

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTH DAY — MONDAY, JANUARY 31, 2005

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 17).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Pickett; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Bailey; Brown, B.; Hilderbran; Isett; Olivo; Phillips; Puente; Reyna.

Absent — Davis, Y.

STATEMENT OF VOTE

When roll call was taken today, I was meeting with constituents. I was present after roll call but did not check in with the journal desk.

Y. Davis

The invocation was offered by Jerry Clark, pastor, First Baptist Church, Buna, as follows:

Our Father, we come before you today to ask for your blessing and guidance upon the members of the Texas House of Representatives and their staff. We are grateful for the opportunities and responsibilities of life that are before us. Please help each of us to strive for those actions that are appropriate to engage the process about us and to serve the public of this great state.

May your grace be with each family member and loved one who supports our presence here today. Help those who may be sick, bereaved, or with special needs. Please bless and protect the people of our military who are in the service of this nation. Be ever close to their families and loved ones. Please continue to bless this great nation and our beloved State of Texas. Grant unto us all the help to accomplish your kingdom's purposes. For we ask it in your name. Amen.

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

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of illness:

B. Brown on motion of Van Arsdale.

Isett on motion of Hupp.

Olivo on motion of Rodriguez.

Puente on motion of Rodriguez.

Reyna on motion of Van Arsdale.

The following members were granted leaves of absence for today because of important business in the district:

Bailey on motion of Keel.

Hilderbran on motion of Corte.

Phillips on motion of Harper-Brown.

CAPITOL PHYSICIAN

The speaker recognized Representative Bonnen who presented Dr. Jimmy Clay Burns of West Columbia as the "Doctor for the Day."

The house welcomed Dr. Burns and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Edwards in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Speaker in the chair)

HCR 38 - ADOPTED
(by Rose and Keel)

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HCR 38**.

The motion prevailed.

The following resolution was laid before the house:

HCR 38, Recognizing January 2005 as National Stalking Awareness Month.

HCR 38 was read and was adopted.

On motion of Representative Oliveira, the names of all the members of the house were added to **HCR 38** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Rose who introduced Janet, Rick, and Dorina Cochman.

(Edwards in the chair)

HR 112 - ADOPTED
(by Peña, Gonzales, Martínez, and Escobar)

Representative Peña moved to suspend all necessary rules to take up and consider at this time **HR 112**.

The motion prevailed.

The following resolution was laid before the house:

HR 112, Honoring St. Joseph Catholic School in Edinburg for its commitment to educational excellence.

HR 112 was adopted.

(Speaker in the chair)

HR 127 - ADOPTED
(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 127**.

The motion prevailed.

The following resolution was laid before the house:

HR 127, Honoring Sandra Eyvette Humber on the occasion of her 50th birthday.

HR 127 was adopted.

HR 130 - ADOPTED
(by Grusendorf)

Representative Grusendorf moved to suspend all necessary rules to take up and consider at this time **HR 130**.

The motion prevailed.

The following resolution was laid before the house:

HR 130, Commending the sponsors of the sixth biennial Texas Capitol Schoolhouse event.

HR 130 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Grusendorf who introduced teachers and students participating in the Texas Capitol Schoolhouse event.

(Nixon in the chair)

HR 109 - ADOPTED (by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 109**.

The motion prevailed.

The following resolution was laid before the house:

HR 109, Honoring Project CRAFT for the invaluable services it provides for the youth of Dallas County.

(Speaker in the chair)

HR 109 was adopted.

HR 57 - ADOPTED (by Hamilton and Deshotel)

Representative Hamilton moved to suspend all necessary rules to take up and consider at this time **HR 57**.

The motion prevailed.

The following resolution was laid before the house:

HR 57, Recognizing January 31, 2005, as Orange County Day at the State Capitol.

HR 57 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hamilton who introduced a delegation from Orange County.

HR 125 - ADOPTED (by Hamilton)

Representative Hamilton moved to suspend all necessary rules to take up and consider at this time **HR 125**.

The motion prevailed.

The following resolution was laid before the house:

HR 125, Honoring Victoria Enmon for her dedication to helping others.

HR 125 was read and was adopted.

On motion of Representative Deshotel, the names of all the members of the house were added to **HR 125** as signers thereof.

(J. Davis in the chair)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Education, 2 p.m. or upon final adjournment today, E2.036, for a formal meeting, for organizational purposes.

(Speaker in the chair)

PROVIDING FOR ADJOURNMENT

Representative Dunnam moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Pauline Rosas Gobeia of Waco.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Edwards in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 11:09 a.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3 (By J. Keffer), Relating to property tax relief and protection of taxpayers, taxes and fees, and other matters relating to the financing of public schools; providing civil and criminal penalties.

To Ways and Means.

HB 76 (By Hope), Relating to the operation of a watercraft while intoxicated.

To Culture, Recreation, and Tourism.

HB 77 (By Riddle), Relating to the operation of public schools on Memorial Day.

To Public Education.

HB 78 (By Riddle), Relating to the authority of a peace officer to make a warrantless arrest for the commission of family violence.

To Juvenile Justice and Family Issues.

HB 79 (By Riddle), Relating to the punishment for the offense of making a false report regarding a missing child or missing person.

To Criminal Jurisprudence.

HB 80 (By Riddle), Relating to the persons authorized to draw a blood specimen from a vehicle operator to test for alcohol concentration or other intoxicating substances.

To Law Enforcement.

HB 81 (By Riddle), Relating to release by the comptroller of unclaimed property subject to a child support lien.

To Government Reform.

HB 82 (By Riddle), Relating to service of public school superintendents, principals, assistant principals, and other senior administrators as substitute teachers.

To Public Education.

HB 83 (By Riddle), Relating to the eligibility of certain criminal defendants for release on community supervision.

To Criminal Jurisprudence.

HB 84 (By Riddle), Relating to criminal history records searches for volunteers in children's organized sports; imposing civil liability on certain persons or organizations.

To Civil Practices.

HB 85 (By Riddle), Relating to the release on bond of certain criminal defendants.

To Criminal Jurisprudence.

HB 86 (By W. Smith), Relating to compliance histories for and incentives to reward compliance performance by entities regulated by the Texas Commission on Environmental Quality.

To Environmental Regulation.

HB 87 (By Reyna), Relating to the authority of a municipality to alter speed limits in an urban district within a municipality.

To Transportation.

HB 88 (By Rodriguez), Relating to restrictions on the disclosure of certain criminal history records and to the duty of law enforcement agencies regarding records associated with certain defendants.

To Law Enforcement.

HB 89 (By Rodriguez), Relating to requiring a person closing a real estate transaction to assist a purchaser or owner in applying for a residence homestead tax exemption.

To Local Government Ways and Means.

HB 90 (By Rodriguez), Relating to state taxes and financing schools through those taxes; providing penalties.

To Public Education.

HB 91 (By Rodriguez), Relating to the disclosure of certain public information collected by the Texas Department of Insurance.

To Insurance.

HB 92 (By Rodriguez), Relating to legislative lobbying by a housing authority; imposing a criminal penalty.

To Urban Affairs.

HB 93 (By Riddle), Relating to showing the cause of death on the death certificate of an inmate of the Texas Department of Criminal Justice who is lawfully executed.

To Corrections.

HB 94 (By Riddle), Relating to the punishment imposed on certain defendants charged with the offense of assault.

To Criminal Jurisprudence.

HB 95 (By Alonzo), Relating to the identification information required of an applicant for a driver's license.

To Law Enforcement.

HB 96 (By Alonzo), Relating to the identification information required of an applicant for a driver's license.

To Law Enforcement.

HB 97 (By West), Relating to the Ector County Hospital District.

To County Affairs.

HB 98 (By Van Arsdale), Relating to certain appointments to the boards of metropolitan rapid transit authorities.

To Transportation.

HB 99 (By Van Arsdale), Relating to the conversion of certain nontoll state highways to toll highways.

To Transportation.

HB 100 (By Van Arsdale), Relating to the award of certain highway contracts by the Texas Department of Transportation.
To Transportation.

HB 101 (By Seaman, Dawson, et al.), Relating to funding for public school career and technology programs.
To Appropriations.

HB 102 (By Van Arsdale), Relating to the renewal requirements for a respiratory care practitioner certificate.
To Public Health.

HB 103 (By Van Arsdale), Relating to the punishment for the offense of possession of a gambling device, equipment, or paraphernalia.
To Licensing and Administrative Procedures.

HB 104 (By Van Arsdale), Relating to service contracts involving retired superintendents.
To Public Education.

HB 105 (By Van Arsdale), Relating to the liability of a parent or other person who has the duty of control and reasonable discipline of a child for certain conduct of the child.
To Juvenile Justice and Family Issues.

HB 106 (By F. Brown), Relating to the release of certain student information by a school district.
To Public Education.

HB 107 (By Van Arsdale), Relating to prohibiting actions brought against certain persons alleging injury relating to an individual's weight gain, obesity, or any health condition associated with weight gain or obesity.
To Civil Practices.

HB 108 (By Wong and Howard), Relating to limiting the maximum average annual increase in the appraised value of real property for ad valorem tax purposes to five percent.
To Local Government Ways and Means.

HB 109 (By Wong), Relating to the actuarial analysis and other information required for statutory changes to certain public retirement systems.
To Pensions and Investments.

HB 110 (By Wong), Relating to naming the circle drive around the State Capitol the Ronald Reagan Circle.
To State Affairs.

HB 111 (By Wong), Relating to allowing a municipality to set the amount of a fine for the violation of a municipal ordinance.
To Urban Affairs.

HB 112 (By Wong), Relating to a tax credit for certain corporations for certain purchases that promote healthy living for employees.
To Ways and Means.

HB 113 (By Wong), Relating to reporting of personal financial information by officers of certain school districts, junior college districts, and certain municipal retirement systems and reporting of expenditures to influence administrative action by certain school districts, junior college districts, and certain municipal retirement systems; providing civil and criminal penalties.

To Elections.

HB 114 (By Wong), Relating to the rate at which interest accrues in connection with the deferral or abatement of the collection of ad valorem taxes on the residence homestead of an elderly or disabled person.

To Local Government Ways and Means.

HB 115 (By Hilderbran), Relating to compliance by political subdivisions with unfunded legislative mandates.

To State Affairs.

HB 116 (By Geren), Relating to the establishment of a program to provide grants to make voluntary purchases of development rights in real property.

To Natural Resources.

HB 117 (By Y. Davis), Relating to the application of the franchise tax to certain entities.

To Ways and Means.

HB 118 (By Y. Davis), Relating to the repeal of certain tax exemptions and deductions.

To Ways and Means.

HB 119 (By Y. Davis), Relating to the repeal of certain sales tax exemptions and refunds.

To Ways and Means.

HB 120 (By Dawson), Relating to the creation of a donor education, awareness, and registry program and the establishment of an organ donor and tissue council.

To Public Health.

HB 121 (By Chavez), Relating to the exemption from ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes.

To Local Government Ways and Means.

HB 122 (By Naishtat), Relating to services provided by certain mental health professionals under the Medicaid program.

To Public Health.

HB 123 (By Naishtat), Relating to a feasibility study regarding required forensic medical examination instruction for students enrolled in certain medical or nursing degree programs.

To Higher Education.

HB 124 (By Naishtat), Relating to an increase in the cigarette tax and to the use of that increase for certain health and human services programs.

To Ways and Means.

HB 125 (By Berman), Relating to liability for injury arising from a motor vehicle accident.

To Civil Practices.

HB 126 (By Berman), Relating to the penalty for tampering with a governmental record required for enrollment in a public school.

To Criminal Jurisprudence.

HB 127 (By Berman), Relating to counties required to operate a juvenile justice alternative education program.

To Public Education.

HB 128 (By Berman), Relating to limits placed on coverage amounts of certain group life insurance policies.

To Insurance.

HB 129 (By Berman, Orr, R. Cook, and Blake), Relating to the authority to require a convicted person to perform manual labor for a nonprofit organization.

To Corrections.

HB 130 (By T. Smith), Relating to undergraduate course credit granted by certain public institutions of higher education for completion of the international baccalaureate diploma program.

To Higher Education.

HB 131 (By Thompson), Relating to the eligibility for unemployment compensation benefits of certain employees who provide at-home infant care after the birth or adoption of a child.

To Economic Development.

HB 132 (By Hilderbran), Relating to the rate of the county health services sales and use tax.

To Local Government Ways and Means.

HB 133 (By F. Brown), Relating to the award of academic credit to a student at an institution of higher education for the completion of certain military training.

To Higher Education.

HB 134 (By Rose), Relating to permissible uses of money in the comprehensive rehabilitation fund.

To Human Services.

HB 135 (By Solomons), Relating to regulation of health spas.

To Public Health.

HB 136 (By Alonzo), Relating to the identification information required of an applicant for a driver's license.

To Law Enforcement.

HB 137 (By Paxton), Relating to "Welcome to Texas" signs.
To Culture, Recreation, and Tourism.

HB 138 (By Hopson), Relating to the amount of hazardous duty pay for certain state employees.
To Appropriations.

HB 139 (By Hopson), Relating to the hazardous duty performed by certain custodial officers of the Texas Department of Criminal Justice.
To Pensions and Investments.

HB 140 (By Farrar), Relating to grounds for refusal to renew certain wine and beer retailer's permits.
To Licensing and Administrative Procedures.

HB 141 (By Farrar), Relating to hours of operation of premises of certain beer and wine permit holders.
To Licensing and Administrative Procedures.

HB 142 (By Farrar), Relating to the location of certain wine and beer retailers.
To Licensing and Administrative Procedures.

HB 143 (By Farrar), Relating to the prohibition of employment discrimination on the basis of sexual orientation or gender identity.
To Business and Industry.

HB 144 (By Farrar), Relating to the punishment for the offense of burglary of vehicles.
To Criminal Jurisprudence.

HB 145 (By Farrar), Relating to an abortion when a fetal abnormality is detected.
To State Affairs.

HB 146 (By Farrar), Relating to an abortion for a victim of incest or sexual assault.
To State Affairs.

HB 147 (By Casteel), Relating to the composition of the Comal County Juvenile Board.
To Judiciary.

HB 148 (By Harper-Brown), Relating to the probationary period of persons appointed to beginning positions in certain fire or police departments.
To Urban Affairs.

HB 149 (By Peña), Relating to the admissibility of evidence of an alleged victim's past sexual behavior or alleged sexual predisposition.
To Civil Practices.

HB 150 (By Reyna), Relating to the eligibility of a person to be appointed to serve on certain civil service commissions.
To Urban Affairs.

HB 151 (By Truitt and Alonzo), Relating to the punishment for the offense of burglary of a vehicle.

To Criminal Jurisprudence.

HB 152 (By Homer), Relating to a project of a development corporation in connection with a military base.

To Defense Affairs and State-Federal Relations.

HB 153 (By F. Brown), Relating to certain requirements for construction contracts with governmental entities.

To Business and Industry.

HB 154 (By F. Brown), Relating to requiring institutions of higher education to report potential savings through contracting with local governments.

To Higher Education.

HB 155 (By Y. Davis), Relating to the application of the sunset review process to certain exemptions from property taxes and state taxes.

To Ways and Means.

HB 156 (By B. Cook), Relating to the eligibility of certain law enforcement officers to participate in a low-interest home loan program offered by the state.

To Urban Affairs.

HB 157 (By B. Cook), Relating to the conditions of community supervision for certain persons convicted of an intoxication offense.

To Criminal Jurisprudence.

HB 158 (By P. King), Relating to exempting certain school districts from certain laws and rules.

To Public Education.

HB 159 (By Talton), Relating to expenditures of funds by a political subdivision to advertise a referendum.

To Urban Affairs.

HB 160 (By McCall), Relating to motor vehicles equipped with recording devices.

To Transportation.

HB 161 (By McCall), Relating to an exemption from the sales tax for nonvehicular fuel cells.

To Ways and Means.

HB 162 (By McCall), Relating to notifying certain providers of emergency care of possible exposure to certain reportable diseases.

To Public Health.

HB 163 (By Berman), Relating to the punishment for the offenses of forgery, credit or debit card abuse, and fraudulent use or possession of identifying information.

To Criminal Jurisprudence.

HB 164 (By Berman, Flynn, Phillips, Madden, Driver, et al.), Relating to the civil and criminal consequences of engaging in certain conduct related to the manufacture of methamphetamine and to the distribution and retail sales of pseudoephedrine; providing penalties.

To Criminal Jurisprudence.

HB 165 (By Guillen), Relating to the purposes for which the system benefit fund may be used.

To Regulated Industries.

HB 166 (By Peña and Hochberg), Relating to the use of direct recording electronic voting machines.

To Elections.

HB 167 (By W. Smith), Relating to the use of the development project fund by a municipal development district.

To Urban Affairs.

HB 168 (By Deshotel), Relating to the hours for selling alcoholic beverages at certain events.

To Licensing and Administrative Procedures.

HB 169 (By Deshotel), Relating to exempting certain individuals from general fishing license fees.

To Culture, Recreation, and Tourism.

HB 170 (By Deshotel), Relating to supplemental environmental projects in local communities and site-specific air quality monitoring for certain facilities.

To Environmental Regulation.

HB 171 (By Dukes), Relating to caseload assignments for certain employees of the Department of Family and Protective Services.

To Human Services.

HB 172 (By Dukes), Relating to ordering criminal defendants to pay restitution on conviction of certain offenses involving the making of a false statement or report.

To Criminal Jurisprudence.

HB 173 (By Hochberg and Menendez), Relating to the licensing of Canadian pharmacies to sell prescription medicines to Texas residents.

To Public Health.

HB 174 (By Thompson, Farrar, Y. Davis, Villarreal, and Rodriguez), Relating to emergency services for sexual assault survivors.

To Public Health.

HB 175 (By Chisum), Relating to allowing a lodge or other local organization affiliated with a grand lodge or similar charitable or benevolent institution or order incorporated under state law to hold a charitable raffle.

To Licensing and Administrative Procedures.

HB 176 (By Mowery), Relating to the imposition of a minimum franchise tax.

To Ways and Means.

HB 177 (By Mowery), Relating to the selection of the board of directors of an appraisal district.

To Local Government Ways and Means.

HCR 36 (By W. Smith, Escobar, Berman, et al.), Giving legislative authorization to a Vietnam War monument for the Capitol grounds, subject to state law and rules of the State Preservation Board.

To House Administration.

HJR 13 (By Branch), Proposing a constitutional amendment to require each house of the legislature to take a record vote on final passage of a bill and to publish the record vote on the Internet.

To State Affairs.

HJR 16 (By Wong), Proposing a constitutional amendment authorizing the legislature to limit the maximum average annual increase in the appraised value of real property for ad valorem tax purposes to five percent or more.

To Local Government Ways and Means.

HJR 20 (By Hilderbran), Proposing a constitutional amendment providing that political subdivisions are exempt from unfunded legislative mandates.

To State Affairs.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, January 27, 2005

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 39 Van Arsdale SPONSOR: Duncan
Honoring Leonard Reese for his exceptional service to the Texas Legislative Council on the occasion of his retirement as assistant executive director and general counsel with that agency.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

January 27 - HCR 23, HCR 32