

HOUSE JOURNAL

EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-EIGHTH DAY (CONTINUED) — WEDNESDAY, APRIL 15, 2009

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 149).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Chavez; Herrero.

Absent — Brown, F.; Crabb; Hardcastle.

The invocation was offered by Dr. Howard Batson, pastor, First Baptist Church, Amarillo, as follows:

Father, these men and women will make some of the most important decisions made by humankind today. Difficult decisions require humility, wisdom, courage, and compassion. Will you, O God, generously bestow these gifts—gifts which reflect your character—upon them today? Allow them to both honor the will of the majority, respect the rights of the minority, and yet never compromise the convictions of their conscience.

While we acknowledge that you are the creator of the entire cosmos and redeemer of all repentant, we have always felt our beloved state received a double portion of your blessing. Help us, O Lord, to never take your good hand for granted nor miss an opportunity to bless others, even as you bless us.

Keep our soldiers abroad safe today, as they represent the freedoms of both our nation and our state; the very freedoms this body so carefully seeks to ensure. Forgive us our failures, as we, likewise, refuse to remember the wrongs we, ourselves, suffer. In his name. Amen.

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

(Hardcastle now present)

CAPITOL PHYSICIAN

The speaker recognized Representative Gattis who presented Dr. Paul Berg of Georgetown as the "Doctor for the Day."

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

LEAVES OF ABSENCE GRANTED

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

Herrero on motion of Alonzo.

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

Chavez on motion of Moody.

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).

(F. Brown now present)

HR 1153 - ADOPTED (by Keffer)

Representative Keffer moved to suspend all necessary rules to take up and consider at this time **HR 1153**.

The motion prevailed.

The following resolution was laid before the house:

HR 1153, In memory of Lloyd Franklin Pitts of Dallas.

HR 1153 was read and was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 1153** as signers thereof.

(Harper-Brown in the chair)

HR 1308 - ADOPTED
(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 1308**.

The motion prevailed.

The following resolution was laid before the house:

HR 1308, Recognizing April 15, 2009, as Reeves County Day at the State Capitol.

HR 1308 was read and was adopted.

HR 1309 - ADOPTED
(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 1309**.

The motion prevailed.

The following resolution was laid before the house:

HR 1309, Recognizing April 15, 2009, as Ward County Day at the State Capitol.

HR 1309 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Gallego who introduced delegations from Reeves and Ward Counties.

HR 1321 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1321**.

The motion prevailed.

The following resolution was laid before the house:

HR 1321, Honoring Rabbi Steven Folberg for his service to Congregation Beth Israel in Austin.

HR 1321 was adopted.

HR 1316 - ADOPTED
(by Lewis)

Representative Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1316**.

The motion prevailed.

The following resolution was laid before the house:

HR 1316, Recognizing April 15, 2009, as Winkler County Day at the State Capitol.

HR 1316 was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Lewis who introduced a delegation from Winkler County.

HR 1320 - ADOPTED (by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1320**.

The motion prevailed.

The following resolution was laid before the house:

HR 1320, Honoring Tony Davila for his service to Congregation Beth Israel in Austin.

HR 1320 was adopted.

HR 1327 - ADOPTED (by Gonzalez Toureilles)

Representative Gonzalez Toureilles moved to suspend all necessary rules to take up and consider at this time **HR 1327**.

The motion prevailed.

The following resolution was laid before the house:

HR 1327, Commemorating the 100th anniversary of the city of Premont.

HR 1327 was adopted.

HR 1329 - ADOPTED (by Gonzalez Toureilles)

Representative Gonzalez Toureilles moved to suspend all necessary rules to take up and consider at this time **HR 1329**.

The motion prevailed.

The following resolution was laid before the house:

HR 1329, Honoring Marine Lance Corporal Justin Rokohl of Orange Grove for his service to his country.

HR 1329 was adopted.

HR 937 - ADOPTED (by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 937**.

The motion prevailed.

The following resolution was laid before the house:

HR 937, Honoring Emmitt Earl Fyles Thomas on his induction into the Pro Football Hall of Fame.

HR 937 was adopted.

On motion of Representatives Kolkhorst and Edwards, the names of all the members of the house were added to **HR 937** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Bonnen who introduced Emmitt Earl Fyles Thomas and members of his family.

(Crabb now present)

(Speaker pro tempore in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

SB 731 (Hardcastle - House Sponsor), A bill to be entitled An Act relating to the sale of certain alcoholic beverages to private club registration permit holders.

HB 118 (by Heflin), A bill to be entitled An Act relating to the grounds for removal of a member of the board of directors of the Lynn County Hospital District.

HB 348 (by Peña), A bill to be entitled An Act relating to the punishment for theft of certain aluminum, bronze, or copper materials.

HB 389 (by Zerwas), A bill to be entitled An Act relating to requirements for expedited credentialing of certain physicians by managed care plans.

CSHB 407 (by Kuempel), A bill to be entitled An Act relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.

HB 523 (by Giddings), A bill to be entitled An Act relating to the contents of a receipt issued for payment of a good or service; providing a civil penalty.

Amendment No. 1

On behalf of Representative Thompson, Representative Giddings offered the following amendment to **HB 523**:

Amend **HB 523** on page 1, line 10, by striking "or other document" from the bill.

Amendment No. 1 was adopted.

HB 558 (by Hernandez), A bill to be entitled An Act relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication.

HB 575 was deferred until the end of today's local, consent, and resolutions calendar.

HB 582 (by Dukes), A bill to be entitled An Act relating to informing the parents and guardians of certain children about the availability of the child health plan and medical assistance programs. (Flynn recorded voting no.)

CSHB 590 (by Crownover), A bill to be entitled An Act relating to the name of the Crime Stoppers Advisory Council.

HB 600 was withdrawn.

HB 659 was withdrawn.

HB 667 was withdrawn.

HB 719 (by Flynn), A bill to be entitled An Act relating to certain content requirements for signs used to identify the location of a polling place during a primary election.

HB 750 (by Y. Davis), A bill to be entitled An Act relating to certain offenses that involve impersonating a peace officer or other public servant and misrepresenting the nature of certain property.

HB 765 (by Hartnett), A bill to be entitled An Act relating to supplemental payments made to certain statutory probate court judges. (Aycock and Kolkhorst recorded voting no.)

HB 780 (by S. Turner), A bill to be entitled An Act relating to eligibility requirements for a beginning police department position in certain municipalities under municipal civil service.

HB 817 (by Shelton), A bill to be entitled An Act relating to the time for dissolution of crime control prevention districts.

HB 890 (by Naishtat), A bill to be entitled An Act relating to the terminology used to describe certain judicial officers.

HB 1060 (by Miklos), A bill to be entitled An Act relating to certain procedures for forwarding a warrant of arrest or a complaint in a criminal case.

HB 1082 was withdrawn.

HB 1255 was withdrawn.

CSHB 1476 (by Sheffield), A bill to be entitled An Act relating to capital stock and surplus requirements for certain insurance companies.

HB 1722 (by Castro, et al.), A bill to be entitled An Act relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Bexar County.

CSHB 1757 (by Thompson), A bill to be entitled An Act relating to review of certain license examinations for insurance agents.

CSHB 1802 (by Bohac), A bill to be entitled An Act relating to mobile food units in certain municipalities.

CSHB 1919 (by Kent, Eiland, and Thompson), A bill to be entitled An Act relating to the maturity dates of certain annuities.

HB 1947 (by Kuempel), A bill to be entitled An Act relating to the election and terms of office of directors of the Guadalupe County Groundwater Conservation District.

HB 2062 (by Gallego), A bill to be entitled An Act relating to the distribution of proceeds from the sale of forfeited property in a criminal case.

HB 2113 (by Walle, et al.), A bill to be entitled An Act relating to the holidays for members of fire and police departments in certain municipalities.

CSHB 2172 (by Chavez, Pickett, and Moody), A bill to be entitled An Act relating to the exemptions from fees imposed by a municipal storm water utility on certain property in certain counties. (Darby recorded voting no.)

HB 2173 (by Pickett, Chavez, Moody, Quintanilla, and Marquez), A bill to be entitled An Act relating to the exemption of certain counties and school districts from the drainage charge imposed by a municipal drainage utility system.

CSHB 2324 (by C. Howard), A bill to be entitled An Act relating to authorizing the Texas Board of Criminal Justice to sell certain real property for municipal airport expansion.

HB 2353 (by Hughes), A bill to be entitled An Act relating to the limitations period for certain disciplinary actions against title insurance companies.

HB 2569 (by Hancock), A bill to be entitled An Act relating to a specialty insurance agent license for certain vendors of portable electronic devices.

Amendment No. 1 (Committee Amendment No. 1)

Representative Hancock offered the following committee amendment to **HB 2569**:

For **HB 2569**, delete page 1, lines 13-20, and insert the following new language:

"Portable Electronic Devices" means: personal, self-contained, easily carried by an individual, battery-operated electronic communication, viewing, listening, recording, gaming, computing or global positioning devices including cell or satellite phones, pagers, personal global positioning satellite units, portable

computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, automatic answering devices, and other similar devices and their accessories.

Amendment No. 1 was adopted.

CSHB 2570 (by Hancock), A bill to be entitled An Act relating to the regulation of stipulated premium insurance companies.

HB 2814 (by Oliveira, Otto, Hilderbran, Martinez Fischer, and Keffer), A bill to be entitled An Act relating to the procedure for claiming an exemption from ad valorem taxation for a motor vehicle used for the production of income and for personal activities.

CSHB 2906 (by Kuempel), A bill to be entitled An Act relating to the expansion of the boundaries of the Cibolo Creek Municipal Authority.

CSHB 3073 (by Geren), A bill to be entitled An Act relating to charges at closing of certain real property transactions.

CSHB 3113 (by Kuempel), A bill to be entitled An Act relating to the eligibility of certain nonprofit wildlife conservation associations to conduct charitable raffles.

HB 3456 (by Branch, Cohen, Zerwas, Kolkhorst, and Pitts), A bill to be entitled An Act relating to the education and preparation of resident physicians.

CSHB 3519 (by Branch, D. Howard, and Button), A bill to be entitled An Act relating to the coordination and administration of the Texas Career Opportunity Grant Program.

CSHB 4004 (by Pickett, Moody, and Quintanilla), A bill to be entitled An Act relating to the management and control of certain utility systems.

HB 4291 (by Smithee), A bill to be entitled An Act relating to insurance charters and certificates of authority.

HB 4339 (by Smithee), A bill to be entitled An Act relating to the establishment and operation of the unauthorized insurance guaranty fund.

CSHB 4344 (by Smithee), A bill to be entitled An Act relating to the regulation of premium rates for long term care insurance.

HB 4359 (by Smithee), A bill to be entitled An Act relating to the registration with the Texas Department of Insurance of certain contract examiners.

CSHB 4540 (by Raymond), A bill to be entitled An Act relating to disposition of proceeds from the development or sale of the rights to natural resources or minerals in land held by Webb County for the county permanent school fund.

HCR 88 (by J. Davis, Hopson, et al.), Directing the Texas Department of State Health Services and the Texas Education Agency to educate parents of adolescent Texans regarding the importance of adolescents' receiving regular physical exams and updated immunizations.

HCR 125 (by Guillen), Urging the U.S. Congress to increase COPS grants for smaller communities and less populated counties in the South Texas High Intensity Drug Trafficking Area.

HB 575 was withdrawn.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Health, Subcommittee on Disease Control Programs, 8:30 a.m. tomorrow, E2.024, for a work session, to consider **HB 142**, **HB 272**, **HB 3707**, and **SB 188**.

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, Senate List No. 15).

ADJOURNMENT

Representative Thompson moved that the house adjourn until 12:35 p.m. today.

The motion prevailed.

The house accordingly, at 12:15 p.m., adjourned until 12:35 p.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

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

Senate List No. 15

SCR 56

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
Wednesday, April 15, 2009

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:

SB 16 Averitt

Relating to the enhancement of air quality, including the capture and storage of carbon dioxide and development of a greenhouse gas registry, the development of emissions reduction technologies, and the improvement of energy efficiency in buildings, vehicles, and appliances; providing civil penalties.

SB 28 Zaffirini

Relating to the use of a computer for an unauthorized purpose; providing a civil penalty.

SB 727 Patrick, Dan

Relating to the creation of DNA records for the DNA database system.

SB 855 Carona

Relating to local options regarding mobility improvement projects in certain counties and municipalities; providing authority to impose a tax, issue bonds, and impose penalties.

SB 1048 Uresti

Relating to requiring dental support for a child subject to a child support order.

SB 1356 Lucio

Relating to a fee associated with the assignment of a vehicle identification number by the Texas Department of Transportation.

SB 1392 Wentworth

Relating to toll collection and enforcement.

SB 1771 Duncan

Relating to the availability and continuation of certain health benefit plan coverage.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, April 15, 2009 - 2

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:

SCR 58 Fraser SPONSOR: Sheffield
Recognizing April 12 through 18, 2009, as Texas Fraternal Week.

Respectfully,
Patsy Spaw
Secretary of the Senate

