

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE — THIRD CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Tuesday, July 30, 2013)

In obedience to the Proclamation of the Honorable Rick Perry, Governor of the State of Texas, the Senate met in the Senate Chamber of the State Capitol at Austin, Texas, on the 30th day of July, 2013, at 4:52 p.m. and was called to order by the Honorable David Dewhurst, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

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

Absent: Eltife, Whitmire.

Absent-excused: Carona, Huffman, Uresti, West.

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

Senator Craig Estes offered the invocation as follows:

Welcome to a new special session. My prayer this afternoon is taken from the famously inspirational passage in the Epistle of Hebrews, Chapter 12, and it is decidedly from a Christian perspective, but I believe that people of all faiths can gain inspiration from it. As we go to prayer, I want you to think about all the portraits around us in this Chamber of the great men and women that went before us leading this great state, a great cloud of witnesses. So let us pray. Therefore, since we are surrounded by such a great cloud of witnesses, let us throw off everything that hinders and the sin that so easily entangles, and let us run with perseverance the race marked out before us. Let us fix our eyes on Jesus, the author and perfecter of our faith, who for the joy set before him endured the cross, scorning its shame, and sat down on the right hand of the throne of God. Consider him who endured such opposition from sinful men so that you will not grow weary or lose heart. Therefore, strengthen your feeble arms and weak knees. Make level paths for your feet. Make every effort to live in peace with all men and be holy. Without holiness no one will see the Lord. Amen.

LEAVES OF ABSENCE

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

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

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

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

PROCLAMATION BY THE GOVERNOR

The following Proclamation by the Governor was read and was filed with the Secretary of the Senate:

**PROCLAMATION
BY THE
GOVERNOR OF THE STATE OF TEXAS**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, GOVERNOR OF THE STATE OF TEXAS, by the authority vested in me by Article III, Section 5 and Article IV, Section 8 of the Texas Constitution, do hereby call an extraordinary session of the 83rd Legislature, to convene in the City of Austin, commencing at 4:30 p.m. on Tuesday, July 30, 2013, for the following purposes:

To consider legislation relating to the funding of transportation infrastructure projects.

The Secretary of State will take notice of this action and will notify the members of the legislature of my action.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 30th day of July 2013.

(Seal)

/s/Rick Perry
Governor of Texas

Attested by:

/s/John Steen
Secretary of State

LEAVES OF ABSENCE

On motion of Senator Zaffirini, Senator Eltife was granted leave of absence for the remainder of the day on account of important business.

On motion of Senator Zaffirini, Senator Whitmire was granted leave of absence for the remainder of the day on account of important business.

SENATE BILL AND RESOLUTION ON FIRST READING

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

SB 1 by Nichols, Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Garcia, Hegar, Hinojosa, Lucio, Nelson, Seliger, Van de Putte, Watson, Whitmire, Williams, Zaffirini

Relating to the creation and functions of legislative select committees on transportation funding, expenditures, and finance and to the preservation of a sufficient balance in the economic stabilization fund.

To Committee on Finance.

SJR 1 by Nichols, Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Garcia, Hegar, Hinojosa, Lucio, Nelson, Seliger, Van de Putte, Watson, Whitmire, Williams, Zaffirini

Proposing a constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund and to the state highway fund and for the dedication of the revenue transferred to the state highway fund.

To Committee on Finance.

SENATE RULES SUSPENDED**(Posting Rules)**

On motion of Senator Williams and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider the following bill and resolution today: **SB 1, SJR 1.**

RECESS

On motion of Senator Zaffirini, the Senate at 4:58 p.m. recessed until 5:10 p.m. today.

AFTER RECESS

The Senate met at 5:10 p.m. and was called to order by the President.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

SENATE RULE 7.12(a) SUSPENDED**(Printing of Bills)**

On motion of Senator Nichols and by unanimous consent, Senate Rule 7.12(a) was suspended and the committee reports for the following bill and resolution were ordered not printed: **SB 1, SJR 1.**

CONCLUSION OF MORNING CALL

The President at 5:11 p.m. announced the conclusion of morning call.

SENATE JOINT RESOLUTION 1 ON SECOND READING

The President laid before the Senate **SJR 1** by Senator Nichols at this time on its second reading:

SJR 1, Proposing a constitutional amendment to provide for the transfer of certain general revenue to the economic stabilization fund and to the state highway fund and for the dedication of the revenue transferred to the state highway fund.

The resolution was read second time.

Senator Patrick offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **SJR 1** in Section 1 of the resolution by striking the added Subsection (c-2), Section 49-g, Article III, Texas Constitution, and substituting:

(c-2) If the balance of the economic stabilization fund after any transfers to be made under Subsections (b) and (c) of this section, in accordance with the allocation as provided by Subsection (c-1) of this section, is anticipated to be less than one-third of the maximum balance of the economic stabilization fund authorized by Subsection (g) of this section for the state fiscal biennium preceding the biennium during which the transfer under Subsection (c) of this section is to be made, the comptroller shall reduce the amount that would otherwise be allocated to the state highway fund in accordance with Subsection (c-1) of this section by the lesser of the total amount of the allocation to that fund or the amount necessary for the anticipated balance of the economic stabilization fund, after any transfer that may be made under Subsection (b) of this section and the transfer and allocation to be made as provided by Subsection (c) of this section and this subsection, to equal one-third of the maximum balance of the economic stabilization fund authorized by Subsection (g) of this section for the state fiscal biennium preceding the biennium during which the transfer under Subsection (c) of this section is to be made. The comptroller shall allocate to the economic stabilization fund the amount by which the allocation to the state highway fund is reduced under this subsection.

The amendment to **SJR 1** was read.

On motion of Senator Nichols, Floor Amendment No. 1 was tabled by the following vote: Yeas 18, Nays 7.

Yeas: Campbell, Davis, Deuell, Duncan, Ellis, Fraser, Garcia, Hancock, Hegar, Hinojosa, Nelson, Nichols, Rodríguez, Seliger, Van de Putte, Watson, Williams, Zaffirini.

Nays: Birdwell, Estes, Lucio, Patrick, Paxton, Schwertner, Taylor.

Absent-excused: Carona, Eltife, Huffman, Uresti, West, Whitmire.

SJR 1 was passed to engrossment by the following vote: Yeas 22, Nays 3.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Lucio, Nelson, Nichols, Rodríguez, Seliger, Taylor, Van de Putte, Watson, Williams, Zaffirini.

Nays: Patrick, Paxton, Schwertner.

Absent-excused: Carona, Eltife, Huffman, Uresti, West, Whitmire.

SENATE JOINT RESOLUTION 1 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 1** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 22, Nays 3.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Lucio, Nelson, Nichols, Rodríguez, Seliger, Taylor, Van de Putte, Watson, Williams, Zaffirini.

Nays: Patrick, Paxton, Schwertner.

Absent-excused: Carona, Eltife, Huffman, Uresti, West, Whitmire.

The resolution was read third time and was passed by the following vote: Yeas 22, Nays 3. (Same as previous roll call)

REASON FOR VOTE

Senator Birdwell submitted the following reason for vote on **SJR 1**:

Today I voted in support of SJR 1, which proposes to Texas voters a 2014 constitutional amendment that would allow for a portion of the oil and natural gas severance tax revenue currently transferred to the Economic Stabilization Fund (ESF) to be deposited into the State Highway Fund (SHF). This transparent allocation of funds allows for the specific and limited purpose of construction, maintenance, and right-of-way acquisition for public roadways and prohibits the use of these funds for the expansion of toll roads or creation of new debt.

During the first and second special sessions, I expressed to the bill author my serious concerns about the utilization of the ESF for the creation of a new constitutionally protected revenue stream. In each of these sessions, the Senate was able to work together to implement a permanent minimum balance threshold which—in the event that the constitutionally required two-thirds vote of the Legislature to allow expenditures from the fund were to take place—the flow of revenue to the SHF would be temporarily halted and redirected back to the ESF.

Though the House was not willing to concur with the Senate mechanism to safeguard the ESF, the conference committee members agreed on a requirement for the Legislative Budget Board to set a minimum balance threshold on the ESF every two years. Even under these circumstances, the House unfortunately lacked the requisite support to pass the legislation, and Governor Perry elected to immediately call the Legislature into a third special session.

Prior to the passage of SJR 1 today, I voted in favor of an amendment that would revert us back to the legislatively defined floor that the Senate originally proposed. While that amendment did not pass, I am still pleased that in this version of the legislation, the ESF will continue to grow and that the two-thirds vote requirement of both chambers will firmly control any and all expenditures from the fund.

I still believe strongly that transportation funding must be prioritized within general revenue budgeting, and I look forward to working with my colleagues to see that this process begins to take shape in the very near future. In the meantime, I am pleased that this legislation will promptly serve to construct and maintain the crucial highway infrastructure of our rapidly growing state.

BIRDWELL

SENATE BILL 1 ON SECOND READING

The President laid before the Senate **SB 1** by Senator Nichols at this time on its second reading:

SB 1, Relating to the creation and functions of legislative select committees on transportation funding, expenditures, and finance and to the preservation of a sufficient balance in the economic stabilization fund.

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

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

Nays: Paxton, Patrick, Schwertner.

Absent-excused: Carona, Eltife, Huffman, Uresti, West, Whitmire.

SENATE BILL 1 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 22, Nays 3.

Yeas: Birdwell, Campbell, Davis, Deuell, Duncan, Ellis, Estes, Fraser, Garcia, Hancock, Hegar, Hinojosa, Lucio, Nelson, Nichols, Rodríguez, Seliger, Taylor, Van de Putte, Watson, Williams, Zaffirini.

Nays: Patrick, Paxton, Schwertner.

Absent-excused: Carona, Eltife, Huffman, Uresti, West, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 3. (Same as previous roll call)

MOTION TO RECESS

On motion of Senator Zaffirini and by unanimous consent, the Senate at 5:35 p.m. agreed to recess, pending the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 2:00 p.m. Monday, August 5, 2013.

CO-AUTHORS OF SENATE BILL 3

On motion of Senator Seliger, Senators Campbell, Deuell, Duncan, Ellis, Estes, Hegar, Hinojosa, Nichols, Paxton, Schwertner, Van de Putte, Watson, and Zaffirini will be shown as Co-authors of **SB 3**.

RECESS

Pursuant to a previously adopted motion, the Senate at 5:36 p.m. recessed until 2:00 p.m. Monday, August 5, 2013.

APPENDIX

COMMITTEE REPORTS

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

July 30, 2013

FINANCE — SB 1, SJR 1

BILL AND RESOLUTION ENGROSSED

July 30, 2013

SB 1, SJR 1

