

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

TWENTIETH DAY — MONDAY, FEBRUARY 21, 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 29).

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; Escobar; Farabee; 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; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Noriega, M.

Absent — Farrar; Oliveira; Raymond.

The invocation was offered by Paul Ferguson, Jr., pastor, St. Andrew Lutheran Church, Houston, as follows:

Dear Lord, we have so many things for which to be thankful. As a nation, we have been granted many freedoms that are not available to people of other countries. We have freedom of speech and, most important, the freedom to worship you.

Lord, today we recognize the members of our armed forces who strive to ensure that our country remains strong and free. We ask that you bless all service members stationed throughout the world. Remember those who have given their lives for their country. Lord, we ask that you also bless the families of our service members and continue to watch over them during times of hardship and separation.

Father, we commend our nation to your care, that being guided by your hand, we may dwell in your peace. We ask a special blessing for the President of the United States, for our governor, and for all elected officials, and we thank you for the strength and guidance you have provided them. May our leaders be ever mindful of their calling to serve instead of being served. May your commandments be their guide. And grant that both rulers and people will serve you with one mind and heart. In your name we pray. Amen.

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

LEAVE OF ABSENCE GRANTED

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

M. Noriega on motion of T. King.

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 Farabee who presented Dr. Medhat Michael of Wichita Falls as the "Doctor for the Day."

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

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. 12).

(Chisum in the chair)

HCR 65 - ADOPTED (by Giddings and A. Allen)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HCR 65**.

The motion prevailed.

The following resolution was laid before the house:

HCR 65, Designating February 2005 as Black History Month in Texas.

(Speaker in the chair)

HCR 65 was adopted.

HR 381 - ADOPTED**(by D. Jones)**

Representative D. Jones moved to suspend all necessary rules to take up and consider at this time **HR 381**.

The motion prevailed.

The following resolution was laid before the house:

HR 381, Congratulating Jerry Casstevens of Lubbock on his retirement from the South Plains Association of Governments.

HR 381 was adopted.

HR 453 - ADOPTED**(by Eissler)**

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 453**.

The motion prevailed.

The following resolution was laid before the house:

HR 453, Honoring Dan Flynn as he celebrates his birthday on February 21, 2005.

HR 453 was read and was adopted.

INTRODUCTION OF GUESTS

The speaker recognized Representative Wong who introduced members of the Texas Federation of Asian American Chamber of Commerce.

(Raymond now present)

(Hardcastle in the chair)

FIVE DAY POSTING RULE SUSPENDED

Representative Hochberg moved to suspend the five day posting rule to allow the Committee on Public Education, Subcommittee on Technical Formula Issues, to meet upon adjournment today.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Education, Subcommittee on Technical Formula Issues, upon adjournment today, E1.026, for a public hearing, to consider formula issues.

Calendars, upon adjournment today, speakers committee room.

(Speaker in the chair)

PROVIDING FOR ADJOURNMENT

Representative Callegari 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 Jay Harvey of Houston.

The motion prevailed.

(Corte in the chair)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Elections, upon adjournment today, Desk 58, for a formal meeting, to consider corrected minutes.

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.)

ADJOURNMENT

In accordance with a previous motion, the house, at 10:46 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 1220 (By Talton), Relating to the appointment of mental health masters.
To Public Health.

HB 1221 (By Talton), Relating to the determination of whether a motor vehicle is a total loss under an automobile insurance policy.
To Insurance.

HB 1222 (By Puente), Relating to the fee a county tax assessor-collector may charge for assessing and collecting ad valorem taxes for certain river authorities.

To Ways and Means.

HB 1223 (By Puente), Relating to performance standards for toilets sold in this state.

To Natural Resources.

HB 1224 (By Puente), Relating to a study of the effects of take-or-pay contracts on water conservation.

To Natural Resources.

HB 1225 (By Puente), Relating to the grounds for an exemption from cancellation of a water right for nonuse.

To Natural Resources.

HB 1226 (By Puente), Relating to water conservation.

To Natural Resources.

HB 1227 (By P. King), Relating to authorizing a municipality to require the relocation of a utility facility located in a municipal right-of-way.

To Regulated Industries.

HB 1228 (By Delisi), Relating to persons who are authorized to conduct a marriage ceremony.

To Juvenile Justice and Family Issues.

HB 1229 (By Hilderbran), Relating to the powers, duties, and directors of the Menard County Underground Water District and the directors of the Menard County Water Control and Improvement District No. 1.

To Natural Resources.

HB 1230 (By Hilderbran), Relating to the name, powers, duties, and directors of the Menard County Water Control and Improvement District No. 1 and the directors of the Menard County Underground Water District.

To Natural Resources.

HB 1231 (By Castro), Relating to the authority of counties to establish petty cash funds.

To County Affairs.

HB 1232 (By Castro), Relating to the payment of certain expenses of a public project financed by certificates of obligation.

To County Affairs.

HB 1233 (By Paxton), Relating to certain assessments on residential development in public school districts.

To Public Education.

HB 1234 (By Paxton), Relating to the appointment of substitute trustees in certain foreclosures.

To Financial Institutions.

HB 1235 (By Paxton), Relating to the notice required for a sale of real property under a contract lien.

To Financial Institutions.

HB 1236 (By Paxton), Relating to an exemption from The Real Estate License Act for persons who conduct foreclosure sales.

To Licensing and Administrative Procedures.

HB 1237 (By Paxton), Relating to binding arbitration clauses in certain residential construction contracts; providing an administrative penalty.

To State Affairs.

HB 1238 (By Paxton and Hughes), Relating to distribution of certain child support payments by the state disbursement unit.

To Judiciary.

HB 1239 (By Hodge), Relating to the implementation of unified drug enforcement strategies.

To Corrections.

HB 1240 (By Hochberg), Relating to maintenance of a common nuisance on the property of a condominium owners' association.

To Urban Affairs.

HB 1241 (By Hopson), Relating to the creation of the Houston County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

To Natural Resources.

HB 1242 (By Hopson), Relating to the harassment of persons by individuals under arrest or detained by a peace officer; creating an offense.

To Criminal Jurisprudence.

HB 1243 (By Hopson), Relating to venue for the prosecution of certain offenses involving health professions.

To Public Health.

HB 1244 (By Hopson), Relating to specialty license plates for classic travel trailers.

To Transportation.

HB 1245 (By Hopson), Relating to the enforcement of the condition for release on bond of a defendant charged with certain intoxication offenses that requires the use of a motor vehicle ignition interlock device; providing penalties.

To Criminal Jurisprudence.

HB 1246 (By Villarreal), Relating to eligibility for enrollment in public school prekindergarten classes.

To Public Education.

HB 1247 (By Villarreal), Relating to the application of certain local permit requirements to projects that threaten water availability or quality.

To Land and Resource Management.

HB 1248 (By Villarreal), Relating to erecting an off-premise sign adjacent to and visible from certain roads.

To Transportation.

HB 1249 (By Reyna), Relating to criminal punishment for aggressive driving that results in the death of a person.

To Criminal Jurisprudence.

HB 1250 (By Luna), Relating to the Texas Coastal Ocean Observation Network.

To Land and Resource Management.

HB 1251 (By Guillen), Relating to the creation of an offense of using a telephone while operating a bus.

To State Affairs.

HB 1252 (By Guillen), Relating to providing services for persons with chronic kidney disease under the medical assistance program.

To Public Health.

HB 1253 (By Kuempel), Relating to projects that may be undertaken by certain development corporations for career or learning centers.

To Economic Development.

HB 1254 (By Turner), Relating to the termination of agreements with certain insurance agents.

To Insurance.

HB 1255 (By Coleman), Relating to an increased penalty for certain privileged parking offenses.

To Transportation.

HB 1256 (By Goodman), Relating to the designation of certain adults to exercise child visitation and possession rights on behalf of a parent serving in the armed forces and deployed outside this country.

To Juvenile Justice and Family Issues.

HB 1257 (By Campbell), Relating to depredation caused by deer; providing a penalty.

To Culture, Recreation, and Tourism.

HB 1258 (By Orr), Relating to the definition of a primary job with respect to a project that may be undertaken by a development corporation.

To Economic Development.

HB 1259 (By Peña), Relating to a risk assessment for Type 2 diabetes.

To Public Health.

HB 1260 (By Farabee), Relating to requiring the Texas Department of Transportation, for the purpose of determining the appropriate registration fee, to collect, use, and distribute information relating to the weights and carrying capacities of pickup trucks offered for sale in this state.

To Transportation.

HB 1261 (By Farabee), Relating to placement of a mechanic's lien on residential real property.

To Business and Industry.

HB 1262 (By Farabee), Relating to the collection and dissemination by the Department of Public Safety of information relating to certain threats against detention officers.

To Law Enforcement.

HB 1263 (By Harper-Brown, et al.), Relating to an urban school choice pilot program for certain public school students.

To Public Education.

HB 1264 (By Geren), Relating to the repeal of the restriction on the amount of money in the water infrastructure fund that may be used for certain purposes in a fiscal year.

To Natural Resources.

HB 1265 (By Howard), Relating to restrictions on the issuance of public securities.

To State Affairs.

HB 1266 (By Howard), Relating to the selection of the board of directors of an appraisal district.

To Local Government Ways and Means.

HB 1267 (By R. Cook), Relating to changing the name of the Texas Industrial Fire Training Board to the Texas Industrial Emergency Services Board.

To County Affairs.

HB 1268 (By Bohac), Relating to the information included on a voter registration application.

To Elections.

HB 1269 (By Bohac), Relating to the manner in which a voter may make a change in the voter's registration information.

To Elections.

HB 1270 (By Bohac), Relating to the qualifications of a deputy voter registrar.

To Elections.

HB 1271 (By Bohac), Relating to the voter registration of certain persons disqualified from jury service.

To Judiciary.

HB 1272 (By Chavez), Relating to certain requirements for prekindergarten programs for public school students.

To Public Education.

HB 1273 (By Kolkhorst, R. Cook, and Bonnen), Relating to the development of the Trans-Texas Corridor.

To Transportation.

HB 1274 (By Hardcastle), Relating to the service area of the Ranger Junior College District.

To Higher Education.

HB 1275 (By Zedler), Relating to the punishment for the offense of injury to a child.

To Criminal Jurisprudence.

HB 1276 (By Hughes), Relating to the appointment of counsel for indigent defendants.

To Criminal Jurisprudence.

HB 1277 (By Casteel), Relating to limits on the size of prekindergarten classes in public schools.

To Public Education.

HB 1278 (By Hope), Relating to academic advisors at public institutions of higher education.

To Higher Education.

HB 1279 (By Hope), Relating to the compensation of official court reporters for statutory county courts in Montgomery County.

To Judiciary.

HB 1280 (By Hope), Relating to driving on a roadway laned for traffic.

To Transportation.

HB 1281 (By Isett), Relating to the creation of spot-incentive awards for certain state employees.

To Government Reform.

HB 1282 (By Isett), Relating to the use of a prescription drug formulary by a group health benefit plan.

To Insurance.

HB 1283 (By Truitt), Relating to the continuation and functions of the Texas State Board of Examiners of Professional Counselors; providing an administrative penalty.

To Human Services.

HB 1284 (By Swinford), Relating to the exception from required public disclosure of a photograph of a peace officer.

To State Affairs.

HB 1285 (By Swinford), Relating to the exception from required disclosure under the public information law of certain audit working papers.

To State Affairs.

HB 1286 (By Callegari), Relating to the regulation of service contract providers and administrators.

To Licensing and Administrative Procedures.

HB 1287 (By Leibowitz), Relating to county abatement of a public nuisance.

To County Affairs.

HB 1288 (By Leibowitz), Relating to reducing the amount of school tax credits authorized by the Texas Economic Development Act.

To Ways and Means.

HB 1289 (By Leibowitz), Relating to the use of direct recording electronic voting machines.

To Elections.

HB 1290 (By Flynn), Relating to imposing a cost on conviction to reimburse counties for medical expenses incurred by jail inmates.

To Criminal Jurisprudence.

HB 1291 (By Hilderbran), Relating to authorizing the issuance of not more than \$10 million in revenue bonds for the purchase and retirement of certain commercial fishing, shrimping, and crabbing licenses.

To Culture, Recreation, and Tourism.

HB 1292 (By Hilderbran), Relating to the allocation and use of revenue from the sales tax imposed on sporting goods.

To Ways and Means.

HB 1293 (By Nixon), Relating to requiring a voter to present proof of identification.

To Elections.

HB 1294 (By Rose), Relating to permissive interlocutory appeals in civil actions.

To Civil Practices.

HB 1295 (By Rose), Relating to authorizing the issuance of revenue bonds for Texas State University–San Marcos for the construction of a fine arts and communications center.

To Higher Education.

HB 1296 (By Rose), Relating to authorizing the issuance of revenue bonds for Texas State University–San Marcos for the construction of an undergraduate academic center.

To Higher Education.

HB 1297 (By Rose), Relating to authorizing the issuance of revenue bonds for Texas State University–San Marcos for infrastructure repairs and improvements.

To Higher Education.

HB 1298 (By Rodriguez), Relating to requiring hepatitis C training for nurses and physician assistants.

To Public Health.

HB 1299 (By Rodriguez), Relating to the delegation of authority to the executive director or staff of the Texas Commission on Environmental Quality and to the appeal of actions of the executive director or staff.

To Environmental Regulation.

HB 1300 (By Nixon), Relating to requiring that a driver's license or personal identification certificate issued by the Department of Public Safety state whether the holder is a citizen of the United States.

To Law Enforcement.

HB 1301 (By Nixon), Relating to reimbursement of costs incurred in certain proceedings before the Railroad Commission of Texas.

To Energy Resources.

HB 1302 (By Madden), Relating to the penalty for a parent who fails to require a child to attend school.

To Public Education.

HB 1303 (By Coleman), Relating to mercury contamination in fish and shellfish.

To Culture, Recreation, and Tourism.

HB 1305 (By Van Arsdale), Relating to venue in an action concerning the constitutionality of the school finance system and to direct appeal to the supreme court of such an action.

To Judiciary.

HB 1306 (By Naishtat), Relating to a feasibility study regarding the creation of a federal criminal history record clearinghouse at the Department of Public Safety.

To Law Enforcement.

HB 1307 (By Hartnett), Relating to criminal background checks on users of online relationship services.

To Business and Industry.

HB 1308 (By Ritter), Relating to a waiver of concealed handgun license fees for certain members and veterans of the United States armed forces.

To Defense Affairs and State-Federal Relations.

HB 1309 (By Ritter), Relating to certain identifying information contained in the case file maintained by a county clerk for a decedent's estate.

To Judiciary.

HB 1310 (By Ritter), Relating to the authority of certain local dispute resolution centers to collect a fee from persons receiving dispute resolution services from the centers.

To Civil Practices.

HB 1311 (By Puente), Relating to requiring a course in multicultural or gender studies in baccalaureate degree programs at public institutions of higher education.

To Higher Education.

HB 1312 (By Villarreal), Relating to the place where certain abortions may be performed.

To State Affairs.

HB 1313 (By Chisum), Relating to establishment of a defined contribution health care benefits program for certain active state employees that is operated through the establishment of health reimbursement arrangements.

To Insurance.

HB 1314 (By Chisum), Relating to operation of certain machinery or equipment near high-voltage lines.

To State Affairs.

HB 1315 (By Phillips), Relating to the inspection and certification of juvenile detention and correctional facilities.

To Juvenile Justice and Family Issues.

HB 1316 (By Zedler), Relating to immunization requirements for children in regulated child-care facilities.

To Public Health.

HB 1317 (By Driver), Relating to the licensing and regulation of certain electricians.

To Licensing and Administrative Procedures.

HB 1318 (By Dawson), Relating to the state providing grave markers for certain members of the state military forces.

To Defense Affairs and State-Federal Relations.

HB 1319 (By Giddings), Relating to business entities and associations.

To Business and Industry.

HB 1320 (By Truitt), Relating to continuation and functions of the Texas State Board of Social Worker Examiners.

To Human Services.

HB 1321 (By Giddings), Relating to the prevention and punishment of identity theft and the rights of certain victims of identity theft; providing penalties.

To Criminal Jurisprudence.

HB 1322 (By Kolkhorst), Relating to testing and examination fee requirements for persons completing certain driver education courses.

To Law Enforcement.

HB 1323 (By Swinford), Relating to the prosecution of the offense of credit card or debit card abuse.

To Criminal Jurisprudence.

HB 1324 (By Peña), Relating to the punishment for the offense of burglary of vehicles.

To Criminal Jurisprudence.

HB 1325 (By Eissler), Relating to the ability of public school employees to communicate with members of a school district board of trustees.

To Public Education.

HB 1326 (By Hope), Relating to community supervision and corrections departments and to the immunity of certain judges for administrative acts in connection with those departments.

To Judiciary.

HB 1327 (By Isett), Relating to the constitutional limitation on the rate of growth of state appropriations and the constitutional creation of three special funds to replace the economic stabilization fund.

To Appropriations.

HB 1329 (By Chisum), Relating to the authority of a city to take certain actions with regard to certain pipelines.

To Energy Resources.

HB 1347 (By Isett), Relating to the power of a local authority to enforce compliance with a traffic-control signal on a highway under its jurisdiction by a photographic traffic signal enforcement system.

To Urban Affairs.

HJR 50 (By Pitts), Proposing a constitutional amendment authorizing a state property tax for public education.

To Ways and Means.

SIGNED BY THE SPEAKER

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

House List No. 12

HCR 58

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

February 17

Urban Affairs - **HB 259**

February 18

Land and Resource Management - **HB 266**

Urban Affairs - **HB 304**

ENROLLED

February 17 - HCR 50, HCR 68

February 18 - HCR 58

SENT TO THE GOVERNOR

February 17 - HCR 51, HCR 52, HCR 57, HCR 61, HCR 64

