

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

THIRTEENTH DAY — WEDNESDAY, JUNE 22, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 124).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Absent, Excused — Castro; Harless; Keffer; Taylor, L.; Woolley.

The invocation was offered by Sergeant-at-Arms Rod Welsh.

The speaker recognized Representative Beck who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Castro on motion of Raymond.

The following member was granted leave of absence for today and the remainder of the week because of personal business:

L. Taylor on motion of Crownover.

The following member was granted leave of absence for today to attend a funeral:

Harless on motion of Fletcher.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 10:25 a.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 10:25 a.m. today, 3W.15, for a formal meeting, to set a calendar.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Shelton on motion of Button.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Sheets on motion of R. Anderson.

GENERAL STATE CALENDAR HOUSE BILLS THIRD READING

The following bills were laid before the house and read third time:

HB 79 ON THIRD READING (by Lewis and Jackson)

HB 79, A bill to be entitled An Act relating to fiscal and other matters necessary for implementation of the judiciary budget as enacted by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, and to the operation and administration of, and practice and procedures in courts in, the judicial branch of state government.

Amendment No. 1

Representative Phillips offered the following amendment to **HB 79**:

Amend **HB 79** on third reading, as follows:

- (1) On page 52, line 22, strike "and".
- (2) On page 52, between lines 22 and 23, insert the following:

(10) the issuance of search warrants, including a search warrant under Article 18.02(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and
- (3) On page 52, line 23, strike "(10)" and substitute "(11)".
- (4) On page 54, line 18, strike "and".
- (5) On page 54, between lines 18 and 19, insert the following:

(16) notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant, including a search warrant under Article 18.02(10), Code of Criminal Procedure; and

(6) On page 54, line 19, strike "(16)" and substitute "(17)".

Amendment No. 1 was adopted.

HB 79 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE RIDDLE: Judge Lewis, you and I spoke a bit earlier today, and I told you that I did have questions yesterday—that I was a no vote simply because I don't have everything nailed down. I'm not comfortable with a yes vote. Even though we all respect and love you, and all that you've done, I would like to clarify a few things that were of question. One was the rotating judges like it's done in Travis County and San Antonio. Can you tell me again exactly what that does?

REPRESENTATIVE LEWIS: Well, this bill would really not affect that situation one way or the other. It doesn't enlarge what's done under the present situation, and it would not affect anything in Harris County, or Bexar County, or other counties. The only effect on this bill is that in smaller counties, where you have fewer than five judges, but you have multiple judges—you have two, three, four judges—right now, there's not a general statutory ability for one judge to take another judge's cases when that judge is sick or temporarily unavailable. You know, they have to get an assignment, and all those delays from a regional judge, even though they're sitting there, and the parties are sitting there needing to get an uncontested divorce heard or something. So, all this bill does is enable those judges in those sized counties to exchange benches and take each others cases so that things can be more efficient.

RIDDLE: So, for the layman like me, let me see if I've got this straight, this would allow someone who, let's say, one of our judges gets the flu one morning, so they don't have to go through all of the process of having another judge assigned. They can simply call someone and get that there. And that is clearly different than that of the rolling docket, or the rolling judges?

LEWIS: That's absolutely correct.

RIDDLE: And so, does this bill address the rolling judges in any way? This does not require it to go into counties where it does not exist, nor does it eliminate it in counties where it does exist, is that correct?

LEWIS: That's correct. All that is local control.

RIDDLE: All of that is local control. Okay. I was really concerned about that yesterday, because the Russian roulette with the judges, they might like that in Travis County, but that's not anything we want in Harris County.

LEWIS: Absolutely.

RIDDLE: And so I did want to make that clear, regarding the judges. And we just got an amendment on this, for the associate judges, they are not elected?

LEWIS: That's correct.

RIDDLE: Now, when a judge wants an associate judge, they have to go commissioners court, is that correct?

LEWIS: That is correct.

RIDDLE: Commissioners court doesn't just go out there and hire, but at the request of a judge, the judge cannot get an associate without approval of commissioners court, correct?

LEWIS: That's exactly correct. The judge or judges have to go to commissioners court and request the position be created. Then if the position is created, the judge, if it's a one judge magistrate—associate judge, or judges—one associate judge who would be helping a lot of other judges would be appointed by the judges.

RIDDLE: Okay, thank you very much. I think you've taken care of the concerns I had for this.

REMARKS ORDERED PRINTED

Representative Riddle moved to print remarks between Representative Lewis and Representative Riddle.

The motion prevailed.

HB 79, as amended, was passed by (Record 125): 117 Yeas, 18 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harper-Brown; Hernandez Luna; Hilderbran; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Torres; Veasey; Vo; Walle; White; Workman; Zerwas.

Nays — Bonnen; Carter; Gallego; Giddings; Hamilton; Hartnett; Hochberg; Hopson; Kolkhorst; Legler; Menendez; Ritter; Schwertner; Thompson; Truitt; Turner; Weber; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Harless; Keffer; Sheets; Shelton; Taylor, L.; Woolley.

Absent — Bohac; Dutton; Eiland; Farrar; King, S.; Madden; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 125. I intended to vote yes.

Carter

When Record No. 125 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

When Record No. 125 was taken, I was excused to attend a funeral. I would have voted no.

Harless

When Record No. 125 was taken, I was in the house but away from my desk. I would have voted yes.

S. King

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 19 ON SECOND READING

(by Aycock)

HB 19, A bill to be entitled An Act relating to hearings on public school educator contracts.

HB 19 was read second time on June 16, postponed until June 21, and was again postponed until 5:30 a.m. today.

Representative Aycock moved to postpone consideration of **HB 19** until 5:30 a.m. Friday, June 24.

The motion prevailed.

HB 17 ON SECOND READING

(by Callegari)

HB 17, A bill to be entitled An Act relating to the minimum salary for and minimum service required of certain public school employees.

HB 17 was read second time on June 16, postponed until June 21, and was again postponed until 9 a.m. today.

Representative Callegari moved to postpone consideration of **HB 17** until 9 a.m. Friday, June 24.

The motion prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today and tomorrow because of important business:

Hartnett on motion of Weber.

HB 20 ON SECOND READING
(by Huberty)

HB 20, A bill to be entitled An Act relating to notice required for termination of a teacher's probationary contract or nonrenewal of a teacher's term contract.

HB 20 was read second time on June 14, postponed until June 17, laid out on June 20, and was again postponed until 10 a.m. today.

Representative Huberty moved to postpone consideration of **HB 20** until 10 a.m. Monday, June 27.

The motion prevailed.

HB 21 ON SECOND READING
(by Shelton)

HB 21, A bill to be entitled An Act relating to the reduction in force of teachers employed by a school district.

HB 21 was read second time on June 14, postponed until June 17, laid out on June 20, and was again postponed until 10 a.m. today.

Representative Huberty moved to postpone consideration of **HB 21** until 10 a.m. Monday, June 27.

The motion prevailed.

ADJOURNMENT

Representative Kuempel moved that the house adjourn until 10 a.m. Friday, June 24.

The motion prevailed.

The house accordingly, at 10:37 a.m., adjourned until 10 a.m. Friday, June 24.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

June 21

Criminal Jurisprudence - **HB 41**

ENGROSSED

June 21 - HB 26