

- SUBJECT:** Requiring legislators to cast record vote on final passage
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 6 ayes — Swinford, Paxton, Christian, Flynn, Parker, Veasey
0 nays
1 present not voting — Farrar
2 absent — Van Arsdale, B. Cook
- WITNESSES:** None
- BACKGROUND:** Texas Constitution, Art. 3, sec. 12 requires each house of the Legislature to keep and publish a journal of its proceedings. The yeas and nays of the members on any question must, at the desire of any three members present, be entered in the appropriate journal.
- DIGEST:** CSHJR 19 would amend Texas Constitution, Art. 3, sec. 12 to require a vote taken in either house of the Legislature to be by record vote if the vote was on final passage of:
- a bill;
 - a joint resolution proposing or ratifying a constitutional amendment; or
 - any other resolution, other than a resolution of a purely ceremonial or honorary nature.
- A vote on final passage would mean a vote on:
- third reading;
 - second reading, if the applicable house suspended or otherwise dispensed with the requirement for three readings;
 - whether to concur in the amendments of the other house; or
 - whether to adopt a conference committee report.
- On other questions, any three members present in either house could request the yea and nay votes of the members to be entered in the journals.

Either house could pass a rule to provide for exceptions for a bill that applied only to one district or political subdivision of the state.

Each member's vote would be recorded in the appropriate journal and made available, for a reasonable amount of time as determined by each house, on the Internet or future electronic communications technology in a form accessible to the public by referencing the subject and bill or resolution number.

The proposal would be presented to the voters at an election on Tuesday, November 6, 2007. The ballot proposal would read: "The constitutional amendment to require that a record vote be taken by the house of the legislature on final passage of any bill, other than certain local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to provide for public access on the Internet to those record votes."

**SUPPORTERS
SAY:**

CSHJR 19 would require legislators to be accountable for their votes. A key tenet of democracy is open government and the voters' ability to hold their elected officials accountable. Texas is one of only nine states that does not require record votes on final passage of legislation. Although the House Rules require final votes to be recorded, the measure should be written in the Constitution — and in statute under HB 83 by Branch, et al., also on today's calendar — because the rules can be changed every session.

Too many votes have been hidden under the "voice vote" provision, which is a common method of passing or defeating legislation in both chambers. House members have their votes recorded as "aye" unless they state their preference for a "no" vote, so an "aye" vote is merely presumed. Members should be required to affirmatively vote one way or another as a matter of public record when the vote is on final passage.

When a bill is under consideration for final approval, the public needs to have quick access to the votes of their elected officials. Any member can request a record vote at any time, but that does not occur on many of the votes cast, meaning that less than half of the votes taken in the Texas House are helpful to the public in deciding if their elected officials voted in their best interests. This proposed amendment would provide the public the information it needs to assess how each member stands on each significant issue before the House.

CSHJR 19 appropriately would require record votes on third reading or final passage. If the Legislature were required by the Constitution to record votes on second reading or on every vote on every amendment, it would be significantly burdensome and would slow the lawmaking process.

Final passage is the key vote on the bill. On other matters, any House member or any three senators may ask for a record vote and frequently do, so the most important votes already are recorded. HJR 19 would not prevent record votes or future changes in the House or Senate rules to require record votes at other stages in the legislative process, but for votes other than final passage, this would be left to the flexibility of the rules of each chamber.

**OPPONENTS
SAY:**

It is not necessary to amend the Constitution to require record votes because the House and the Senate already record votes in the journal on most substantive measures. The House Rules require record votes on final passage, and any member can ask for a record vote on any measure at any time. Further, under the House Rules, passage of a bill or joint resolution without objection is equivalent to a recorded vote because the House Journal reflects the fact that all members voted for the measure and are allowed to register opposition if they choose.

In addition, placing a requirement to record votes on final passage inflexibly in the Constitution could create a time-consuming, logistical burden for future legislatures. According to the Texas Legislative Council, the House took 986 record votes in 2005, up from 573 votes in 1991. It takes time to calculate record votes, and the Legislature should maintain the flexibility to determine how many of the hundreds of hours members spend in session should be devoted to counting and recording votes. Current procedures adopted by rule in both chambers offer a practical way of informing the public while allowing the Legislature to carry out its business in an efficient manner during the brief biennial sessions.

**OTHER
OPPONENTS
SAY:**

CSHJR 19 also should require record votes on second reading, which is the most important stage in the process of considering legislation. Votes during the second reading of a bill carry significant importance because amendments can be adopted at this stage with a simple majority, rather than the two-thirds vote required to amend a bill on third reading. As a result, bills rarely are amended on third reading, and most of the substantive debate takes place on second reading. The ability to view

record votes on second reading would provide true transparency and allow members of the public to express their opinions on a bill prior to final passage. As a practical matter, votes in the House on second reading already are posted on the Internet, and the proposed amendment should reflect this practice.

In addition, by allowing the members of either house to adopt rules to except local bills from the third-reading record vote requirement, CSHJR 19 could allow members to overlook controversial local bills that appeared on a general or major state calendar in the House, for example. Although neither house would be required to adopt such a rule and a House member could request a record vote at any time under current rules, the proposed amendment might have the effect of requiring record votes on routine measures without shedding light on how members voted on important bills that applied to only one district or political subdivision.

NOTES:

While HJR 19 as introduced would have applied only to bills, the committee substitute would expand the record vote requirement to include votes on joint resolutions, and any other resolution that was not purely ceremonial or honorary in nature. HJR 19 as introduced also would have restricted the requirement for Internet access of information to record votes on bills.

According to the Legislative Budget Board, the record-vote and ballot-printing requirements in CSHJR 19 would cost the state a total of \$125,213 in general revenue-related funds in fiscal 2008-09.

HB 83 by Branch, et al., which would amend the Government Code to require each house of the Legislature to record on final passage votes on all bills, resolutions, and any other resolution not of a purely ceremonial or honorary nature, is on today's General state Calendar.

In 2005, the Senate passed SB 1140 by Carona, which would have required record votes taken by the House and Senate or a committee on approval or disapproval of bills, amendments, or substitute bills, joint resolutions, appointment or election of legislative officers or other public officials or confirmation of an appointment to public office. The bill died in the House State Affairs Committee.