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DISTRICT 20

May 31, 2009

The Honorable John J. Carona  
State Senator, District 16  
P.O. Box 12068  
Capitol Station  
Austin, Texas 78711

Dear Senator Carona:

I would appreciate an opportunity to address your comments reported in today's edition of the *Austin American-Statesman* by Mike Ward. First, allow me to be clear as to your intention to filibuster H.B. 300, the Texas Department of Transportation's Sunset bill.

As your colleague and friend, I respect your right to defeat this bill through parliamentary procedure. Such are the tools afforded to elected members of this legislature. My motives to respond to you stem specifically from your statements as to my amendment to H.B. 300 and the underlying facts to which you alluded.

My amendment to H.B. 300 contains the entirety of S.B. 1572, a bill I authored in response to a growing number of unregulated tire disposal sites appearing throughout Texas. One such disposal site, located in Hawkins, Texas, just 112 miles from your Senate district, caught fire last Monday, May 25, prompting the evacuation of homes, schools, nearby colleges, and an assisted living community.

After three years of repeated attempts by the Texas Commission on Environmental Quality (TCEQ) to compel the operators to clean their tire dump, TCEQ had to appeal to the Attorney General's office for action. Note that TCEQ appealed on several occasions to General Abbott for aid in forcing the operators of the Hawkins dump to account for their mess. Still, the state could do nothing.

What of the operators? It is my understanding that they have pleaded financial insolvency. Injunctions, penalties, and fines matter little at this point. Moreover, during the budget-writing process, Senator Eltife brought the Hawkins dump to my attention,

asking for an exceptional appropriation of \$1.2 million to clean the abandoned tire site – a request funded in S.B. 1. For years, the tires collected rainwater that turned into standing pools where mosquitoes and other insects nested during Texas' long summers. The public health risks associated with the Hawkins site, particularly now in light of last week's fire, cannot be ignored.

Officials in Hidalgo County informed me of a registration submitted to TCEQ for a Land Reclamation Project Using Tires, or LRPUs as these are commonly known. Hidalgo County wanted to comment on the merits of the proposed disposal site but could not. TCEQ's rules on LRPUs, outdated and inadequate for protection of air, soil, and water resources, offered no option for public comment on the placement of this proposed disposal site. The proposed project would sit above a vital and extremely sensitive groundwater source for the Rio Grande Valley. Hidalgo County officials contacted me and asked for help.

Thus my filing of S.B. 1572; certainly nothing out of the ordinary in the process by which this concept became a bill. My office filed a hearing request; no opposition registered testimony against the bill when the Senate Natural Resources Committee heard the bill. Subsequently, S.B. 1572 passed out of committee with a recommendation that it be placed on the Local & Uncontested Calendar. The Senate Committee on Administration certified S.B. 1572 and on April 16, S.B. 1572 passed out of the Senate 31-0; one of those 31 votes is your own.

Like so many other Senate bills, S.B. 1572 died in the House because of time constraints, lobby pressures, and any number of forces in the democratic process that can kill a bill. Surely you are no stranger to how things work around here. That is the nature of this place and we accept it for what it is - the reality of legislative politics.

I am unaware of any lawsuits involving any of Senator Lucio's constituents or the peril any business faces because of my amendment to H.B. 300. I welcome you to produce these concerns so we may review their merits as we have in the past on other issues. As a matter of course, I rely on the belief that you and I can discuss any issue with honesty and candor. I hope that my belief is not unfounded.

Here is something of which I am aware. Last session, I sponsored H.B. 2510 and welcomed you to use that bill as a vehicle for your amendment regarding sales and use taxes by certain municipalities. For your reference, the amendment affected Chapter 329 of the Tax Code, and H.B. 2510's history can be found on page 2313, Senate Journal, May 18, 2007. Again, I know you as a friend, colleague, and honest broker; those were my motivations for happily agreeing to let your proposal "hitch a ride", so to speak.

I did nothing more and nothing less in amending H.B. 300 with the provisions from S.B. 1572. I did not attempt an end-run around the committee process. I went so far as to have my staff work directly with the Legislative Council drafting attorney to ensure that

my language proved germane. TxDOT is made a partner with TCEQ in finding tire recycling alternatives prior to authorizing a new tire dump. One Hawkins fire is enough, in my humble opinion.

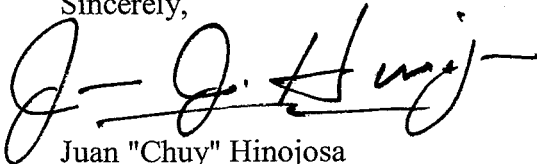
To the point of your Local Option Transportation Act, S.B. 855 - as evidenced by my vote on Tuesday, April 14, 2009, page 1003, Senate Journal, I supported your stand-alone policy. Considering the policy in the larger context of the TxDOT Sunset bill, I could not support it because the local option tax proposal would be dead on arrival in the House. I never disguised that from you. I refer once again to my respect for you and my reliance on the honesty and openness that defines our friendship. I dealt and will continue to deal with you in good faith.

I recognize that the session takes its toll on our nerves and tests our patience. I understand that in your case, that truth is all the more evident given your work ethic, dedication to your responsibilities as a chairman, and the standard of excellence you bring to the Senate.

It is through that lens that I consider your comments about my amendment and the motives behind my proposing its addition to H.B. 300. I cannot believe that you decided to flippantly accuse me of advancing a legislative measure for the sole purpose of making an example of a specific person or business.

I trust you and I will remain friends after the dust settles on the 81st Regular Session. But more so, I hope the principles which have defined our friendship remain intact.

Sincerely,



Juan "Chuy" Hinojosa  
State Senator, District 20  
Member, Sunset Advisory Commission

cc: Lieutenant Governor David Dewhurst  
Members of the Texas Senate