

# HOUSE JOURNAL

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SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

TWENTY-SIXTH DAY — WEDNESDAY, MARCH 2, 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 38).

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; 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; 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; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; Wong; Woolley; Zedler.

Absent, Excused — Escobar; Frost; Krusee; Taylor; West.

The invocation was offered by Jon Sherman, pastor, Trinity Bible Church, Weatherford, as follows:

Our Heavenly Father, we thank you for this day and the opportunity to serve you and represent you in our civic duties. We thank you for this sacred room; we thank you for the pioneers who sacrificed themselves to establish it and for all who continue to sacrifice themselves to defend it.

Lord, we look to you today. Because you are our God, we look to you for grace and truth to live by; because you are our shepherd, we look to you for guidance and provision; because you are our teacher, we look to you for correction and instruction; because you are our paraclete, we look to you for comfort and encouragement; and because you are our friend, we look to you for patience and joy as we share life—and life's duties—together.

Father, I am reminded this morning of an occasion when Jesus visited the temple. After taking in the scene, he boldly exclaimed to the people conducting improper business that his father's house was a house of prayer.

Well, Lord, here we are in the Texas House of Representatives. This is a house of legislation, but may it also be a house of truth; law, but may it also be a house of love; diversity, but may it also be a house of unity; power, but may it ever be a house of prayer.

Lord, I ask for your blessing upon these men and women who both represent and lead the people of this great state. Many do so at a great personal cost. So, Father, as you did for Job, double your blessings upon them. For every sacrifice they make, double your blessings; for every hardship they endure, double your blessings. Supernaturally enable them to redeem their time with their family and friends back home.

You are the Heavenly Father who lavishes love upon his children. You are the God who graciously gives us all things to enjoy. And so I ask that you would so lavish your love and grace upon these humble servants today, that they would be renewed in spirit and strength to serve you and the great State of Texas. And this we ask in Jesus' name. Amen.

The speaker recognized Representative P. King 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 tomorrow because of important business in the district:

Taylor on motion of Griggs.

The following member was granted leave of absence for today and tomorrow because of a death in the family:

Escobar on motion of Gonzales.

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

Krusee on motion of Hilderbran.

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

Frost on motion of Otto.

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

West on motion of Farabee.

#### **CAPITOL PHYSICIAN**

The speaker recognized Representative Jackson who presented Dr. John R. Richmond of Dallas as the "Doctor for the Day."

The house welcomed Dr. Richmond 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. 15).

### **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).

### **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.

### **HR 556 - ADOPTED (by Hill)**

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 556**.

The motion prevailed.

The following resolution was laid before the house:

**HR 556**, Honoring the University of Texas at Dallas chess team.

(Callegari in the chair)

**HR 556** was read and was adopted.

### **INTRODUCTION OF GUESTS**

The chair recognized Representative Hill who introduced members of the University of Texas at Dallas chess team.

### **HR 593 - ADOPTED (by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 593**.

The motion prevailed.

The following resolution was laid before the house:

**HR 593**, Honoring the Independent Electrical Contractors of Texas for promoting safety and education within the industry.

**HR 593** was read and was adopted.

### **HR 557 - ADOPTED (by Hill)**

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 557**.

The motion prevailed.

The following resolution was laid before the house:

**HR 557**, Welcoming the members of the government honors program of the University of Texas at Dallas to the State Capitol on March 2, 2005.

**HR 557** was read and was adopted.

**HR 254 - ADOPTED**

**(by Hill)**

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 254**.

The motion prevailed.

The following resolution was laid before the house:

**HR 254**, Honoring the 50th anniversary of the Richardson Police Department.

**HR 254** was read and was adopted.

On motion of Representative Elkins, the names of all the members of the house were added to **HR 254** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representative Hill who introduced Larry Zacharias, chief of the Richardson Police Department.

**HCR 84 - ADOPTED**

**(by Bonnen)**

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HCR 84**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 84**, Designating September 2005 as Leukemia and Lymphoma Awareness Month.

**HCR 84** was read and was adopted.

**HR 577 - ADOPTED**

**(by Hill)**

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 577**.

The motion prevailed.

The following resolution was laid before the house:

**HR 577**, Recognizing March 2, 2005, as Richardson's Telecom Corridor Legislative Day.

(B. Cook in the chair)

**HR 577** was read and was adopted.

### **INTRODUCTION OF GUESTS**

The chair recognized Representative Hill who introduced a delegation from Richardson.

#### **HCR 87 - ADOPTED (by Homer)**

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 87**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 87**, Designating March 2, 2005, as Mount Pleasant/Titus County Day at the State Capitol.

**HCR 87** was read and was adopted.

#### **HR 486 - ADOPTED (by Flynn)**

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 486**.

The motion prevailed.

The following resolution was laid before the house:

**HR 486**, Recognizing March 2, 2005, as Rains County Day at the State Capitol.

**HR 486** was read and was adopted.

On motion of Representative Hughes, the names of all the members of the house were added to **HR 486** as signers thereof.

#### **HR 17 - ADOPTED (by Callegari and Wong)**

Representative Callegari moved to suspend all necessary rules to take up and consider at this time **HR 17**.

The motion prevailed.

The following resolution was laid before the house:

**HR 17**, Honoring James Dannenbaum on being named the 2004 Houston Engineer of the Year.

**HR 17** was read and was adopted.

On motion of Representative Hamric, the names of all the members of the house were added to **HR 17** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Callegari who introduced James Dannenbaum and his wife Shirley.

**HR 592 - ADOPTED  
(by Alonzo)**

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 592**.

The motion prevailed.

The following resolution was laid before the house:

**HR 592**, Honoring Eusebio Perez of Dallas on his 100th birthday.

**HR 592** was adopted.

**HR 458 - ADOPTED  
(by Deshotel)**

Representative Deshotel moved to suspend all necessary rules to take up and consider at this time **HR 458**.

The motion prevailed.

The following resolution was laid before the house:

**HR 458**, Congratulating Susan Elizabeth Fisher of Southwestern University on earning the Outstanding Accounting Student Award.

**HR 458** was read and was adopted.

**HR 585 - ADOPTED  
(by Geren)**

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 585**.

The motion prevailed.

The following resolution was laid before the house:

**HR 585**, Congratulating the White Settlement Independent School District on the occasion of the ground breaking ceremony for the new Brewer High School campus.

**HR 585** was adopted.

**HR 578 - ADOPTED  
(by Keel)**

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 578**.

The motion prevailed.

The following resolution was laid before the house:

**HR 578**, Commending the members of Celebrate Texas for their efforts in organizing Texas Independence Day activities.

**HR 578** was adopted.

### INTRODUCTION OF GUESTS

The chair recognized Representative Keel who introduced members of Celebrate Texas.

### GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

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

#### **HB 231 ON SECOND READING** (by Hartnett)

**HB 231**, A bill to be entitled An Act relating to trial by special judge in civil and family law cases.

**HB 231** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: No members registered their position on this measure.)

#### **HB 304 ON SECOND READING** (by Talton, Bailey, Reyna, Peña, Hughes, et al.)

**HB 304**, A bill to be entitled An Act relating to conditions of employment for police officers employed by certain municipalities.

#### **Amendment No. 1**

Representative Talton offered the following amendment to **HB 304**:

Amend **HB 304** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 142, Local Government Code, is amended by designating Sections 142.001-142.013 as Subchapter A and adding a heading for Subchapter A to read as follows:

#### SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 142, Local Government Code, is amended by adding Subchapter B to read as follows:

#### SUBCHAPTER B. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.051. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

- (1) with a population of 50,000 or more; or
- (2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

- (1) has adopted Chapter 174;
- (2) is covered by Subchapter H, I, or J, Chapter 143; or

(3) has a population of one million or more and has not adopted Chapter 143.

Sec. 142.052. DEFINITIONS. In this subchapter:

(1) "Police officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other law, and who is employed by a municipality.

(2) "Police officers association" means an employee organization in which police officers employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting police officers.

(3) "Public employer" means a municipality or a law enforcement agency of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of police officers employed by the municipality.

Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a police officers association a petition signed by the majority of all police officers, excluding the head of the law enforcement agency for the municipality and excluding the employees exempt under Section 142.058(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the police officers employed by the municipality, excluding the head of the law enforcement agency for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and find that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.054 to determine whether the association represents a majority of the affected police officers.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected police officers of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and find that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter.



Sec. 142.054. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.053(a)(3) to determine whether a police officers association represents a majority of the covered police officers shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the police officers eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Sec. 142.055. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.053 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the first anniversary of the date of the election.

Sec. 142.056. CHANGE OR MODIFICATION OF RECOGNITION. (a) The police officers may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 142.054 regarding whether to do so.

Sec. 142.057. STRIKES PROHIBITED. (a) A police officer employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A police officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the police officer may have as a result of the officer's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 142.058. RECOGNITION OF POLICE OFFICERS ASSOCIATION.

(a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.053 or 142.054 as the sole and exclusive bargaining agent for the covered police officers described in the petition for recognition, excluding the head of the law enforcement agency and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the law enforcement agency of the municipality under Section 143.014 or that are exempt by the mutual agreement of the recognized police officers association and the public employer.

(c) The public employer shall recognize the police officers association until recognition of the association is withdrawn, in accordance with Section 142.056, by a majority of the police officers eligible to sign a petition for recognition.

Sec. 142.059. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality acting under this subchapter may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the police officers association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized police officers association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized police officers association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized police officers association is in effect, the public employer may not accept a petition, with regard to the police officers of the municipality requesting an election to adopt:

- (1) municipal civil service under Chapter 143; or
- (2) collective bargaining under Chapter 174.

Sec. 142.060. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of police officers by the municipality.

(b) A police officers association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the police officers of the municipality who are not the head of the law enforcement agency or exempt under Section 142.058(b).

Sec. 142.061. PROTECTED RIGHTS OF POLICE OFFICER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the police officers association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Sec. 142.062. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Sec. 142.063. OPEN DELIBERATIONS. A deliberation relating to meeting and conferring between a public employer and a police officers association, a deliberation relating to an agreement or proposed agreement under this subchapter by a quorum of a police officers association authorized to meet and confer, or a deliberation by a member of a public employer authorized to meet and confer must be open to the public and comply with state law.

Sec. 142.064. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized police officers association, and the police officers covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized police officers association ratified the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Sec. 142.065. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a police officers association under Section 142.053 without conducting an election under Section 142.055 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association;

and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a police officers association after conducting an election under Section 142.055 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.055.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing \_\_\_\_\_ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Sec. 142.066. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized police officers association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on \_\_\_\_\_ (date agreement was ratified) by the \_\_\_\_\_ (name of the governing body of the municipality) and the police officers employed by the City of \_\_\_\_\_ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Sec. 142.068. EFFECT ON EXISTING BENEFITS. This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning police officers' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

SECTION 3. This Act takes effect September 1, 2005.

(Speaker in the chair)

## **Amendment No. 2**

Representative Talton offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 as follows:

(1) On page 4, line 29, strike "first" and substitute "second".

(2) On page 7, line 27, insert "ready to be" between "is" and "ratified".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

**HB 304**, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: B. Brown, Chisum, B. Cook, Flynn, Isett, B. Keffer, Madden, McCall, Phillips, and Zedler recorded voting no.)

### **CSHB 380 ON SECOND READING**

**(by West)**

**CSHB 380**, A bill to be entitled An Act relating to oil and gas well plugging insurance policies.

**CSHB 380** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: No members registered their position on this measure.)

### **HB 639 ON SECOND READING**

**(by Bailey)**

**HB 639**, A bill to be entitled An Act relating to complaints against certain peace officers and fire fighters.

Representative Bailey moved to postpone consideration of **HB 639** until 10 a.m. Tuesday, March 8.

The motion prevailed.

### **HB 774 ON SECOND READING**

**(by Hegar)**

**HB 774**, A bill to be entitled An Act relating to the Interstate Pest Control Compact.

**HB 774** was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: No members registered their position on this measure.)

### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Environmental Regulation, upon adjournment today, Desk 69, for a formal meeting, to consider pending business.

Elections, 2 p.m. or upon final adjournment today, JHR 130, for a work session to view voting systems certified by the secretary of state and in use in Texas.

Energy Resources will reconvene at 12:30 p.m. today, E1.010.

(Hill in the chair)

### **PROVIDING FOR ADJOURNMENT**

Representative Gonzales 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 Filomeno Escobar of San Antonio.

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.)

(Goodman in the chair)

### **ADJOURNMENT**

In accordance with a previous motion, the house, at 11:47 a.m., adjourned until 10 a.m. tomorrow.

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### **ADDENDUM**

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#### **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 4** (By Grusendorf), Relating to the use of technology by public schools.  
To Public Education.

**HB 1659** (By Chavez), Relating to the designation of certain areas of this state as enterprise zones under the enterprise zone program.  
To Economic Development.

**HB 1660** (By Chavez), Relating to a cross-border language training program for language teachers.  
To Public Education.

**HB 1661** (By Martinez Fischer), Relating to procedures for certain persons charged with an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or mandatory supervision.  
To Corrections.

**HB 1662** (By Gattis), Relating to the eligibility of a criminal defendant for release from jail after a delay in prosecution.

To Criminal Jurisprudence.

**HB 1663** (By Blake), Relating to the creation and operation of a Texas Certified Retirement Community Program.

To Economic Development.

**HB 1664** (By Harper-Brown), Relating to the itemized reporting of political contributions accepted by certain general-purpose committees.

To Elections.

**HB 1665** (By Hopson), Relating to a study of the effectiveness of rate regulation for medical malpractice insurance.

To Insurance.

**HB 1666** (By Hopson), Relating to a tax credit for certain corporations obtaining coverage for their employees under a health benefit plan.

To Ways and Means.

**HB 1667** (By Hopson), Relating to authorizing the issuance of revenue bonds for the University of Texas Health Science Center at Tyler.

To Higher Education.

**HB 1668** (By Eissler and Grusendorf), Relating to the governor's award for teaching excellence program.

To Public Education.

**HB 1669** (By Rose), Relating to health benefit plan coverage for the diagnosis and treatment of eating disorders.

To Insurance.

**HB 1670** (By R. Cook), Relating to the resolution of conflicts between regional water plans and groundwater conservation district management plans.

To Natural Resources.

**HB 1671** (By Hunter), Relating to the state's goal for renewable energy.

To Regulated Industries.

**HB 1672** (By Howard), Relating to disposition of costs imposed in connection with the collection and enforcement of certain tolls.

To Transportation.

**HB 1673** (By R. Cook), Relating to the procedure for conversion and creation of a special utility district.

To Natural Resources.

**HB 1674** (By Dukes), Relating to the implementation of the Texas Integrated Eligibility and Redesign System.

To Human Services.

**HB 1675** (By Dukes), Relating to the forced sale of an owner's interest in certain real property.

To Urban Affairs.



**HB 1676** (By Dukes), Relating to providing information about Respiratory Syncytial Virus under certain continuing education programs.

To Public Health.

**HB 1677** (By Dukes), Relating to establishing a sentinel surveillance program for respiratory syncytial virus.

To Public Health.

**HB 1678** (By Hunter), Relating to the operation and movement of a vehicle when a traffic-control signal does not display an indication.

To Transportation.

**HB 1679** (By Bailey), Relating to requiring certain persons providing services to alcoholic beverage permit or license applicants to post a surety bond.

To Licensing and Administrative Procedures.

**HB 1680** (By Callegari), Relating to the administration, powers, duties, and operations of the Harris-Galveston Coastal Subsidence District and the Fort Bend Subsidence District.

To Natural Resources.

**HB 1681** (By McCall), Relating to the imposition of sanctions on an inmate who refuses to cooperate in the taking of a sample or specimen to create a DNA record.

To Corrections.

**HB 1682** (By McCall), Relating to a breach in the security of a computerized data system that includes another person's identifying information; providing a civil penalty.

To Financial Institutions.

**HB 1683** (By Gonzales), Relating to fees and charges imposed by the governing board of a public junior college district.

To Higher Education.

**HB 1684** (By Casteel), Relating to excepting certain real property appraisal information from required disclosure under the public information law.

To State Affairs.

**HB 1685** (By Dukes), Relating to the establishment of an interagency coordinating council for the prevention of child abuse and neglect.

To Juvenile Justice and Family Issues.

**HB 1686** (By Oliveira), Relating to the compensation of presiding judges of administrative judicial regions.

To Judiciary.

**HB 1687** (By Dutton), Relating to fees charged by a juvenile justice alternative education program.

To Juvenile Justice and Family Issues.

**HB 1688** (By Dutton), Relating to the employment of school district peace officers and the enforcement of certain violations under a student code of conduct.

To Law Enforcement.

**HB 1689** (By Dutton), Relating to the burden of proof required to remove or expel a student from public school.

To Public Education.

**HB 1690** (By Keel and Hill), Relating to the elements of common nuisance.

To Civil Practices.

**HB 1691** (By Keel), Relating to the reduction in value of a gift card.

To Business and Industry.

**HB 1692** (By Keel), Relating to the suspension of sentence and the deferral of final disposition for a defendant younger than 25 in certain misdemeanor traffic cases.

To Criminal Jurisprudence.

**HB 1693** (By Naishtat), Relating to an energy-efficient building program.

To Regulated Industries.

**HB 1694** (By Hegar), Relating to authorizing the state auditor to appoint investigators as peace officers.

To Law Enforcement.

**HB 1695** (By Hegar), Relating to the appointment and jurisdiction of cattle rangers.

To Law Enforcement.

**HB 1696** (By Bonnen), Relating to the relocation of utility facilities for state highway purposes.

To Transportation.

**HB 1697** (By McCall), Relating to the use of gifts to fund technology workforce development grants and to the evaluation of the technology workforce development grant program.

To Higher Education.

**HB 1698** (By Puente), Relating to the authority of certain municipalities to invest funds held in a decommissioning trust.

To Regulated Industries.

**HB 1699** (By Laubenberg), Relating to the minimum amount of the salaries of county officers or employees.

To County Affairs.

**HB 1700** (By Riddle), Relating to the regulation of emergency services providers in municipalities or certain counties.

To Urban Affairs.

**HB 1701** (By Keel), Relating to the defense of indigent persons accused of a criminal offense.

To Criminal Jurisprudence.

**HB 1702** (By Van Arsdale), Relating to transferring the powers and duties over railroads from the Railroad Commission of Texas to the Texas Department of Transportation.

To Energy Resources.

**HB 1703** (By Kuempel), Relating to the hunting of certain wounded or dangerous wildlife.

To Culture, Recreation, and Tourism.

**HB 1704** (By Kuempel), Relating to the approval of certain permit applications by local governments.

To Land and Resource Management.

**HB 1705** (By Bonnen), Relating to the release of a solid waste in connection with dredging and placement or storage of dredged material by a political subdivision.

To Environmental Regulation.

**HB 1706** (By Denny), Relating to requiring a voter to present proof of identification.

To Elections.

**HB 1707** (By Puente), Relating to county jail population reports.

To County Affairs.

**HB 1708** (By Baxter), Relating to the applicability of state ethics laws to and indemnification of directors of regional mobility authorities; providing penalties.

To Elections.

**HB 1709** (By Alonzo), Relating to the licensing of health care practitioners from foreign jurisdictions.

To Public Health.

**HB 1710** (By Alonzo), Relating to use of a credit score by a business or lender.

To Business and Industry.

**HB 1711** (By Alonzo), Relating to funding of economic development and job training in certain counties with a high unemployment rate.

To Economic Development.

**HB 1712** (By McClendon), Relating to authorizing the issuance of revenue bonds for The University of Texas at San Antonio.

To Higher Education.

**HB 1713** (By McClendon), Relating to authorizing the issuance of revenue bonds for The University of Texas at San Antonio.

To Higher Education.

**HB 1714** (By Zedler), Relating to the offense of murder of a child.

To Criminal Jurisprudence.

**HB 1715** (By Zedler), Relating to liquidated damages for violating certain requirements relating to executory contracts for the conveyance of certain real property.

To Business and Industry.

**HB 1716** (By Zedler), Relating to the accuracy of certain tax liability estimates in contracts for residential real property.

To Business and Industry.

**HB 1717** (By Zedler), Relating to the requirements for a court interpreter license.

To Judiciary.

**HB 1718** (By Zedler), Relating to the regulation of certain nursing practices.

To Public Health.

**HB 1719** (By Zedler), Relating to point-of-sale health warnings for tobacco products.

To Public Health.

**HB 1720** (By Hamric), Relating to the precedence of certain county highway access rules and ordinances over highway access management orders of the Texas Transportation Commission.

To Transportation.

**HB 1721** (By Baxter), Relating to eligibility of voters to sign ballot access petitions.

To Elections.

**HB 1722** (By Hamric), Relating to creating reasonable regulation of the storage, discharge, safe use, and oversight of fireworks.

To County Affairs.

**HB 1723** (By Hamric), Relating to including within conduct proscribed by various offenses certain conduct involving the discharge of fireworks.

To Criminal Jurisprudence.

**HB 1724** (By Reyna), Relating to the artificial lowering of the sales price of certain tangible personal property; providing penalties.

To Ways and Means.

**HB 1725** (By Casteel), Relating to the authority of another institution of higher education to conduct vocational or technical courses in the service area of a junior college district.

To Higher Education.

**HB 1726** (By Guillen), Relating to the amount of a late charge or reinstatement fee under a rental-purchase agreement.

To Financial Institutions.

**HB 1727** (By Leibowitz), Relating to zoning regulations in certain unincorporated areas of a county; authorizing a tax and providing penalties.

To Land and Resource Management.

**HB 1728** (By Leibowitz), Relating to the procedure for the disannexation of territory from a municipality.

To Land and Resource Management.

**HB 1729** (By Leibowitz), Relating to the expiration of certain local permits.

To Land and Resource Management.

**HB 1730** (By Leibowitz), Relating to the limitation on increases in the appraised value of a residence homestead for ad valorem taxation.

To Ways and Means.

**HB 1731** (By Smithee), Relating to the authority of the board of directors of the South Randall County Hospital District to invest district funds.

To County Affairs.

**HB 1732** (By Solis), Relating to the long-range plan for the South Texas Health Care System and the provision of tuberculosis and other health care services in the Lower Rio Grande Valley.

To Public Health.

**HB 1733** (By Swinford), Relating to prohibiting disclosure of certain records or reports by the Texas Feed and Fertilizer Service.

To State Affairs.

**HB 1734** (By Krusee), Relating to the use of municipal hotel occupancy taxes for the enhancement and upgrading of sports facilities and fields by certain municipalities.

To Local Government Ways and Means.

**HJR 53** (By T. Smith), Proposing a constitutional amendment allowing certain state mandates imposed on a county to have effect only if the state provides for the payment to the county of the cost of the mandate.

To County Affairs.

**HJR 54** (By McClendon), Proposing a constitutional amendment creating the Texas rail relocation and improvement fund and authorizing grants of money and issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of rail facilities.

To Transportation.

**HJR 55** (By Alonzo), Proposing a constitutional amendment to require a house or committee of the legislature to take a record vote on certain legislative measures and actions.

To State Affairs.

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

**HB 1626** (By Nixon), Relating to third-party civil liability for certain persons entering into building or construction contracts.  
To Civil Practices.

**SIGNED BY THE SPEAKER**

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

**House List No. 15**

**HCR 47, HCR 60, HCR 79, HCR 80, HCR 81, HCR 82, HCR 83**

**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  
Tuesday, March 1, 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 19**                      Berman                      SPONSOR: Eltife  
Designating February 28 to March 1, 2005, as Tyler Days at the State Capitol.

**HCR 21**                      Berman                      SPONSOR: Eltife  
Congratulating the Red Raiders football team of Robert E. Lee High School in Tyler on winning the state Class 5A Division I football championship.

**HCR 41**                      Gonzales                      SPONSOR: Hinojosa  
In memory of Judge Fidencio M. Guerra, Sr.

**HCR 75**                      Merritt                      SPONSOR: Eltife  
Congratulating the Kilgore High School football team on winning the 2004 UIL Class 4A Division II State Football Championship.

**HCR 76**                      Laney                      SPONSOR: Duncan  
Congratulating Miss Texas USA 2005 Tyler Willis of Brownfield.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**March 1**

Agriculture and Livestock - **HB 760, HB 901**

Insurance - **HB 935**

Judiciary - **HB 204, HB 564**

**SIGNED BY THE GOVERNOR**

**March 1 - HCR 50, HCR 51, HCR 52, HCR 57, HCR 58, HCR 61,  
HCR 64, HCR 68**

