

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SECOND DAY

(Wednesday, January 9, 2013)

The Senate met at 11:27 a.m. pursuant to adjournment and was called to order by the President.

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

Absent-excused: Carona, Duncan.

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

Colonel J. Craig Combs, State Chaplain, Camp Mabry, Austin, was introduced by Senator Watson and offered the invocation as follows:

Almighty God, as creator and sustainer of all that is, we acknowledge Your sovereignty and authority over the affairs of both individuals and governments. We humbly ask Your forgiveness when we fail to seek Your wisdom and blessing and instead seek to do what is right in our own eyes. Lord, we thank You for all You have done to bless us, the citizens of this great state and those throughout this great land of freedom that we love so dearly. Therefore, we ask for Your continued wisdom, blessing, and direction for the Members of this Chamber as well as for all those who occupy similar positions throughout our nation. May each of them, as well as those of us who elect them, take our charges seriously and be ever vigilant to do what is right and good for all people in pursuit of their inalienable rights of life, liberty, and the pursuit of happiness. According to Your wisdom and power. Amen.

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

The motion prevailed without objection.

LEAVES OF ABSENCE

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

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

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Larry Kravitz of Austin as the Physician of the Day.

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

SENATE RESOLUTION 4

Senator Eltife offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, That the Rules of the Senate of the 82nd Legislature are adopted as the Permanent Rules of the Senate of the 83rd Legislature with the following modifications:

1. Amend Rule 5.11 to read as set forth in the Permanent Rules of the Senate of the 80th Legislature (2007).

2. Amend Subsection (a) of Rule 7.06 to read as follows:

(a) The President shall refer each bill to a proper committee or standing subcommittee and shall cause such referral to be announced when the bill is first read. A sunset bill must be referred to a committee with appropriate subject-matter jurisdiction.

3. Amend Rule 11.02 to read as follows:

LIST OF STANDING COMMITTEES

Rule 11.02. At the beginning of each regular session, the President shall appoint the following standing committees with the number of members indicated:

STANDING COMMITTEES

- (1) Committee on Administration (7 members)
- (2) Committee on Agriculture, ~~and~~ Rural Affairs and Homeland Security
(5 members)
- (3) Committee on Business and Commerce (9 members)
- (4) Committee on Criminal Justice (7 members)
- (5) Committee on Economic Development (7 members)
- (6) Committee on Education (9 members)
- (7) Committee on Finance (15 members)
- (8) Committee on Government Organization (7 members)
- (9) Committee on Health and Human Services (9 members)
- (10) Committee on Higher Education (7 members)
- (11) Committee on Intergovernmental Relations (5 members)
- ~~(12) Committee on International Relations and Trade (7 members)~~
- ~~(12)~~ ~~(13)~~ (13) Committee on Jurisprudence (7 members)
- ~~(13)~~ ~~(14)~~ (14) Committee on Natural Resources (11 members)
- ~~(14)~~ ~~(15)~~ (15) Committee on Nominations (7 members)
- (15) Committee on Open Government (5 members)
- (16) Committee on State Affairs (9 members)
- (17) Committee on Transportation ~~and Homeland Security~~ (9 members)
- (18) Committee on Veteran Affairs and Military Installations (5 members)

SR 4 was read and was adopted by the following vote: Yeas 27, Nays 0.

Absent: Lucio.

Absent-excused: Carona, Duncan.

REASON FOR VOTE

Senator Birdwell submitted the following reason for vote on **SR 4**:

Even with the new makeup of the body, support for removing the "two-thirds rule" in the Texas Senate remains insufficient for passage. Thus, as in the 82nd legislative session, I wish to state on the record that I cast a "Yes" vote on the rules package so that the Senate may continue to address the people's business. I do, however, have great reservations about the "two-thirds rule," which requires the consent of 21 of 31 Members to allow a bill to be considered on the floor by the entire body. This rule provides a minority of Members to direct or preclude the actions of the majority, an example of what founding father James Madison feared in *Federalist* 58: "It would no longer be the majority that would rule; the power would be transferred to the minority." The fundamental character of our republic is that the will of the majority shall prevail.

BIRDWELL

REASON FOR VOTE

Senator Patrick submitted the following reason for vote on **SR 4**:

Traditions of the Senate are a necessity and should be granted a level of respect. They maintain civility amongst the Members and uphold decorum and continuity. From time to time, it is important to examine our traditions and ensure they best serve the body and the people of the State of Texas. Maintaining tradition, when doing so counters the public's best interest, is a dereliction of our duty as Texas Senators. Let the record reflect that I object to the Two-thirds Rule that requires a supermajority of two-thirds of the Members present in order to bring legislation to the Senate floor. This rule allows a minority of the Members to have veto power over the will of the majority. The Two-thirds Rule can prevent the majority from voting on legislation that is favored by their constituents. This rule also undermines the basic principle of the U.S. Constitution of majority rule. "The fundamental principle of our Constitution requires that the will of the majority shall prevail," President George Washington. The founders considered requiring a two-thirds majority to pass legislation in Congress but rejected the idea. James Madison explained in *Federalist* 58 that a two-thirds approval margin had been rejected because power would be transferred to the rule of the minority. Thomas Jefferson also said, "The will of the majority is the natural law of every society and is the only sure guardian of the rights of man." I will continue to fight to change the Two-thirds Rule in the Senate, known as the blocker bill, until the Senate one day reflects the basic principle of our Constitution.

PATRICK

SENATE CONCURRENT RESOLUTION 4

The President laid before the Senate the following resolution:

WHEREAS, Section 17, Article III, Texas Constitution, provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 83rd Legislature of the State of Texas, That each house grant the other permission to adjourn for more than three days during the period beginning on Wednesday, January 9, 2013, and ending on Monday, January 14, 2013.

WHITMIRE

SCR 4 was read.

On motion of Senator Whitmire, the resolution was considered immediately and was adopted by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Duncan.

CO-AUTHOR OF SENATE BILL 135

On motion of Senator Patrick, Senator Seliger will be shown as Co-author of **SB 135**.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 11:44 a.m. adjourned until 1:30 p.m. Monday, January 14, 2013.

APPENDIX

RESOLUTIONS ENROLLED

January 8, 2013

SR 1, SR 2, SR 3