Exhibit 23 to Davis Intervenors’ Opposition to Plaintiff State of Texas’ Motion for Summary Judgment

Senate Journal (Excerpts) May 17, 2011
The Senate met at 8:00 a.m. and was called to order by Senator Uresti.

SESSION HELD FOR
LOCAL AND UNCONTESTED CALENDAR

The Presiding Officer announced that the time had arrived to consider bills and resolutions placed on the Local and Uncontested Calendar. Notice of consideration of the local calendar was given by Senator Uresti yesterday.

Pursuant to Senate Rule 9.03(d), the following bills and resolutions were laid before the Senate in the order listed, read second time, amended where applicable, passed to engrossment or third reading, read third time, and passed. The votes on passage to engrossment or third reading, suspension of the Constitutional Three-day Rule, and final passage are indicated after each caption. All Members are deemed to have voted "Yea" on viva voce votes unless otherwise indicated.

SB 856 (Van de Putte)
Relating to consent to certain medical treatments by a surrogate decision-maker on behalf of certain inmates.
(viva voce vote) (31-0) (31-0)

CSSB 1358 (Lucio)
Relating to electronically transmitting a warrant for emergency detention.
(viva voce vote) (31-0) (31-0)

SB 1405 (Hinojosa)
Relating to the right of a person exempt from registration as a property tax consultant who files a protest with the appraisal review board on behalf of a property owner to receive notices from the board regarding the property subject to the protest.
(viva voce vote) (31-0) (31-0)

CSSB 1724 (Zaffirini)
Relating to conditions on the receipt of tuition and fee exemptions at public institutions of higher education.
(viva voce vote) (31-0) (31-0)
SB 1925 (Eltife)
Relating to the designation of a portion of U.S. Highway 271 as the Sergeant Jay M. Hoskins Memorial Highway.
(viva voce vote) (31-0) (31-0)

HB 35 (Van de Putte)
Relating to extending a local behavioral health intervention pilot project.
(viva voce vote) (31-0) (31-0)

(Senator Eltife in Chair)

HB 118 (Uresti)
Relating to requiring the provision of notice by certain hospitals regarding patients’ medical records.
(viva voce vote) (31-0) (31-0)

(Senator Uresti in Chair)

HB 184 (West)
Relating to the cancellation of a special election to fill a vacancy in the legislature.
(viva voce vote) (31-0) (31-0)

HB 266 (Duncan)
Relating to the use of address-matching software by certain state agencies.
(viva voce vote) (31-0) (31-0)

HB 315 (Deuell)
Relating to the creation of the Hunt County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.
(viva voce vote) (31-0) (31-0)

CSHB 345 (Wentworth)
Relating to limitations on awards in an adjudication brought against a local governmental entity for breach of contract.
(viva voce vote) (31-0) (31-0)

HB 434 (West)
Relating to the minimum standards for licensed child-care facilities and registered family homes.
(viva voce vote) (31-0) (31-0)

(Senator Eltife in Chair)

HB 460 (Ogden)
Relating to the board of directors of the Trinity Memorial Hospital District.
(viva voce vote) (31-0) (31-0)

HB 479 (Birdwell)
Relating to the location of board meetings of certain economic development corporations.
(viva voce vote) (31-0) (31-0)
HB 591 (Wentworth)
Relating to naming a segment of Interstate Highway 10 in Kendall County the Trooper Kurt David Knapp Memorial Highway.
(viva voce vote) (31-0) (31-0)

HB 625 (Carona)
Relating to notice of staff leasing services company workers' compensation claim and payment information; providing an administrative violation.
(viva voce vote) (31-0) (31-0)

HB 650 (Uresti)
Relating to property held by certain junior colleges and presumed abandoned.
(viva voce vote) (31-0) (31-0)

HB 679 (Carona)
Relating to change order approval requirements for certain political subdivisions of the state.
(viva voce vote) (31-0) (31-0)

HB 726 (Huffman)
Relating to the electronic distribution of information to legislators by state agencies.
(viva voce vote) (31-0) (31-0)

HB 885 (Watson)
Relating to the operation and movement of a vehicle when certain traffic-control signals do not display an indication.
(viva voce vote) (31-0) (31-0)

CSHB 943 (Nelson)
Relating to reporting requirements concerning missing persons, including missing children in the managing conservatorship of the Department of Family and Protective Services.
(viva voce vote) (31-0) (31-0)

HB 988 (Whitmire)
Relating to compensatory time accrued by a correctional officer employed by the Texas Department of Criminal Justice.
(viva voce vote) (31-0) (31-0)

HB 989 (Hegar)
Relating to the listing of a business location of certain businesses in print advertisements or on Internet websites.
(viva voce vote) (31-0) (31-0)

HB 993 (Watson)
Relating to the closure of a road or highway by certain firefighters.
(viva voce vote) (31-0) (31-0)

HB 1130 (Seliger)
Relating to information provided by the Texas Education Agency to school districts regarding placement of students receiving special education services.
(viva voce vote) (31-0) (31-0)
CSHB 1136 (Fraser)
Relating to requiring an election authority to provide notice to certain county chairs regarding certain election activities.
(viva voce vote) (31-0) (31-0)

HB 1174 (Wentworth)
Relating to the expiration of a county burn ban.
(viva voce vote) (31-0) (31-0)

HB 1263 (Shapiro)
Relating to the powers, duties, and financing of certain facilities finance corporations.
(viva voce vote) (31-0) (31-0)

HB 1344 (Deuell)
Relating to certain defenses to prosecution for the offense of sale, distribution, or display of harmful material to a minor.
(viva voce vote) (31-0) (31-0)

HB 1449 (Zaffirini)
Relating to certain right-of-way easements on land owned by the Parks and Wildlife Department.
(viva voce vote) (31-0) (31-0)

(Senator Rodriguez in Chair)

HB 1488 (Van de Putte)
Relating to examinations for hiring in certain municipal fire departments.
(viva voce vote) Nelson "Nay" (30-1) Nelson "Nay" (30-1) Nelson "Nay"

HB 1503 (Nichols)
Relating to the qualifications to serve as a special peace officer at a polling place.
(viva voce vote) (31-0) (31-0)

HB 1545 (Watson)
Relating to the authority of certain political subdivisions to change the date of their general elections.
(viva voce vote) (31-0) (31-0)

HB 1550 (Seliger)
Relating to participation in state travel service contracts by open-enrollment charter schools.
(viva voce vote) (31-0) (31-0)

HB 1566 (Gallegos)
Relating to the authority of counties to appoint, contract for, or employ physicians, dentists, or other health care providers for county jails.
(viva voce vote) (31-0) (31-0)

HB 1567 (Gallegos)
Relating to the authority of certain counties to appoint, contract for, or employ physicians, dentists, or other health care providers for county jails.
(viva voce vote) (31-0) (31-0)
HB 1570 (Williams)
Relating to training for deputy voter registrars.
(viva voce vote) (31-0) (31-0)

HB 1770 (Whitmire)
Relating to the payment of temporary housing costs for certain inmates released or eligible for release on parole or to mandatory supervision.
(viva voce vote) (31-0) (31-0)

HB 1779 (Watson)
Relating to an exemption from private security regulation for social workers engaged in the practice of social work.
(viva voce vote) (31-0) (31-0)

HB 1861 (Whitmire)
Relating to the continuation and functions of the Commission on State Emergency Communications.
(viva voce vote) (31-0) (31-0)

HB 1862 (West)
Relating to a tenant's remedies regarding a local government's revocation of a certificate of occupancy due to a landlord's failure to maintain the premises.
(viva voce vote) (31-0) (31-0)

HB 1869 (West)
Relating to local governments that may consider a bidder's principal place of business when awarding a contract.
(viva voce vote) (31-0) (31-0)

HB 2033 (Eltife)
Relating to the separate statement of the mixed beverage tax for informational purposes.
(viva voce vote) (31-0) (31-0)

HB 2144 (Uresti)
Relating to the use of uniform election dates by newly incorporated municipalities.
(viva voce vote) (31-0) (31-0)

CSHB 2154 (Ellis)
Relating to certain continuing education requirements for agents who sell annuities.
(viva voce vote) (31-0) (31-0)

HB 2251 (Whitmire)
Relating to the continuation and functions of the Texas Public Finance Authority.
(viva voce vote) (31-0) (31-0)

HB 2351 (Van de Putte)
Relating to the authority of the Bexar County Hospital District to employ physicians.
(viva voce vote) (31-0) (31-0)
(Senator Uresti in Chair)

HB 2495 (Carona)
Relating to cemeteries and perpetual care cemetery corporations; providing a penalty.
(viva voce vote) (31-0) (31-0)

HB 2615 (Rodriguez)
Relating to the provision of information on financial literacy resources to the public.
(viva voce vote) (31-0) (31-0)

HB 2631 (Zaffirini)
Relating to the advanced research program.
(viva voce vote) (31-0) (31-0)

HB 2670 (Ellis)
Relating to validating certain acts and proceedings of Harris County Improvement District No. 5 and to the boundaries of the district.
(viva voce vote) (31-0) (31-0)

HB 2699 (Carona)
Relating to the requirements for an insurance adjuster license.
(viva voce vote) (31-0) (31-0)

HB 2866 (Ellis)
Relating to the electronic submission of certain documents to the attorney general and the submission of certain documents by the attorney general; imposing certain fees.
(viva voce vote) (31-0) (31-0)

HB 2920 (Hegar)
Relating to the authority of a governing body of a Type C General Law City to adopt an ordinance to determine the manner of when commissioners run for elected office.
(viva voce vote) (31-0) (31-0)

HB 2935 (Zaffirini)
Relating to the appointment of a court reporter by a criminal law magistrate in Bexar County.
(viva voce vote) (31-0) (31-0)

HB 3004 (Carona)
Relating to prepaid funeral benefits contracts and the prepaid funeral contract guaranty fund.
(viva voce vote) (31-0) (31-0)

HB 3141 (Carona)
Relating to the registration and protection of trademarks.
(viva voce vote) (31-0) (31-0)

HB 3255 (Van de Putte)
Relating to the creation of guidelines for the Office of the State Demographer to encourage the inclusion of a broad variety of racial/ethnic groups in estimates and projections.
(viva voce vote) (31-0) (31-0)
HB 3389 (Watson)
Relating to a seller’s disclosure of natural or liquid propane gas on residential real property.
(viva voce vote) (31-0) (31-0)

HB 3570 (Carona)
Relating to insurance coverage requirements for certain amusement rides.
(viva voce vote) (31-0) (31-0)

CSHB 3726 (Van de Putte)
Relating to the preservation and maintenance of the Alamo by the General Land Office.
(viva voce vote) (31-0) (31-0)

HB 3847 (Eltife)
Relating to the Riverbend Water Resources District.
(viva voce vote) (31-0) (31-0)

HCR 33 (Hinojosa)
Authorizing the burial of Susana I. Aleman in the State Cemetery.
(viva voce vote)

HCR 69 (Eltife)
Directing the Texas Facilities Commission to name the Department of State Health Services Laboratory Services Section building in Austin in honor of former state representative Dr. Bob Glaze.
(viva voce vote)

BILLS REMOVED FROM LOCAL AND UNCONTESTED CALENDAR

Senator Zaffirini, author of the bill, requested in writing that HB 871 be removed from the Local and Uncontested Calendar.

Senator Carona, author of the bill, requested in writing that HB 1573 be removed from the Local and Uncontested Calendar.

SESSION CONCLUDED FOR LOCAL AND UNCONTESTED CALENDAR

Senator Uresti announced that the session to consider bills and resolutions placed on the Local and Uncontested Calendar was concluded.

RECESS

Pursuant to a previously adopted motion, the Senate at 8:31 a.m. recessed until 11:00 a.m. today.

AFTER RECESS

The Senate met at 11:17 a.m. and was called to order by President Pro Tempore Ogden.
Pastor Charles Patterson, Church of the Hills, Cedar Park, was introduced by Senator Eltife, on behalf of Senator Ogden, and offered the invocation as follows:

Father in heaven, thank You for the Members, the men and women of this legislative body. Thank You for their willingness to make personal sacrifices to serve us, the people of the State of Texas. Bless their homes, their families, their vocational pursuits, and their finances. Thank You for those who assist them and grant them a sense of personal well-being. Father, I pray that Your counsel and Your wisdom would prevail in the remaining deliberations and decisions of this legislative session. May the decisions made here reflect Your heart and Your purposes for the people of the State of Texas. Father, the scripture declares that You are good. May we, the people of the State of Texas, live with Your favor and goodness resting upon us. I ask that You break the drought conditions that have plagued our state and send the rains to water the earth. May the people of our state prosper in body, soul, mind, and spirit. Bless our nation, and may the decisions made here serve the best interest of our state as well as our nation. I ask these things in the name of Jesus Christ. Amen.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Tuesday, May 17, 2011 - 1

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

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

HB 563 (143 Yeas, 0 Nays, 2 Present, not voting)
HB 699 (143 Yeas, 1 Nays, 1 Present, not voting)
HB 843 (137 Yeas, 0 Nays, 2 Present, not voting)
HB 848 (143 Yeas, 0 Nays, 2 Present, not voting)
HB 908 (142 Yeas, 0 Nays, 2 Present, not voting)
HB 1061 (141 Yeas, 0 Nays, 2 Present, not voting)
HB 1380 (142 Yeas, 1 Nays, 2 Present, not voting)
HB 1405 (142 Yeas, 0 Nays, 1 Present, not voting)
HB 1674 (143 Yeas, 0 Nays, 1 Present, not voting)
HB 1829 (141 Yeas, 0 Nays, 1 Present, not voting)
HB 2035 (142 Yeas, 1 Nays, 1 Present, not voting)
HB 2271 (120 Yeas, 20 Nays, 2 Present, not voting)
HB 2360 (131 Yeas, 2 Nays, 1 Present, not voting)
HB 2376 (105 Yeas, 37 Nays, 2 Present, not voting)
HB 3487 (143 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 1112 (non-record vote)
House Conferees: Phillips - Chair/Fletcher/Harper-Brown/Lavender/Pickett

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 28 (non-record vote)
House Conferees: Branch - Chair/Howard, Donna/Hunter/Patrick, Diane/Villarreal

SB 313 (non-record vote)
House Conferees: Price - Chair/Beck/Lucio III/Miller, Doug/Ritter

SB 1420 (non-record vote)
House Conferees: Harper-Brown - Chair/Bonnen/McClendon/Phillips/Pickett

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 14 (98 Yeas, 46 Nays, 1 Present, not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1956 (142 Yeas, 0 Nays, 1 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Watson was recognized and presented Dr. Julie Graves Moy of Austin as the Physician of the Day.

The Senate welcomed Dr. Moy and thanked her for her participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.
SENATE CONCURRENT RESOLUTION 52

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

WHEREAS, The Legislature of the State of Texas is pleased to recognize Donn and Arlene Adelman, whose civic commitment has contributed greatly to the quality of life in Austin and beyond; and

WHEREAS, Donn and Arlene Adelman have played a vital role in raising money for Crime Stoppers, an organization dedicated to assisting law enforcement agencies in the fight against crime; and

WHEREAS, This generous couple owns and operates the legendary Donn’s Depot, an iconic business that has been named by Esquire magazine as one of the top ten beer joints in the nation; for 33 years, they have provided a venue where hospitality and music combine to create a welcoming atmosphere in which people from all walks of life come together; and

WHEREAS, Donn and Arlene met as students at The University of Texas at Austin, and they have been married 46 years; Arlene served as a teacher in the Austin Independent School District, and Donn has over the course of several decades mentored generations of young musicians and encouraged them in their careers; and

WHEREAS, Each year, Donn and Arlene host a golf tournament for Crime Stoppers in memory of their son who was killed in a robbery; the tournament has raised thousands of dollars to help make the community a safer place, and Donn and Arlene are truly deserving of recognition for their outstanding work with this worthy organization; now, therefore, be it

RESOLVED, That the 82nd Legislature of the State of Texas hereby commend Donn and Arlene Adelman on their legacy of service to the community and their dedicated efforts on behalf of Crime Stoppers and extend to them best wishes for continued success in all their future endeavors; and, be it further

RESOLVED, That a copy of this resolution be prepared for this distinguished couple as an expression of esteem from the Texas Legislature.

WATSON

SCR 52 was again read.

The resolution was previously adopted on Wednesday, May 4, 2011.

GUESTS PRESENTED

Senator Watson was recognized and introduced to the Senate Donn and Arlene Adelman.

The Senate welcomed its guests.

SENATE RESOLUTION 963

Senator Birdwell offered the following resolution:

SR 963, Celebrating May 17, 2011, as BEST Robotics Day at the Capitol.

The resolution was again read.

The resolution was previously adopted on Tuesday, May 10, 2011.
GUESTS PRESENTED

Senator Birdwell, joined by Senators Van de Putte and Estes, was recognized and introduced to the Senate a BEST Robotics Day delegation: Kat Dominquez, Mark Joaquin, Louann and Ronnie Pundt, Melody Crabb, Douglas Hansen, and Becky Musil of Texas State Technical College Waco.

The Senate welcomed its guests.

SENATE RULE 3.04 SUSPENDED
(Posters, Placards, Banners, and Signs)

On motion of Senator Seliger and by unanimous consent, Senate Rule 3.04 was suspended to allow material relative to CSSB 31 to be displayed in the Senate Chamber.

SENATE RULE 2.02 SUSPENDED
(Restrictions on Admission)

On motion of Senator Eltife and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to a staff member from each Senator's office during the deliberation of CSSB 31.

REPORT OF COMMITTEE ON NOMINATIONS

Senator Deuell submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed:

Commissioners, Board of Pilot Commissioners for Galveston County Ports: Edward Alois Janek, Galveston County; Henry Stephen Porretto, Galveston County; Linda Raedene Rounds, Galveston County; James Earl Toups, Galveston County.

Member, Board of Directors, Brazos River Authority: Henry William Munson, Brazoria County.

Member, Coastal Coordination Council: Jerry A. Mohn, Galveston County.

Members, Family and Protective Services Council: Patricia B. Cole, Tarrant County; Anna Maria Jimenez-Martinez, Nueces County; Benny W. Morris, Johnson County.

Members, Governing Board, Texas School for the Deaf: Jean F. Andrews, Jefferson County; Shalia H. Cowan, Hays County; Tyran Paul Lee, Harris County; Connie Fay Sefcik-Kennedy, Travis County.

Members, Board of Directors, Lavaca-Navidad River Authority: Jerry Lynn Adelman, Matagorda County; David Martin Muegge, Jackson County.

Member, Board of Directors, Lower Colorado River Authority: Sandra Lea Wright Kibby, Comal County.
Commissioner, Pecos River Compact Commission: Fredrick A. Rylander, Pecos County.

Members, State Securities Board: David Alan Appleby, El Paso County; Greg Alan Waldrop, Travis County.

Members, Texas Board of Architectural Examiners: Debra J. Dockery, Bexar County; Paula Ann Miller, Montgomery County; Sonya B. Odell, Dallas County.

Members, Texas Board of Professional Land Surveying: Mary Ellen Chruszczak, Montgomery County; Gerardo M. Garcia, Nueces County; Paul Pong Kin Kwan, Harris County.

Members, Texas Commission on the Arts: Rita Esther Baca, El Paso County; Dale Wills Brock, Wichita County; Linda Lowes Hatchel, McLennan County; Patty Hayes Huffines, Travis County; Liza Billups Lewis, Bexar County; Jacoba-Jetske S. Russell, Dallas County; Stephanie Shawn Stephens, Harris County.

Members, Texas Farm and Ranch Lands Conservation Council: Pamela Jean McAfee, Hays County; George David Scott, Fort Bend County.

Members, Texas Higher Education Coordinating Board: Durga D. Agrawal, Harris County; Dennis Donia Golden, Panola County; Harold Wayne Hahn, El Paso County.

Members, Board of Directors, Trinity River Authority of Texas: Harold Lynn Barnard, Ellis County; William W. Collins, Tarrant County; Christina Melton Crain, Dallas County; Michael Cronin, Kaufman County; Steve Wayne Cronin, San Jacinto County; Amanda Boswell Davis, Leon County; Martha Ann Hernandez, Tarrant County; Dennis Joe McCleskey, Trinity County; J. Carol Spillars, Madison County.

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Deuell gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

SENATE RESOLUTION 988

Senator West offered the following resolution:

SR 988, Congratulating the Mountain View College Lions men's basketball team on winning the 2011 National Junior College Athletic Association Division III national championship.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate the Mountain View College Lions men's basketball team, accompanied by Coaches LeRoi Phillips, Belvis Noland, and Frederick Washington.

The Senate welcomed its guests.
COMMITTEE SUBSTITUTE
SENATE BILL 31 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration CSSB 31 at this time on its second reading:

CSSB 31, Relating to the composition of the districts for the election of members of the Texas Senate.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Birdwell, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Davis, Lucio.

The bill was read second time.

Senator Davis offered the following amendment to the bill:

Floor Amendment No. 1

Amend CSSB 31 in Article II of the bill by striking SECTIONS 2, 8, 9, 10, 12, 16, 22, 23, and 30 and substituting the following:


The amendment to CSSB 31 was read.

On motion of Senator Seliger, Floor Amendment No. 1 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.


Senator Davis offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend CSSB 31 in Article II of the bill by striking SECTIONS 9, 10, 12, 16, 22, and 23 and substituting the following:

SECTIONS 9. District 9 is composed of Dallas County tracts 014403, 014405, 014406, 014407, 014408, 014501, 014502, 014601, 014602, 014603, 014703, 014901, 014902, 015000, 015100, 015202, 015204, 015205, 015206, 015303, 015304, 015305, 015306, 015401, 015403, 015404, 015500, 015600, 015700, 016001, 016002, 016100, 016201, 016202, 016302, 016401, 016406, 016407 and 016410; and that part of Dallas County tract 014403 included in blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1024, 1025, 1130 and 1137; and that part of Dallas County tract 014403 included in blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1130 and 1137; and that part of Dallas County tract 014403 included in blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1130 and 1137; and that part of Dallas County tract 014403 included in blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010 and 1011; and that part of Dallas County tract 014500 included in block groups 2 and 3 and blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010 and 1011; and that part of Dallas County tract 014500 included in block groups 2 and 3 and blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045,

(Senator Eltife in Chair)

The amendment to CSSB 31 was read.

On motion of Senator Seliger, Floor Amendment No. 2 was tabled by the following vote: Yea 19, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.


Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 3

Amend CSSB 31 in Article II of the bill by striking SECTIONS 14, 19, 21, and 26 and substituting the following:

SECTION 14. District 14 is composed of Bastrop County; and Travis County tracts 000101, 000102, 000203, 000204, 000205, 000206, 000302, 000304, 000305, 000306, 000307, 000401, 000402, 000500, 000601, 000603, 000604, 000700, 000801, 000802, 000803, 000804, 000901, 000902, 001100, 001200, 001303, 001304, 001305, 001307, 001308, 001401, 001402, 001501, 001503, 001504, 001505, 001602, 001603, 001604, 001605, 001606, 001705, 001706, 001707, 001712, 001713, 001714, 001716, 001718, 001719, 001722, 001728, 001729, 001745, 001746, 001747, 001748, 001750, 001751, 001752, 001753, 001754, 001755, 001756, 001757, 001758, 001760, 001761, 001765, 001766, 001776, 001779, 001780, 001781, 001782, 001783, 001785, 001786, 001804, 001805, 001806, 001811, 001812, 001813, 001817, 001818, 001819, 001820, 001821, 001822, 001823, 001824, 001826, 001828, 001829, 001832, 001833, 001834, 001835, 001839, 001840, 001841, 001842, 001843, 001844, 001845, 001846, 001847, 001848, 001849, 001850, 001851, 001853, 001854, 001855, 001856, 001857, 001858, 001859, 001860, 001861, 001862, 001863, 001864, 001901, 001910, 001911, 001912, 001913, 001917, 001918, 001919, 002002, 002004, 002005, 002104, 002105, 002106, 002107, 002108, 002109, 002110, 002111, 002112, 002113, 002201, 002202, 002207, 002208, 002209, 002210, 002211, 002212, 002308, 002319 and 002500; and that part of Travis County tract 001000 included in block groups 1, 2, 3 and 5 and blocks 4000, 4001, 4002, 4003, 4004, 4005, 4006,

The amendment to CSSB 31 was read.

Senator Uresti offered the following substitute amendment for Floor Amendment No. 3:

**Floor Amendment No. 4**

Amend CSSB 31 in Article II of the bill by striking SECTIONS 14, 19, 21, and 26 and substituting the following:

SECTION 14. District 14 is composed of Bastrop County; and Travis County tracts 000101, 000102, 000203, 000204, 000205, 000206, 000302, 000304, 000305, 000306, 000307, 000401, 000402, 000500, 000601, 000603, 000604, 000700, 000801, 000802, 000803, 000804, 000901, 000902, 001100, 001200, 001303, 001304, 001305, 001307, 001308, 001401, 001402, 001501, 001503, 001504, 001505, 001602, 001603, 001604, 001605, 001606, 001705, 001706, 001707, 001712, 001713, 001714, 001716, 001718, 001719, 001722, 001728, 001729, 001745, 001746, 001747, 001748, 001750, 001751, 001752, 001753, 001754, 001755, 001756, 001757, 001758, 001760, 001761, 001765, 001766, 001776, 001779, 001780, 001781, 001782, 001783, 001785, 001786, 001804, 001805, 001806, 001811, 001812, 001813, 001817, 001818, 001819, 001820, 001821, 001822, 001823, 001824, 001826, 001828, 001829, 001832, 001833, 001834, 001835, 001839, 001840, 001841, 001842, 001843, 001844, 001845, 001846, 001847, 001848, 001849, 001850, 001851, 001853, 001854, 001855, 001856, 001857, 001858, 001859, 001860, 001861, 001862, 001863, 001864, 001901, 001910, 001911, 001912, 001913, 001917, 001918, 001919, 002002, 002004, 002005, 002104, 002105, 002106, 002107, 002108, 002109, 002110, 002111, 002112, 002113, 002201, 002202, 002207, 002208, 002209, 002210, 002211, 002212, 002308, 002319 and 002500; and that part of Travis County tract 001000 included in block groups 1, 2, 3 and 5 and blocks 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4015, 4016 and 4019; and that part of Travis County tract 001737 included in block 1014; and that part of Travis County tract 001738 included in blocks 1000, 1009, 2000, 2001, 2004, 2005 and 2006; and that part of Travis County tract 001740 included in block group 1 and blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2032; and that part of Travis County tract 001749 included in block groups 2, 3 and 4 and blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011,
1042 and 1043; and that part of Bexar County tract 181200 included in block groups 4 and 5 and block 1011; and that part of Bexar County tract 181703 included in block groups 2 and 3 and block 1009; and that part of Bexar County tract 181726 included in blocks 2003, 2004 and 2028; and that part of Bexar County tract 181728 included in blocks 1026, 1043 and 1048; and that part of Bexar County tract 181809 included in blocks 4000, 4001, 4004, 4005, 4008, 4009, 4010, 4013 and 4014; and that part of Bexar County tract 181811 included in block group 2 and blocks 1010, 1011, 1012, 1013, 1014 and 1015; and that part of Bexar County tract 181819 included in block 2005; and that part of Bexar County tract 181820 included in block group 1 and blocks 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2018 and 2019; and that part of Bexar County tract 190902 included in block groups 1 and 2 and blocks 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3012, 3013, 3014, 3015, 3016 and 3030; and that part of Bexar County tract 191102 included in block groups 1 and 2 and blocks 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019 and 3020; and that part of Bexar County tract 191201 included in blocks 3005, 3006, 3010, 3011 and 3012; and that part of Bexar County tract 191202 included in block group 2 and blocks 1010, 1011, 1012, 1013, 1014 and 1015; and that part of Bexar County tract 191304 included in blocks 1020, 1022, 1023, 1024, 1028, 1029, 1030, 1031, 1032, 1033, 1035, 1036, 1037, 1038, 1039, 1040, 1043, 1044, 1045, 1046, 1047, 1048, 1053, 1054, 1055, 2011, 2018, 2019 and 2021; and that part of Bexar County tract 191807 included in blocks 2029, 2030, 2031 and 2048; and that part of Bexar County tract 191900 included in block group 4 and blocks 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1031, 1032, 1033, 1034, 1035, 1036, 1046, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2018, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2018, 3007, 3008, 3009, 3010, 3013, 3014, 5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008, 5009, 5010, 5011, 5012, 5016, 5017, 5018, 5019 and 5021; and that part of Bexar County tract 980100 included in blocks 1003, 1013, 1014, 1028, 1029, 1030, 1039, 1040, 1050, 1051 and 1158.

The substitute to Floor Amendment No. 3 to CSSB 31 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. 4.

Question recurring on the adoption of Floor Amendment No. 3 to CSSB 31, the amendment as substituted was adopted by a viva voce vote.

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

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 5

Amend CSSB 31 in Article II of the bill by striking SECTIONS 6 and 13 and substituting the following:
2009, 2010, 2011 and 2012; and that part of Harris County tract 453501 included in blocks 3000, 3001, 3002, 3003, 3004 and 3005; and that part of Harris County tract 453700 included in block group 4 and blocks 1000, 1001, 1002, 1003, 1004, 1005, 1010, 1011, 1012, 1014, 2000, 2001, 2002, 2003, 2004, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3042, 3043, 3044, 3045, 3046, 3047 and 3048; and that part of Harris County tract 510100 included in blocks 1068 and 1072.

The amendment to CSSB 31 was read.

Senator Gallegos withdrew Floor Amendment No. 5.

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

CSSB 31 as amended was passed to engrossment by the following vote: Yeas 29, Nays 2.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis.

HOUSE BILL 150 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration HB 150 at this time on its second reading:

HB 150, Relating to the composition of the districts for the election of members of the Texas House of Representatives.

The motion prevailed by the following vote: Yeas 21, Nays 8, Present-not voting 2.

Yeas: Birdwell, Carona, Duncan, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Williams.


Present-not voting: Hinojosa, Lucio.

The bill was read second time.

Senator Ogden moved to temporarily postpone further consideration of HB 150.

The motion prevailed without objection.

Question — Shall HB 150 be passed to third reading?

RECESS

On motion of Senator Whitmire, the Senate at 12:59 p.m. recessed until 1:30 p.m. today.
COMMITTEE SUBSTITUTE
SENATE BILL 31 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 31 be placed on its third reading and final passage:

CSSB 31, Relating to the composition of the districts for the election of members of the Texas Senate.

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

Nays: Davis.

The bill was read third time.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend CSSB 31 on third reading in Article II of the bill by striking SECTIONS 7 and 18 and substituting the following:

The amendment to CSSB 31 was read and was adopted by a viva voce vote.

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

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

CSSB 31 as again amended was finally passed by the following vote: Yeas 29, Nays 2.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis.

**REASON FOR VOTE**

Senator Davis submitted the following reason for vote on CSSB 31:

I must vote against the CSSB 31 plan because it is retrogressive and does not respect minority communities of interest, both statewide and in Tarrant County. The plan cracks and divides the minority community in Ft. Worth into four separate Senate districts, leaving our communities without an effective voice in the Texas Senate. Over 1.6 million African Americans and Hispanics live in Tarrant and Dallas Counties, enough for two effective minority opportunity districts. However, CSSB 31 creates only one effective minority opportunity district and for that reason, I believe the plan violates both Section 2 and Section 5 of the Voting Rights Act.

DAVIS
REASON FOR VOTE

Senator Ellis submitted the following reason for vote on CSSB 31:

I am very concerned about CSSB 31, the Senate redistricting plan. I have serious questions about proportionality and fairness in this redistricting process, and believe it violates the Voting Rights Act.

According to the 2010 census, Hispanic’s now represent 37.6 percent of the state's population, and African Americans represent 11.84 percent. There are thirty-one senators in this body and if the ethnic makeup of body reflected that of the state, we would have 11 or 12 Hispanic Senators and 3 or even 4 African American Senators.

CSSB 31 falls far short of this bare minimum mark.

Under this map, there is a clear and deliberate pattern of fragmenting or packing Black and Hispanic voters that has the purpose or effect of diminishing their voting strength in elections. The Senate plan under which we were elected – current law – contains 15 majority-minority districts, and 12 of them have effectively provided African Americans and Hispanics an opportunity to elect their candidate of choice.

This plan would reduce that number to eleven majority-minority districts, only ten of which would elect the minority candidate of choice - by eliminating two districts (10 and 14) in which a majority of residents are currently non-Anglo and have effectively developed effective minority coalitions.

Case law makes it clear that this Senate cannot look at retrogression solely on a district by district basis, but also must consider the statewide benchmark and proportionality.

Between 2000 and 2010, roughly 90 percent of the state's population growth in the past decade was non-Anglo. Today, only 45.3 percent of the Texas population is Anglo. 49 percent is African American and Latino, and almost 55 percent is not Anglo. But in the proposed CSSB 31 plan, two thirds of the Districts would be effectively controlled by Anglos, which clearly constitutes statewide retrogression.

I do not believe one can legitimately take a census which shows that Texas population is fueled by minority growth, and legally respond to that census with a Senate redistricting plan which reduces the number of districts in which minorities control the outcome.

Ten years ago, it was argued that Republicans were entitled to a super majority of seats because your party’s top of the ballot candidates received such high percentages of the vote statewide. While I do not agree that people have to vote to protect their constitutional right of proportional representation, let's examine that argument today.

In 2008 Barack Obama carried 43.68 percent of the statewide vote in Texas. By the standard argued a decade ago, that would suggest Democrats are entitled to 13 or 14 of the Senators in this chamber. In 2010, Bill White received 42.29 percent of the state wide vote, which would mean Democrats are entitled to at least 13 of the 31 seats in this chamber.

In 2001, when the state submitted the Legislative Redistricting Board plan to the US Department of Justice for preclearance, it proudly proclaimed that the plan "...generally avoids unnecessarily fragmenting significant Black and Hispanic insular Communities even when such communities are not large enough to constitute
a voting majority of a senate district. As a result, at least Districts 14, 15, 9 and 10 contain significant minority communities that essentially are kept intact within these districts."

Under CSSB 31, the insular Black and Hispanic communities in District 10 are completely divided, a complete reversal of the principle lauded only ten years ago. That district had a combined minority population when it was drawn in 2001 of 39.4 percent Black and Hispanic. The demographic changes over the decade made that Black and Hispanic number increase to 47.5 percent, with 4.9 percent Other. The Anglo population dropped below 50 percent. Minority voters in that district did form a coalition with each other and other racial or ethnic groups and elected the Senate candidate of their choice in 2008. Why was it necessary to divide those communities and how could it possibly be legal?

Another problem is District 14 in Travis County. That district was represented for so long in the Senate by Senator Gonzalo Barrientos. The district did not contain a majority Hispanic voting age population, but Hispanic voters in Travis County effectively engage in coalitions with other racial and ethnic groups to elect the candidate of their choice. For years that choice was Senator Barrientos, now it is Senator Watson, but redistricting is about the future opportunity of voters, not incumbents. When Senator Watson moves on, Hispanic voters in District 14 will not have the opportunity to elect the candidate of their choice under this plan. The sad truth is that CSSB 31 removes significant numbers of Hispanic voters out of District 14, effectively denying Hispanic voters the opportunity to elect the candidate of their choice in District 14.

Under the map drawn in 2001 for District 17, the combined Black and Hispanic population was 37.5 percent plus 11.9 percent Other; over the decade, the Black and Hispanic population grew to 47.7 percent, and 14.5 percent other. The Anglo population had dropped from 50 percent to less than 38 percent. Under CSSB 31, the Anglo population of District 17 increases from 41.2 percent to 52.5 percent, a whopping 11 percent increase. This increase is taken almost entirely from Hispanic and African American voting strength.

Under CSSB 31, the Anglo population of District 15 increases from 27.1 percent to 32.8 percent, taken from Hispanic and African American voting strength. Meanwhile, in my district, SD 13, minorities are packed, with African American and Hispanic populations increasing significantly and Anglo population dropping by nearly 8 percent. I represent the seat that Barbara Jordan held, and Montrose has been in this district since then. Under CSSB 31, Montrose and other key areas of this district are removed and displaced. It makes no sense that my district needed to add population, and then the redistricting committee removed thousands of voters I have proudly represented for years and finds voters elsewhere to make up the difference.

Overall, I believe this map is retrogressive. It appears there was an actual effort to reduce the number of minority-opportunity districts. SD 13 is carved up beyond recognition and the Houston area is very ill-served. I hope this map is thoughtfully and carefully scrutinized by the U.S. Department of Justice and that changes are made to protect the interests of all Texas voters, particularly those traditionally underserved and under-represented.
STATEMENT REGARDING COMMITTEE SUBSTITUTE SENATE BILL 31

The following statement was submitted concerning CSSB 31:

Each of us represent majority minority districts where minority citizens have demonstrated the ability to elect their candidate of choice. We recognize and accept our special responsibility to protect the voting rights of the minority citizens we represent as well as minority citizens in every part of Texas. In light of this, we want to make clear that any vote by any of us to suspend rules or a vote in support of CSSB 31, either on passage to engrossment or on final passage, should not be interpreted as endorsement of the process used to develop the plan or the configuration of the plan in all parts of our state.

Some Senators enjoyed ongoing participation as the plan was developed. They were allowed to view and respond to draft proposals throughout the process. Other Senators - many of whom represent minority opportunity districts - were not allowed to see even their own districts in isolation, much less the broader context of the map - until less than 48 hours before it was laid out in committee. The concerns of these Senators and the voters they represent were neither solicited nor given fair consideration.

More specifically, we believe that the map violates the Voting Rights Act in its configuration of Senate District 10 in north Texas. The current District 10 has evolved over the last decade, as the State predicted when it sought Voting Rights Act approval for the district back in 2001, into a majority minority district where minority citizens have demonstrated the ability to elect their candidate of choice. Under the new plan, the voting strength of minority citizens in District 10 is rolled back dramatically, and Anglos are returned as a strong controlling majority in the district. Not only would minority voters in SD10 no longer have an effective opportunity to elect a candidate in the district, they would have no voice at all. There are reasonable alternatives that recognize the voting strength of racial/ethnic minorities without retrogressing their ability to effectively participate in the political process.

The concomitant effect of retrogression in District 10 is that there is also retrogression of minority voting strength statewide. Under the current statewide senate map, 15 districts have majority minority populations, and in 12 of these districts, including District 10, minority citizens have demonstrated the ability to elect their candidate of choice. Under the proposed senate plan, only 12 districts would have majority minority populations and only 10 would provide minority citizens the opportunity to elect their candidate of choice.

We all know that most of the business of the Senate is conducted under a two-thirds rule, where at least 21 of the 31 Members must agree to allow debate on a bill before it can be considered. By reconfiguring District 10 as an Anglo controlled district, the ability of Senators who represent minority opportunity districts to form a coalition to block retrogressive provisions harmful to our constituents would be reduced. At the same time, the clout of Senators representing Anglo controlled districts would be enhanced.

We support the decision to retain Senate District 14 as an effective coalition district where minorities can combine with like-minded Anglos to elect their candidate of choice. We are disappointed, though, that the overall minority percentage in the
district was reduced and that some minority neighborhoods were unnecessarily separated into an adjoining district that runs a great distance through Texas, creating a district that is not compact and where the constituents have disparate interests.

Unfortunately, Texas has a long history of denying minority citizens their rights under the Voting Rights Act. We are saddened that any support for this plan must be qualified by our concern that this history could be extended by the process used to construct the plan and by the racially discriminatory purpose and impact of the plan on minorities in parts of our state.

DAVIS        ELLIS
GALLEGOS     HINOJOSA
LUCIO        RODRIGUEZ
URESTI       VAN DE PUTTE
WATSON       WEST
WHITMIRE     ZAFFIRINI

HOUSE BILL 150 ON SECOND READING

The President laid before the Senate HB 150 by Senator Seliger on its second reading. The bill had been read second time and further consideration temporarily postponed:

HB 150, Relating to the composition of the districts for the election of members of the Texas House of Representatives.

Question — Shall HB 150 be passed to third reading?

HB 150 was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Duncan, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, Williams.

Nays: Davis, Deuell, Ellis, Eltife, Gallegos, Rodriguez, West, Whitmire, Zaffirini.

COMMITTEE SUBSTITUTE
SENATE BILL 1425 ON SECOND READING

Senator Wentworth moved to suspend the regular order of business to take up for consideration CSSB 1425 at this time on its second reading:

CSSB 1425, Relating to an account for construction retainage; providing a civil penalty.

The motion prevailed by the following vote: Yeas 21, Nays 10.


Nays: Eltife, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Patrick, Shapiro, Uresti.

The bill was read second time and was passed to engrossment by the following vote: Yeas 21, Nays 10. (Same as previous roll call)