

TEXAS SENATE ENVIRONMENTAL VOTING RECORD, 82nd LEGISLATURE, 2011 REGULAR SESSION – Compiled by the Lone Star Chapter, Sierra Club

A plus sign (+) indicates a vote for the Sierra Club position. A minus sign (-) indicates a vote against the Sierra Club position. An "A" (absent without excuse) or "E" (excused absence) indicates the Senator was not present for the vote. See accompanying information for the explanation of the individual record votes.

[illegible]

EXPLANATION OF INDIVIDUAL TEXAS SENATE ENVIRONMENTAL RECORD VOTES – 82nd LEGISLATURE, 2011 REGULAR SESSION – Complied by the Lone Star Chapter of the Sierra Club

Record Vote # 1 – “Vested” Right of Groundwater Ownership – Passage to “Third Reading” of SB 332 by Sen. Troy Fraser – SB 332 as passed by the Senate would have established a “vested” right of surface landowners to ownership of groundwater under their land. Environmentalists and a number of legal scholars saw that as a dramatic expansion of the assertion of private ownership of groundwater that could undermine reasonable regulation of groundwater to protect the public interest in management of an important natural resource. The bill passed the Senate overwhelmingly but was later amended in the House to take out the term “vested” and make other changes. The revised bill was later agreed to by the Senate. A vote against passage of the bill at this earlier stage was a vote in support of the Sierra Club position.

Record Vote # 2 –Shielding Greenhouse Gas Emitters from Lawsuits – Motion to Suspend the Regular Order of Business to Take Up and Consider SB 875 – SB 875 by Sen. Fraser, as passed out of his committee and brought to the Senate floor, would have shielded polluters operating under state or federal permits or authorizations from being sued under “public nuisance” or trespass claims for the impacts of their emissions of greenhouse gases (such as carbon dioxide or methane). The motion to suspend the rules to take up the bill the first time on the Senate floor was the critical vote on the bill, and that motion passed 23 to 8. The bill then passed the Senate in a slightly amended form and passed the House in a different version. Senate-House differences were reconciled, and the conference report was adopted by both houses. The final version of the bill was only slightly less egregious than the original Senate version. A vote against suspension of the rules to take up SB 875 was a vote in support of the Sierra Club position.

Record Vote # 3 – Reporting Requirements for Progress in Energy Efficiency – Motion to Suspend the Regular Order of Business to Take Up and Consider SB 898 on Third Reading. – SB 898 by Sen. John Carona was introduced to extend to 2020 the statutory requirement for state agencies, public institutions of higher education, and political subdivisions (such as municipalities and school districts) in counties facing air pollution challenges to report and document to the State Energy Conservation Office their progress in achieving energy efficiency goals (which includes the goal of reducing energy consumption by 5%). The bill ran into sufficient opposition in the Senate to delay its passage on third reading. The critical vote then became the vote on the motion to suspend the rules and take up the bill on third reading, a motion which usually requires a 2/3 vote of the Senators present. That motion passed narrowly on a 20 to 10 vote. A vote for the motion to suspend the rules to take up the bill on third reading was a vote in support of the Sierra Club position.

Record Vote # 4 – Consumption Advisories for Mercury Contamination in Fish & Other Aquatic Organisms – Motion to Suspend the Regular Order of Business to Take Up & Consider SB 506 – SB 506 by Sen. Bob Deuell would have required the state health department to post fish consumption advisories at Texas lakes and rivers and some coastal areas if the level of mercury in the tissues of fish from those areas that are consumed by the public exceed the level which the U.S. EPA and other states use as triggers for such advisories. Mercury exposure may cause neurological damage and is especially dangerous to fetuses and young children. Texas currently uses a much less protective trigger level for consumption advisories for mercury contamination. SB 506 passed the Senate but was not acted on in the House. The most important Senate vote on SB 506 was the vote to suspend the rules to consider the bill on the Senate floor, a motion which passed 24 to 7. A vote for the motion to suspend was a vote for the Sierra Club position.

Record Vote # 5 – Enhancing Energy Efficiency Goals & Creation of an Energy Efficiency Coordination Council – Passage of HB 3595 to Third Reading – HB 3595 by Reps. Chisum and Strama (Senate sponsor: Sen. Carona) as it came out of the Senate Business & Commerce Committee was intended to amend program options available to achieve state goals for additional energy efficiency and would have created an Energy Efficiency Coordination Council to assist in the coordination of state agencies implementing energy efficiency programs. A different version of the bill – without the coordinating council – had passed the House unanimously. Despite a strong vote on the revised bill in the Senate, the action came late in the session, and the House failed to take further action on the bill when the modified legislation came back from the Senate. A key vote in the Senate was the passage of the bill on second reading (“passage to third reading”). The vote was 23 to 8 in favor of the legislation. A vote for HB 3595 was a vote for the Sierra Club position.

Record Vote # 6 – Energy Efficiency Take Two – Third Reading & Final Passage of HB 3595 – HB 3595 was brought back to the Senate floor for third reading a few days after it was approved on second reading. Some lobbying on all sides produced a change of mind – in different directions – on the part of some senators. The support for the bill increased to a 25-6 margin. Again a vote for HB 3595 was a vote in support of the Sierra Club position.

Record Vote # 7 – High Performance Standards for Water & Energy Conservation for State Agency & University Buildings – Third Reading and Final Passage of HB 51 – HB 51 by Rep. Lucio III (Senate sponsor: Sen. Juan Hinojosa) required and facilitated the use of high performance building standards for water and energy conservation in the design, construction, and renovation of state agency and university buildings. The Senate modified the bill to include an “out” for educational institutions who determined that compliance with the high performance standards was impractical and provided documentation. The bill passed the Senate easily with that modification, and the House concurred with the Senate amendments. The bill has since been signed into law by the Governor. The key Senate vote was on third reading and final passage of the bill. The vote was 27 to 4. A vote for passage of the bill was a vote for the Sierra Club position.

Record Vote # 8 – Delaying Public Disclosure of Natural Gas Fracking Fluids – Motion to Adopt Senate Floor Amendment #2 to HB 3328 – HB 3328 by Rep. Jim Keffer (Senate sponsor: Sen. Troy Fraser) was the bill to require the disclosure of the composition of fluids used in the hydraulic fracturing process for the production of oil and gas, subject to certain trade secret protections. Sen. Hegar sought to amend the bill to postpone the implementation of a key provision in the bill until September 2013, after the next regular legislative session. The public disclosure of fracking fluids is way overdue, and the majority of Senators rejected this proposed amendment. Although the final conference committee report on the bill adopted by the House and Senate did allow a long implementation period, the state agency implementing the law, the Railroad Commission of Texas, has committed to adopting rules to put all of the law into effect by September 2012. The motion to adopt the Hegar amendment was defeated 9-21. A vote against the motion was a vote for the Sierra Club position.

Record Vote # 9 – Creation of a Hydraulic Fracturing Advisory Committee – Motion to Table Senate Floor Amendment #4 to HB 3328 – The public disclosure of fracking fluids does not resolve all of the public concerns about hydraulic fracturing for oil and gas production. Fort Worth area Sen. Wendy Davis, who has been an advocate for those public concerns, proposed an amendment to HB 3328 to require the Railroad Commission to establish a balanced advisory committee to study and evaluate hydraulic fracturing activities in the state and report its findings annually to the Commission. Pretty straightforward, but the oil and gas interests opposed the idea. Sen. Fraser, Senate sponsor of HB

3328, moved to table Floor Amendment #4. The motion to table prevailed 19 to 11 (one absent). A vote against the motion to table the amendment was a vote in support of the Sierra Club position.

Record Vote #10 – Study Evaluating the Risks & Composition of Storm Water Runoff from Natural Gas Well Sites – Motion to Table Senate Floor Amendment #5 to HB 3328 – Sen. Davis offered another reasonable amendment to HB 3328, the fracking fluids disclosure bill, that would have required the state's primary environmental regulatory agency – the Texas Commission on Environmental Quality (TCEQ) – to conduct a study evaluating the risks and composition of storm water runoff from natural gas well sites, including an evaluation of whether hydraulic fracturing fluids are contained in the runoff. Unfortunately Sen. Fraser moved to table Floor Amendment #5, and the motion to table prevailed 20 to 11. A vote against the motion to table the amendment was a vote for the Sierra Club position.

Record Vote #11 – Delays and Restrictions on TCEQ Regulation of Air Emissions from Oil & Gas Facilities – Motion to Adopt the Conference Committee Report on SB 1134 – SB 1134 by Sen. Glenn Hegar prohibits the Texas Commission on Environmental Quality (TCEQ) from promulgating new or existing authorizations ("permits by rule" – PBR – or "standard permits") for air emissions from oil and gas industry facilities without performing a regulatory impact analysis, extensive monitoring, and certain modeling. It has the effect of delaying for two years a new, somewhat improved (but far from adequate) PBR for facilities in the Barnett Shale area of the state. The conference committee report was adopted on a 26 to 5 vote, and the House adopted the conference report the next day, sending the bill to the Governor, who signed it into law. A vote against the motion to adopt the conference committee report was a vote in support of the Sierra Club position.

Texas Senate Environmental Voting Record Analysis – 2011 – Compiled by Ken Kramer, Director, Lone Star Chapter, Sierra Club (August 2011)

For More Information:

Lone Star Chapter, Sierra Club

P. O. Box 1931

Austin, TX 78767

lonestar.chapter@sierraclub.org

www.texas.sierraclub.org