

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTEENTH DAY — MONDAY, FEBRUARY 14, 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 25).

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

Absent, Excused — Escobar; Olivo; Smithee.

Absent — McClendon; Moreno, P.; Straus.

The invocation was offered by Tom Allen, pastor, Crosspoint Fellowship Church, Pearland, as follows:

Lord, we pause on this fourteenth day of February, Valentine's Day, the day we set aside to honor and remember those we love. Father, we thank you for the people we love and for the people who love us and make our lives full and worth living.

Father, we thank you for this great state we love, for its grandeur and greatness and for its most precious resource, the people of Texas—for those who were born here as well as those who got here as soon as they could. Red and yellow, black and white, Longhorns and Aggies, Red Raiders and Bears, they are precious in your sight. Lord, may they all be as precious in our sight as well.

Lord, I thank you for these men and women who have chosen to give of themselves, not just to govern, but to serve the people of this great state. Today I pray a blessing on these your servants. To their intellect, add your wisdom. To their sense of justice, add your sense of compassion. To their diligence, add your discernment. To their weaknesses, add your omnipotence.

Remind us, Lord, that you are king over every king, and Lord over every lord, governor over every governor, and representative over every representative. You are the alpha and the omega, the beginning and the end, the first and the last and everything in between. Remind us often that you are God and that we are not.

Bless each of us with the humility that comes from knowing that one day all of our knees will bow and every tongue will confess that you alone are God. Finally, Father, we pray your kingdom will come and your will be done in Texas as it is in heaven. We ask this in Jesus' name.

The speaker recognized Representative Dawson 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 and the remainder of the week because of illness:

Olivo on motion of Geren.

The following member was granted leave of absence for today because of illness in the family:

Escobar on motion of Gonzales.

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

Smithee on motion of D. Jones.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Denny and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative Rose who presented Dr. John Dudley Weaver of Blanco as the "Doctor for the Day."

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

(McClendon and Straus now present)

(Seaman in the chair)

HCR 64 - ADOPTED (by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HCR 64**.

The motion prevailed.

The following resolution was laid before the house:

HCR 64, In memory of Mayor Mae J. Jackson of Waco.

(Speaker in the chair)

HCR 64 was read and was unanimously adopted by a rising vote.

On motion of Representative Anderson, the names of all the members of the house were added to **HCR 64** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative J. Keffer who introduced members of Texas SkillsUSA.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 9).

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 Dr. Mae J. Jackson of Waco.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES CORRECTIONS IN REFERRAL

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Harper-Brown in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 10:58 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 892 (By Zedler), Relating to certain swimming pools as public nuisances in unincorporated areas of certain counties.

To County Affairs.

HB 893 (By Chavez), Relating to access to funds appropriated for statewide adult education programs.

To Economic Development.

HB 894 (By Hodge), Relating to permitting samples of produce at certain municipally owned farmers' markets.

To Public Health.

HB 895 (By Goolsby), Relating to imposing a fee on a request for a waiver of the waiting period following the issuance of a marriage license.

To Juvenile Justice and Family Issues.

HB 896 (By Farabee), Relating to the rights and liabilities of an employer with respect to the carrying of a concealed handgun.

To Law Enforcement.

HB 897 (By Turner), Relating to the operation of video lottery games on behalf of this state by persons licensed to conduct wagering on horse or greyhound races, persons licensed to operate the games at other locations, and recognized Indian tribes; providing penalties.

To Ways and Means.

HB 898 (By Turner), Relating to universal service fund support provided to telecommunications providers.

To Regulated Industries.

HB 899 (By Alonzo), Relating to allowing certain early voting polling places to serve as election day polling places.

To Elections.

HB 900 (By Chavez), Relating to the requirement that workforce development programs provide training in financial literacy.

To Economic Development.

HB 901 (By McReynolds), Relating to expiration dates for certain licenses issued or renewed by the Department of Agriculture.

To Agriculture and Livestock.

HB 902 (By McReynolds), Relating to the use of public school educators' days of service for which instruction is not required.

To Public Education.

HB 903 (By Castro), Relating to notice to certain public school high school seniors and their parents or guardians of automatic college admission.

To Public Education.

HB 904 (By Gattis), Relating to the sentencing of defendants convicted of multiple counts of intoxication assault, improper photography or visual recording, or possession or promotion of child pornography.

To Criminal Jurisprudence.

HB 905 (By Delisi), Relating to the powers and duties of the state auditor in connection with state contracts.

To State Affairs.

HB 906 (By Strama), Relating to the making, authorization, and acceptance of political contributions in certain state buildings; providing civil and criminal penalties.

To Elections.

HB 907 (By Campbell), Relating to the membership of the Critical Infrastructure Protection Council.

To Defense Affairs and State-Federal Relations.

HB 908 (By Turner), Relating to a pilot program on the use of the reverse auction procedure by the Texas Building and Procurement Commission.

To State Affairs.

HB 909 (By Denny, P. King, and Geren), Relating to the validation of the boundaries of certain school districts.

To Public Education.

HB 910 (By Rodriguez), Relating to the relationship between the amount of an administrative penalty imposed by the Texas Commission on Environmental Quality and the economic benefit of the violation to the alleged violator.

To Environmental Regulation.

HB 911 (By Rodriguez), Relating to operating permit fees for air pollutant emissions.

To Environmental Regulation.

HB 912 (By Isett), Relating to the maximum cost of certain awards presented to state agency employees for professional achievement or outstanding service.

To State Affairs.

HB 913 (By Denny), Relating to a special office in the Texas Ethics Commission to investigate criminal conduct related to political funds and campaigns.

To Elections.

HB 914 (By Woolley), Relating to disclosure of certain business or financial relationships with certain local government officers; providing criminal penalties.

To Urban Affairs.

HB 915 (By Woolley), Relating to authority of a peace officer to make an arrest outside of the officer's jurisdiction or to seize property while making the arrest.

To Criminal Jurisprudence.

HB 916 (By Woolley), Relating to creating the Governor's Health Care Coordinating Council.

To State Affairs.

HB 917 (By Krusee), Relating to a credit or refund for diesel fuel taxes paid on diesel fuel used in this state by auxiliary power units or power take-off equipment.

To Ways and Means.

HB 918 (By Krusee), Relating to the authority of a municipality to establish economic development programs in certain areas.

To Economic Development.

HB 919 (By Rose), Relating to the creation of an additional judicial district in Hays County.

To Judiciary.

HB 920 (By Uresti), Relating to protective and guardianship services for elderly and disabled persons.

To Human Services.

HB 921 (By Uresti), Relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

To Human Services.

HB 922 (By Edwards), Relating to bridge improvement and safety.

To Transportation.

HB 923 (By Edwards), Relating to the location of concrete stockpiles at certain portable concrete crushing facilities.

To Environmental Regulation.

HB 924 (By Edwards), Relating to the location of concrete stockpiles at certain portable concrete crushing facilities.

To Environmental Regulation.

HB 925 (By Chavez), Relating to creating an interagency work group on border issues.

To Border and International Affairs.

HB 926 (By Hochberg), Relating to creating the offense of absconding from parole.

To Criminal Jurisprudence.

HB 927 (By Dutton), Relating to the foreclosure of certain liens on real property.

To Business and Industry.

HB 928 (By Dutton), Relating to an offense involving a motor vehicle with an altered or obscured license plate.

To Law Enforcement.

HB 929 (By Dutton), Relating to certain filing requirements for a death certificate.

To Public Health.

HB 930 (By Branch), Relating to regional funding of indigent health care services.

To Public Health.

HB 931 (By Geren), Relating to stamps for migratory and upland game bird hunting.

To Culture, Recreation, and Tourism.

HB 932 (By Taylor), Relating to an exception to the easement requirement for the construction of certain structures on coastal public land.

To Land and Resource Management.

HB 933 (By Taylor), Relating to certain insurance for officers and employees of state agencies.

To Insurance.

HB 934 (By Taylor), Relating to notice requirements in certain proceedings relating to charitable trusts.

To Judiciary.

HB 935 (By Taylor), Relating to minimum enrollment in certain group life insurance policies.

To Insurance.

HB 936 (By Villarreal), Relating to liability insurance requirements for and limited liability of certain child-care facilities and child-placing agencies.

To Insurance.

HB 937 (By Homer), Relating to authorizing a nonresident seller to conduct wine samplings.

To Licensing and Administrative Procedures.

HB 938 (By Farabee), Relating to liability of physician assistants who provide certain emergency care.

To Civil Practices.

HB 939 (By Nixon), Relating to benefits payable by the Judicial Retirement System of Texas Plan Two.

To Pensions and Investments.

HB 940 (By Berman), Relating to fees charged a person entitled to more than one type of military specialty license plate.

To Defense Affairs and State-Federal Relations.

HB 941 (By Geren), Relating to restrictions on the use of claims history for certain water damage.

To Insurance.

HB 942 (By Geren), Relating to the registration of antique boats with the Parks and Wildlife Department.

To Culture, Recreation, and Tourism.

HB 943 (By Geren), Relating to evidence establishing ownership of a vessel for a certificate of title issued by the Parks and Wildlife Department.

To Culture, Recreation, and Tourism.

HB 944 (By Geren), Relating to the license requirements of marine dealers, distributors, and manufacturers.

To Culture, Recreation, and Tourism.

HB 945 (By Hochberg), Relating to the setting of performance levels on assessment instruments used in the public school accountability system.

To Public Education.

HB 946 (By Miller), Relating to the removal, relocation, or alteration of certain monuments or memorials on state property.

To State Affairs.

HB 947 (By Miller), Relating to including certain bailiffs in the definition of peace officer.

To Judiciary.

HB 948 (By Miller), Relating to the issuance of revenue bonds for Tarleton State University.

To Higher Education.

HB 949 (By Eiland), Relating to certain limitations in health benefit plans and health insurance policies.

To Insurance.

HB 950 (By Casteel), Relating to fees for filing certain documents with a county clerk.

To County Affairs.

HB 951 (By West), Relating to construction affecting pipeline easements and rights-of-way; creating penalties.

To Energy Resources.

HB 952 (By Delisi), Relating to a pilot program to provide health services to state employees in state office complexes.

To Public Health.

HB 953 (By Chavez), Relating to the regulation of and contracts with certain telephone call centers; providing a criminal penalty.

To Business and Industry.

HB 954 (By Chavez), Relating to the collection and reporting of employment information regarding beneficiaries of certain health care services.

To Human Services.

HB 955 (By Solomons), Relating to interest rates, usury, consumer protections, commercial and consumer lending, licensing of mortgage brokers, savings bank charters, and the regulation of lenders; providing civil and criminal penalties.

To Financial Institutions.

HB 956 (By Dunnam), Relating to the composition of the juvenile board of Leon County.

To Juvenile Justice and Family Issues.

HB 957 (By Pickett), Relating to the valuation of state-owned real property.
To Land and Resource Management.

HB 958 (By Goolsby), Relating to the enforcement of an order prohibiting operation of a motor vehicle on certain toll roads.
To Transportation.

HB 959 (By Laubenberg), Relating to the licensing of certain electricians.
To Licensing and Administrative Procedures.

HB 960 (By W. Smith), Relating to the authority of a political subdivision to regulate construction and renovation of structures owned by certain counties.
To County Affairs.

HB 961 (By W. Smith), Relating to the location of a sale of real property under a contract lien.
To County Affairs.

HB 962 (By Kruse), Relating to requiring the Texas Department of Transportation to include in the statewide transportation improvement program a list of transportation projects that the department considers to be eligible for tolling or feasible for tolling.
To Transportation.

HB 963 (By Gattis), Relating to provisional voting by a person who does not receive an early voting ballot by mail.
To Elections.

HB 964 (By Gattis), Relating to the filing fee for candidates for justice of certain courts of appeals.
To Elections.

HB 965 (By Haggerty), Relating to a prohibition on the regulation of emissions from residential water heaters.
To Environmental Regulation.

HB 966 (By Haggerty), Relating to the murder of a commissioned security officer as a capital offense.
To Criminal Jurisprudence.

HB 967 (By Haggerty), Relating to administration of the criminal history record system.
To Judiciary.

HB 968 (By Keel, Naishtat, et al.), Relating to the creation of an additional judicial district in Travis County.
To Judiciary.

HB 969 (By Keel), Relating to court orders for discovery in a criminal case.
To Criminal Jurisprudence.

HB 970 (By Keel), Relating to the required mental state for commission of certain misdemeanor offenses.
To Criminal Jurisprudence.

HB 971 (By Talton), Relating to the availability under the public information law of certain documents filed with a county clerk or a district clerk.
To State Affairs.

HB 973 (By Madden), Relating to instruction and testing in social studies in public schools.
To Public Education.

HB 974 (By Madden), Relating to resolution of disputes arising under certain construction contracts.
To Civil Practices.

HB 975 (By Madden), Relating to a deposition taken of a witness in a criminal action.
To Criminal Jurisprudence.

HB 976 (By Madden), Relating to allowing the Texas Building and Procurement Commission to deliberate in a closed meeting regarding business and financial considerations of a contract being negotiated.
To State Affairs.

HB 977 (By Leibowitz), Relating to the proximity of the residences of certain sex offenders or sexually violent predators to public schools.
To Public Education.

HB 978 (By Eiland), Relating to the quality assurance accreditation process for certain entities that offer health benefit plans.
To Insurance.

HB 979 (By Corte), Relating to the licensing and regulation of an abortion facility.
To State Affairs.

HB 980 (By Riddle), Relating to limiting the maximum average annual increase in the appraised value of real property for ad valorem tax purposes.
To Ways and Means.

HB 981 (By Van Arsdale), Relating to the ability of state-supported college or university football teams to participate in post-regular-season competition.
To Higher Education.

HB 982 (By Reyna), Relating to posting a sign warning restaurant employees against fraudulent use or possession of identifying information; providing a criminal penalty.
To Business and Industry.

HB 983 (By Reyna), Relating to a parenting and paternity awareness component of the high school health curriculum.
To Public Education.

HB 984 (By Reyna), Relating to the care of elementary and secondary school students with diabetes.
To Public Education.

HB 985 (By Chavez), Relating to the eligibility of certain victims of family violence for unemployment compensation.

To Economic Development.

HB 986 (By Chavez), Relating to information contained on a driver's license or personal identification certificate issued to a health care practitioner.

To Law Enforcement.

HB 987 (By Chisum), Relating to costs incurred by certain persons in relation to complaints filed with the Railroad Commission of Texas against gas utilities.

To Energy Resources.

HB 988 (By Chisum), Relating to the county in which a seller of a motor vehicle may file an application for registration and certificate of title.

To Transportation.

HB 989 (By Chisum), Relating to electric utility rates and riders to provide for recovery of certain transmission investments.

To Regulated Industries.

HB 990 (By Chisum), Relating to the applicability of restrictions on student transfers to certain school districts.

To Public Education.

HB 991 (By Chisum), Relating to authorizing the Texas Commission on Environmental Quality to enter into voluntary emissions reduction agreements with owners of stationary sources or groups of stationary sources.

To Environmental Regulation.

HB 992 (By Martinez), Relating to nursing degree requirements for a licensed paramedic.

To Higher Education.

HB 993 (By Gonzales), Relating to the installment payment of tuition and fees charged by a public junior college for a summer term.

To Higher Education.

HB 994 (By Gonzales), Relating to the tuition charged for certain courses repeated by students attending public junior colleges.

To Higher Education.

HB 995 (By Vo), Relating to the operation of pocket bikes and minimotorbikes; providing penalties.

To Law Enforcement.

HB 996 (By Geren), Relating to county authority to regulate the placement of water wells in unincorporated areas of the county; providing a penalty.

To Natural Resources.

HB 997 (By Geren), Relating to procedures for compensating owners of outdoor advertising that is subject to condemnation or obstruction by certain governmental entities or public utilities.

To Transportation.

HB 998 (By Eiland), Relating to insurance market conduct surveillance; imposing sanctions.

To Insurance.

HB 999 (By Hughes), Relating to the duration of a lien for the enforcement of child support arrearages.

To Juvenile Justice and Family Issues.

HB 1000 (By Farabee), Relating to the registration of a manufactured home community with the Texas Department of Housing and Community Affairs.

To Urban Affairs.

HB 1001 (By Luna, P. King, Eiland, and Turner), Relating to the compensation of state judges and to the computation of retirement benefits for members of the elected class of the Employees Retirement System of Texas.

To Judiciary.

HB 1002 (By Flores), Relating to the exclusion of urban property from irrigation districts and subsequent water use.

To Natural Resources.

HB 1003 (By Flores), Relating to the abolition of certain water control and improvement, water improvement, and irrigation districts.

To Natural Resources.

HB 1004 (By Hegar), Relating to a debt finance curriculum requirement in public high schools.

To Public Education.

HB 1005 (By Miller), Relating to the repeal of the franchise tax.

To Ways and Means.

HB 1006 (By Isett), Relating to certain limitations on the ad valorem tax rates of certain taxing units.

To Ways and Means.

HB 1007 (By Ritter), Relating to certain low-interest home loan programs administered by the Texas State Affordable Housing Corporation.

To Urban Affairs.

HB 1008 (By Martinez Fischer), Relating to public access to certain information and materials.

To Public Health.

HB 1009 (By Corte), Relating to the authority of a port authority, a navigation district, or certain other persons to use electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate for port security purposes.

To Defense Affairs and State-Federal Relations.

HB 1010 (By Corte), Relating to the eligibility of children of certain military personnel to receive Texas B-On-time loans.

To Defense Affairs and State-Federal Relations.

HB 1011 (By Hilderbran), Relating to the removal of the dedication for certain cemeteries.

To Culture, Recreation, and Tourism.

HB 1012 (By Hilderbran), Relating to the offenses of abuse of a corpse and desecration of cemetery; providing a criminal penalty.

To Criminal Jurisprudence.

HB 1013 (By Callegari), Relating to the annexation of territory to a public junior college district.

To Higher Education.

HJR 39 (By Laubenberg), Proposing a constitutional amendment to require the house of representatives to take a record vote on approval of a bill or joint resolution.

To State Affairs.

HJR 40 (By Riddle), 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 three percent or more.

To Ways and Means.

HJR 41 (By Casteel), Proposing a constitutional amendment prohibiting the state from reducing the proportion of the costs paid by the state for a function imposed by the state on political subdivisions; from requiring political subdivisions to perform a new function or to perform an existing function in a more costly way unless the state pays for the new or additional costs; and from otherwise adopting a law that requires the expenditure of money by a political subdivision for any purpose unless state funding for the purpose is provided.

To Ways and Means.

HJR 42 (By Van Arsdale), Proposing a constitutional amendment to change the name of the Railroad Commission to the Energy Commission.

To Energy Resources.

HJR 43 (By Flynn), Proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

To Financial Institutions.

HJR 44 (By McReynolds), Proposing a constitutional amendment to authorize an increase in the amount of the ad valorem tax exemptions for veterans who are certified as having certain disability ratings.

To Ways and Means.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

HR 164 (By Gattis), Granting permission to Texas Aggie Muster to use the chamber of the Texas House of Representatives on April 21, 2005.

To House Administration.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 9**HCR 57, HCR 61**

APPENDIX

ENROLLED**February 10 - HCR 52, HCR 57****February 11 - HCR 61****SIGNED BY THE GOVERNOR****February 11 - HCR 12, HCR 15, HCR 23, HCR 32, HCR 38, HCR 39,
HCR 43, HCR 45**