group for persons with disabilities;

and

(5) two representatives who are family members of individuals residing in a state school.

(c) The advisory committee shall study and make recommendations to the commission regarding any issues the commission considers relevant in relation to:

(1) the proximity of state schools to other state schools and the geographical distribution of state schools;

(2) the proximity of state schools to community services providers and the geographical distribution of those providers;

(3) the administrative costs of each state school;

(4) the availability of other employment opportunities in the area of each state school for employees displaced by potential consolidation, including additional employees that may be needed by community services providers if a state school is consolidated;

(5) the condition of existing state school structures and existing community services providers;

(6) the ease of client transfer capability;

(7) the capacity of state schools to accommodate individuals transferred from a facility that may be identified for consolidation;

(8) the capacity of local community services providers to accommodate individuals served by each state school;

(9) identification of specialty programs and services available at each state school and whether those programs and services are available at other state schools or from local community services providers;

(10) the history of incidents of abuse, neglect, or exploitation in each state school and in community-based services;

(11) the economic impact of expanding community programs in the area of each state school, particularly in historically underserved areas of the state;

(12) the economic impact of potential consolidation of each state school;

and  
(13) any other relevant information as determined by the advisory committee.

(d) The advisory committee may solicit public testimony and input while performing the advisory committee's duties under this chapter.

Sec. 536.005. CONTENTS OF STRATEGIC PLAN. The strategic plan required by this chapter must:

(1) assess the need for services and supports based on current interest lists, national trends, best practices, consumer satisfaction surveys, and any other relevant data;

(2) prescribe methods to expand timely access to community-based services by:

(A) eliminating wait times for services of greater than two years;

(B) developing community-based provider capacity;

(C) improving and expanding positive behavioral supports in the community for adults and children; and

(D) applying "Money Follows the Person" methods of financing for individuals residing in state schools, state centers, or public or private ICF-MRs;

(3) analyze current utilization management methods for community-based services and determine necessary modifications to ensure more timely access to services;

(4) examine local access issues for community-based services and identify appropriate solutions;

(5) examine the current functional eligibility criteria, functional assessment tools, and service planning reimbursement methodology for the home and community-based services waiver system and determine appropriate methods to modify those protocols so individuals can access needed services, regardless of the program in which the individual is enrolled;

(6) prescribe methods to redesign the home and community-based services waiver system across all programs by:

(A) simplifying and streamlining the administrative, policy, and regulatory processes to the extent possible;

(B) ensuring that person-centered plans and philosophy match utilization review and utilization management methods and philosophy;

(C) permitting, to the extent allowed by federal law, flexibility in the development of an individualized service plan based on the needs of the individual rather than the individual's disability label or diagnosis;

(D) ensuring that an individualized service plan can be modified when the individual's support needs change; and

(E) implementing other strategies to streamline services for individuals with a disability who are eligible for waiver services;

(7) prescribe methods to improve services delivered to individuals in state schools and state centers;

(8) prescribe methods to reduce reliance on institutional placements of individuals;

(9) prescribe methods to improve the quality of services provided to individuals by:

(A) examining current methods and processes related to the quality of services and identifying which methods or processes:

(i) need further enhancements;

(ii) need to be developed; or

(iii) are effective and should be considered for implementation across all services;

(B) increasing oversight and accountability in community-based settings;

(C) developing an appropriate population of qualified direct services workers in the community who are appropriately compensated; and

(D) identifying quality measures, including timeliness of service delivery, number of individuals served, and types of services being received, and providing a process by which this information is reported to the legislature on an annual basis; and

(10) identify barriers to system reform and make recommendations to eliminate or address barriers to system reform, including any necessary statutory amendment.

SECTION \_\_. Not later than December 1, 2010, the Health and Human Services Commission shall submit the strategic plan required by Chapter 536, Government Code, as added by this Act, to the Governor, presiding officers of each chamber, and the members of the Senate Committee on Health and Human Services and the House Human Services Committee. The Commission must also post the strategic plan on the Commission's website.

The amendment to **CSSB 2407** was read.

Senator Ogden offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **CSSB 2407**, in proposed Sec. 536.005, Gov't Code, as follows:

(1) In proposed Sec. 536.005(10), after "statutory amendment" strike "." and insert "; and"; and

(2) Insert new Sec. 536.005(11) to read as follows:

(11) consider the department's ability to reduce the number of state school residents, through census management, not closure, and limit the number of residents residing at each state school, without removing a state school resident from a state school against the resident's will or against the will of the resident's legally authorized guardian for the purpose of meeting any potential capacity limits, and without denying admission to a state school on the basis that the admission would cause the state school to exceed any potential capacity limit.

The amendment to Floor Amendment No. 1 to **CSSB 2407** 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 except as follows:

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 2407**, the amendment as amended was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**CSSB 2407** as amended was passed to engrossment by a viva voce vote.

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

Nays: Estes, Nelson, Seliger.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 2407 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 2407** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Estes, Nelson, Seliger.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1714 ON SECOND READING**

The Presiding Officer, Senator Eltife in Chair, laid before the Senate **CSSB 1714** by Senator Hegar on its second reading. The bill had been read second time, an amendment offered, amendment withdrawn, and further consideration postponed to a time certain of 11:30 a.m. today:

**CSSB 1714**, Relating to evidence of beneficial use and other matters in connection with the issuance of permits by a groundwater conservation district in accordance with its management plan.

Question — Shall **CSSB 1714** be passed to engrossment?

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1714** (committee printing) as follows:

- (1) On page 1, line 21 between "in" and "agriculture" insert "conservation in"
- (2) On page 1, line 51 after "district" strike "and this state as established in the adopted state water plan, including any water management strategy dependent on use of the district's groundwater resources"
- (3) On page 1, line 60 strike "dependent on a district's groundwater resources to meet a water management strategy identified in the adopted state water plan" and substitute "located in the management area"
- (4) On page 2, line 54 after "area" strike "and this state as established by the adopted state water plan"
- (5) On page 2, line 67 after "area" strike "to meet a water management strategy identified in the adopted state water plan"
- (6) On page 3, line 21 after "group" strike "dependent on the groundwater resources"
- (7) On page 3, line 23 after "adopted" strike "state" and substitute "regional"

(8) On page 3, line 33 between "of" and "beneficial" insert "an actual and reasonable"

(9) On page 3, line 34 strike all of Section 6 in its entirety and renumber subsequent sections accordingly.

(10) On page 3, line 65 after "district" strike "for municipal use unless the municipal use is established by a contractual obligation described by Section 36.001(28-a)(B)" and substitute "unless the applicant provides evidence of beneficial use as described by Section 36.001(28-a)"

The amendment to **CSSB 1714** 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 except as follows:

Absent-excused: Carona.

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

**CSSB 1714** as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1714 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1714** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

#### **STATEMENT OF LEGISLATIVE INTENT**

Senator Hegar submitted the following statement of legislative intent for **CSSB 1714**:

Members, I understand the concerns of Senator Duncan and Senator Seliger but want to state that the intent of this language is to clarify in statute that groundwater districts have a way to ensure that water isn't permitted without a use. The overall intent of this bill is to ensure that groundwater permitting is done fairly, equitably, and when necessary. We want to avoid a permit being issued and held forever without an end use. I believe groundwater districts are already able to issue "pre-" or "initial production permits" and that some have already used them to avoid costly and unnecessary lawsuits. I think it is imperative, as groundwater resources become more scarce throughout the state, that we continue to discuss needed options for districts on how to best preserve this vital resource.

HEGAR

**COMMITTEE SUBSTITUTE  
SENATE BILL 1425 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 1425** at this time on its second reading:

**CSSB 1425**, Relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1425** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 391.001, Health and Safety Code (page 1, line 60), strike "or diesel fuel, other than" and substitute ", diesel or".

(2) In SECTION 2 of the bill, in added Section 391.001, Health and Safety Code (page 1, line 62), strike "methanol,".

(3) In SECTION 2 of the bill in added Section 391.001, Health and Safety Code, strike Subdivisions (3), (4), and (5) (page 2, lines 3-10) and substitute:

(3) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of propelling the vehicle.

(5) "Incremental cost" has the meaning assigned by Section 386.001.

(6) "Light-duty motor vehicle" has the meaning assigned by Section 386.151.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

(4) In SECTION 2 of the bill, in added Section 391.003, Health and Safety Code, strike Subsection (a) (page 2, lines 21-31) and substitute:

(a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

(5) In SECTION 2 of the bill, strike added Section 391.003(b)(1), Health and Safety Code (page 2, lines 33 and 34), and substitute:

(1) is a neighborhood electric vehicle;

(6) In SECTION 2 of the bill, strike added Section 391.005, Health and Safety Code (page 2, lines 51-63), and substitute the following:

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) replace a vehicle that:

(A) is an on-road vehicle that has been owned, registered, and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(B) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(C) satisfies any minimum percentage of annual usage requirements established by the commission; and

(D) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expenses. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the state.

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable by crushing the vehicle or making a hole in the engine block and permanently destroying the frame of the vehicle. The commission shall establish criteria for ensuring the permanent destruction of the engine and vehicle. The commission shall monitor and enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

(7) In SECTION 2 of the bill, strike added Section 391.007, Health and Safety Code (page 3, lines 2-14), and substitute the following:

Sec. 391.007. AMOUNT OF GRANT. (a) The amount the commission shall award for each vehicle being replaced is:

(1) 80 percent of the incremental cost for a heavy-duty diesel engine:

(A) manufactured prior to implementation of federal or California emission standards; and

(B) not certified to meet a specific emission level by either the U.S. Environmental Protection Agency or the California Air Resources Board;

(2) 70 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1990 through 1997;

(3) 60 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003;

(4) 50 percent of the incremental cost for a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later;

(5) 80 percent of the incremental cost for a light-duty diesel vehicle:

(A) manufactured prior to the implementation of certification requirements; and

(B) not certified to meet either mandatory or voluntary emission certification standards;

(6) 70 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards prior to 2004; and

(7) 60 percent of the incremental cost for a light-duty diesel vehicle certified to meet federal emission standards applicable after 2003.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

The amendment to **CSSB 1425** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**CSSB 1425** as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1425 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 1425** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

**SENATE BILL 37 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 37** at this time on its second reading:

**SB 37**, Relating to providing home-based and community-based support services under the Medicaid program to persons who are deaf-blind with multiple disabilities.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 37** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION \_\_\_\_\_. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **SB 37** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**SB 37** as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

**SENATE BILL 37 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 37** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

**SENATE RULES SUSPENDED  
(Posting Rules)**

On motion of Senator Nichols and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider **SB 2550** today.

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

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

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 875** by Lucio, In memory of Christian Lyle Indridson.

**SR 877** by Estes, In memory of Randy White of Perrin and Bridgeport.

**Congratulatory Resolutions**

**SR 874** by Huffman, Commending Wayne Wang for achieving the rank of Eagle Scout.

**SR 876** by Lucio, Recognizing the San Benito Consolidated Independent School District on the occasion of its 100th anniversary.

**SR 878** by Estes, Recognizing Chesley Sullenberger for his accomplishments as a pilot.

**SR 879** by Ellis, Recognizing Patricia L. Starck for her accomplishments as Dean of the School of Nursing of The University of Texas Health Science Center at Houston.

**SR 880** by West, Recognizing the Greater El Bethel Baptist Church in Dallas on the occasion of its 20th Year Homecoming.

**HCR 137** (Hinojosa), Commending Orange Grove High School Family, Career, and Community Leaders of America students for their efforts to raise awareness of cancer of unknown primary (CUP) origin and for choosing zebra stripes as the ribbon color to symbolize this rare form of cancer.

**ADJOURNMENT**

On motion of Senator Whitmire, the Senate at 1:46 p.m. adjourned until 11:00 a.m. Monday, May 11, 2009.

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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 8, 2009

CRIMINAL JUSTICE — **CSSB 2309, HB 1711** (Amended)

EDUCATION — **HB 709, HB 1297, HB 3643**

BUSINESS AND COMMERCE — **CSSB 1704**

JURISPRUDENCE — **CSSB 2469, CSSB 2563**

HEALTH AND HUMAN SERVICES — **CSHB 19, HB 594, CSHB 675, HB 1023, HB 1404, HB 1409, HB 1510, HB 1622, HB 1785, HB 2030, HB 2055, CSHB 2196, CSHB 2330, SB 2573**

INTERNATIONAL RELATIONS AND TRADE — **CSHB 2374, CSHB 2275**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HB 1345, HB 409, HB 618, CSHB 1452, HB 1466, HB 2020, HB 2217, HB 3139, HCR 86**

NATURAL RESOURCES — **CSSB 1960, HB 1433, CSSB 2536, CSSB 2539, CSSB 2540**

FINANCE — **HB 8, HB 236, HB 1203, HB 2071**

HEALTH AND HUMAN SERVICES — **CSHB 2027, HB 492, HB 1093, HB 1310, HB 1487, HB 1990, HB 2039, HB 2303**

**BILLS ENGROSSED**

May 7, 2009

**SB 411, SB 413, SB 414, SB 415, SB 449, SB 505, SB 549, SB 679, SB 710, SB 845, SB 952, SB 958, SB 978, SB 1454, SB 1483, SB 1489, SB 1530, SB 1645, SB 1833, SB 1953, SB 2037, SB 2064, SB 2079, SB 2224, SB 2249, SB 2283, SB 2340, SB 2384, SB 2472, SB 2486, SB 2496, SB 2509, SB 2515, SB 2518, SB 2531, SB 2534**

**BILLS AND RESOLUTIONS ENROLLED**May 7, 2009**SB 405, SB 1071, SB 1253, SB 1371, SB 1711, SB 1755, SB 1811, SB 2163, SR 842, SR 861, SR 862, SR 863, SR 865, SR 866, SR 867, SR 868, SR 869, SR 870, SR 871, SR 872, SR 873****SENT TO GOVERNOR**May 8, 2009**SB 405, SB 1071, SB 1253, SB 1371, SB 1711, SB 1755, SB 1811, SB 2163**