

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

SEVENTY-THIRD DAY (CONTINUED) — WEDNESDAY, MAY 11, 2011

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 948).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent — Burnam; Dutton.

The invocation was offered by Dr. Mark Denison, pastor, First Baptist Church, Conroe, as follows:

Our loving and generous Father, we step into your presence today with a sense of awe and reverence. We know that you care uniquely about the affairs of our world, country, and state. We pray for your divine inspiration and leadership for those in national office. But today we especially lift up our state government and this great body, in particular. For our elected representatives, we pray for an unusual endowment of insight and wisdom as they wrestle with difficult issues in difficult times. May they seek you in every decision. Give to them a fresh vision and unity of purpose. Forgive us for the mistakes of the past, and may your light guide our steps of tomorrow. Now, may your richest blessings fall upon the great

State of Texas, her leaders, and her citizens. Thank you for the opportunities of this day, to lead, inspire, work together, and to follow your will. We offer this prayer in the name of Christ, our Savior and Lord. Amen.

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

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Anchia who presented Dr. Horacio Ramirez of San Antonio as the "Doctor for the Day."

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

(Muñoz in the chair)

### **REGULAR ORDER OF BUSINESS SUSPENDED**

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

### **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. 26).

### **HR 1243 - PREVIOUSLY ADOPTED (by Raymond)**

The chair laid out and had read the following previously adopted resolution:

**HR 1243**, Commending Harry Cabluck on his 50-year career as a photojournalist.

On motion of Representative Branch, the names of all the members of the house were added to **HR 1243** as signers thereof.

### **INTRODUCTION OF GUEST**

The chair recognized Representative Raymond who introduced Harry Cabluck.

### **HB 1979 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Laubenberg moved to lay **HB 1979** on the table subject to call.

The motion prevailed.

### **HB 1316 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Torres moved to lay **HB 1316** on the table subject to call.

The motion prevailed.

**HCR 155 - ADOPTED**  
**(by Branch and D. Howard)**

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HCR 155**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 155**, In memory of Shirley Bird Perry, senior vice president of The University of Texas at Austin.

**HCR 155** was read and was unanimously adopted by a rising vote.

On motion of Representative Naishtat, the names of all the members of the house were added to **HCR 155** as signers thereof.

(Burnam now present)

**INTRODUCTION OF GUESTS**

The chair recognized Representative Branch who introduced family members of Shirley Bird Perry and William Powers, president of The University of Texas at Austin.

**HR 1837 - ADOPTED**  
**(by Johnson)**

Representative Johnson moved to suspend all necessary rules to take up and consider at this time **HR 1837**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1837**, Honoring the Fourth Avenue Church of Christ in Dallas on the 50th anniversary of its founding.

**HR 1837** was adopted.

(Speaker pro tempore in the chair)

**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):

**CSHB 590** (by Thompson), A bill to be entitled An Act relating to amended sales tax reports and the reallocation of sales tax revenue. (Cain, Garza, Harless, Landtroop, Price, Simpson, and White recorded voting no.)

**Amendment No. 1**

Representative Thompson offered the following amendment to **CSHB 590**:

Amend **CSHB 590** (house committee printing) to read as follows:

(1) On page 1, strike lines 20-22 and substitute the following:

(B) refunds local tax revenue that was previously allocated to a municipality or local governmental entity; and

(2) On page 3, strike lines 14-16.

(3) On page 3, line 17, strike "(i)" and substitute "(h)".

(4) On page 4, strike lines 23-25 and substitute the following:

(B) refunds local tax revenue that was previously allocated to a county or local governmental entity; and

(5) On page 6, strike lines 13-15.

(6) On page 6, line 16, strike "(i)" and substitute "(h)".

Amendment No. 1 was adopted.

**CSHB 1128** (by Menendez), A bill to be entitled An Act relating to consent to certain medical treatments by a surrogate decision-maker on behalf of certain inmates.

**CSHB 1784** (by Farias), A bill to be entitled An Act relating to requiring an interagency memorandum of understanding regarding the Public Assistance Reporting Information System and to the use of data from that system. (Schwertner recorded voting no.)

**CSHB 1797** (by Naishtat), A bill to be entitled An Act relating to a person's eligibility to obtain a license in social work. (Aycock and Garza recorded voting no.)

**HB 2096** (by Thompson), A bill to be entitled An Act relating to the filing of writs of habeas corpus in mental health cases. (Aycock recorded voting no.)

**CSHB 2102** (by Hernandez Luna, Sheets, Thompson, Harless, and Woolley), A bill to be entitled An Act relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening. (Aycock, Beck, Cain, Craddick, Darby, S. King, Laubenberg, Lavender, Legler, Madden, Margo, D. Miller, Paxton, Riddle, Sheffield, Simpson, V. Taylor, Weber, and Workman recorded voting no.)

**HB 2103** (by Jackson), A bill to be entitled An Act relating to the consideration of a letter of credit issued by a federal home loan bank as an eligible security for collateral to secure public funds.

**HB 2247** (by P. King, Berman, and Flynn), A bill to be entitled An Act relating to the eligibility of the adjutant general's department to receive Foundation School Program funding for students enrolled in the Texas ChalleNGe Academy.

**CSHB 2316** (by Coleman), A bill to be entitled An Act relating to county powers, duties, and services, including the powers and duties of certain districts, and the authorization of certain health care programs and studies. (C. Anderson, Aycock, Beck, Burkett, Carter, Chisum, Frullo, Garza, Harless, Huberty, Kleinschmidt, Kuempel, Laubenberg, Legler, Madden, Perry, Phillips, Price, Schwertner, Sheffield, Shelton, Simpson, V. Taylor, Weber, and Workman recorded voting no.)

**Amendment No. 1**

Representative Coleman offered the following amendment to **CSHB 2316**:

Amend **CSHB 2316** (house committee printing) by striking SECTIONS 3 and 4 of the bill (page 1, line 23, through page 3, line 25) and renumbering subsequent SECTIONS accordingly.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Coleman offered the following amendment to **CSHB 2316**:

Amend **CSHB 2316** (house committee printing) by striking SECTION 8 of the bill (page 5, lines 14-26) and renumbering subsequent SECTIONS accordingly.

Amendment No. 2 was adopted.

**CSHB 2363** (by Flynn), A bill to be entitled An Act relating to the creation of the Bearpen Creek Municipal Utility District of Hunt County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**HB 2380** was withdrawn. (The vote was reconsidered later today, and **HB 2380** was passed to engrossment, as amended.)

**HB 2425** (by Thompson), A bill to be entitled An Act relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

**Amendment No. 1**

Representative Thompson offered the following amendment to **HB 2425**:

Amend **HB 2425** (house committee printing) by striking page 1, line 7 through page 2, line 3 and substituting the following:

Sec. 402.010. LEGAL CHALLENGES TO CONSTITUTIONALITY OF STATE STATUTES. (a) In an action in which a party to the litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state, the court shall, if the attorney general is not a party to or counsel involved in the litigation, serve notice of the constitutional question and a copy of the petition, motion, or other pleading that raises the challenge on the attorney general either by certified or registered mail or electronically to an e-mail address designated by the attorney general for the purposes of this section. Notice under this section must identify the statute in question, state the basis for the challenge, and specify the petition, motion, or other pleading that raises the challenge.

(b) A court may not enter a final judgment holding a statute of this state unconstitutional before the 45th day after the date notice required by Subsection (a) is served on the attorney general.

(c) A court's failure to file or serve notice as required by Subsection (a) does not deprive the court of jurisdiction or forfeit an otherwise timely filed claim or defense based on the challenge to the constitutionality of a statute of this state.

Amendment No. 1 was adopted.

**HB 2492** (by Naishtat), A bill to be entitled An Act relating to the family allowance, treatment of exempt property, and an allowance in lieu of exempt property in the administration of a decedent's estate. (Aycock, Harless, and V. Taylor recorded voting no.)

**CSHB 2595** (by Isaac, et al.), A bill to be entitled An Act relating to the electronic submission and recording of documents associated with voting by mail.

**CSHB 2702** (by Solomons), A bill to be entitled An Act relating to the application of statutes that classify political subdivisions according to population.

**Amendment No. 1**

Representative Solomons offered the following amendment to **CSHB 2702**:

Amend **CSHB 2702** (house committee printing) on page 17, line 18, by striking "Health and Safety" and substituting "Government".

Amendment No. 1 was adopted.

**CSHB 2960** (by Darby, Guillen, et al.), A bill to be entitled An Act relating to vehicles used for the purpose of participating in equine activities or attending livestock shows. (V. Taylor recorded voting no.)

**HB 2982** (by Orr), A bill to be entitled An Act relating to the composition of the Finance Commission of Texas.

**CSHB 2994** (by Miles), A bill to be entitled An Act relating to the creation, operation, and funding of the urban farm microenterprise support program. (C. Anderson, Aycock, Beck, Berman, Bohac, Brown, Chisum, Flynn, Huberty, Kleinschmidt, Laubenberg, Lavender, Madden, Patrick, Paxton, Perry, Phillips, Sheffield, Simpson, V. Taylor, Weber, and White recorded voting no.)

**CSHB 2996** (by Miles), A bill to be entitled An Act relating to the creation of the Texas Urban Agricultural Innovation Authority. (C. Anderson, Aycock, Beck, Berman, Bohac, Brown, Cain, Carter, Chisum, Craddick, Darby, S. Davis, Flynn, Frullo, Hamilton, Harless, Huberty, Kleinschmidt, Kuempel, Landtroop, Laubenberg, Lavender, Legler, Madden, Parker, Patrick, Paxton, Perry, Phillips, Schwertner, Sheets, Sheffield, Shelton, Simpson, V. Taylor, Weber, White, Workman, and Zedler recorded voting no.)

**CSHB 2997** (by Miles), A bill to be entitled An Act relating to the creation and funding of the urban farming pilot program and the creation of the Select Committee on Urban Farming. (C. Anderson, Aycock, Beck, Berman, Bohac, Brown, Cain, Carter, Chisum, Craddick, Darby, S. Davis, Flynn, Frullo, Hamilton, Harless, Huberty, Kleinschmidt, Kuempel, Landtroop, Laubenberg, Lavender, Legler, Madden, Parker, Patrick, Paxton, Perry, Phillips, Schwertner, Sheets, Sheffield, Shelton, Simpson, V. Taylor, Weber, White, Workman, and Zedler recorded voting no.)

**CSHB 3079** (by Darby), A bill to be entitled An Act relating to dealer agreements regarding the purchase and sale of certain all-terrain vehicles or equipment or machinery used for agricultural, construction, utility, industrial, mining, outdoor power, forestry, and landscaping purposes. (Garza and Simpson recorded voting no.)

**Amendment No. 1**

Representative Darby offered the following amendment to **CSHB 3079**:

Amend **CSHB 3079** (house committee printing) as follows:

(1) On page 1, line 9, strike "utility,".

(2) On page 2, line 1, strike "UTILITY,".

(3) Strike page 3, line 22, through page 4, line 16, and substitute the following:

(7) "Equipment":

(A) means machinery, equipment, or implements or attachments to the machinery, equipment, or implements used for, or in connection with, any of the following purposes:

(i) lawn, garden, golf course, landscaping, or grounds maintenance;

(ii) planting, cultivating, irrigating, harvesting, or producing agricultural or forestry products;

(iii) raising, feeding, or tending to livestock or harvesting products from livestock or any other activity in connection with those activities;  
or

(iv) industrial, construction, maintenance, mining, or utility activities or applications; and

(B) does not mean:

(i) trailers or self-propelled vehicles designed primarily for the transportation of persons or property on a street or highway; or

(ii) all-terrain vehicles, utility task vehicles, or recreational off-highway vehicles.

Amendment No. 1 was adopted.

**HB 3111** (by Craddick), A bill to be entitled An Act relating to fees to finance capital improvements in certain municipalities. (C. Anderson, Berman, and Flynn recorded voting no.)

**CSHB 3125** (by Thompson), A bill to be entitled An Act relating to the offenses of unauthorized duplication, unauthorized recording, unauthorized operation of recording device, and improper labeling of recordings. (Beck and Harless recorded voting no.)

**HB 3152** (by Torres), A bill to be entitled An Act relating to recovery of the value of fraudulently obtained health care services provided or paid by the Nueces County Hospital District.

**HB 3216** (by Otto), A bill to be entitled An Act relating to electronic communication between property owners and chief appraisers, appraisal districts, appraisal review boards, or any combination of those persons.

**Amendment No. 1**

Representative Fletcher offered the following amendment to **HB 3216**:

Amend **HB 3216** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 1.111, Tax Code, is amended by amending Subsection (b) and adding Subsections (k) and (l) to read as follows:

(b) The designation of an agent must be made by written authorization on a form prescribed by the comptroller under Subsection (h) and signed by the owner, a property manager authorized to designate agents for the owner, or another person authorized to act on behalf of the owner other than the person being designated as agent, and must clearly indicate that the person is authorized to act on behalf of the property owner in property tax matters relating to the property or the property owner. The designation may authorize the agent to represent the owner in all property tax matters or in specific property tax matters as identified in the designation. The designation does not take effect with respect to an appraisal district or a taxing unit participating in the appraisal district until a copy of the designation is filed with the appraisal district. Each appraisal district established for a county having a population of 500,000 or more shall implement a system that allows a designation to be signed and filed electronically.

(k) On written request by the chief appraiser, an agent who electronically submits a designation of agent form shall provide the chief appraiser information concerning:

(1) the electronic signature of the person who signed the form;  
(2) the date the person signed the form; and  
(3) the Internet Protocol address of the computer the person used to complete the form.

(l) A person may not knowingly make a false entry in, or false alteration of, a designation of agent form that has been signed as provided by Subsection (b).

SECTION \_\_\_\_\_. Section 1.111, Tax Code, as amended by this Act, applies only to a designation of an agent that is made on or after the effective date of this Act. A designation made before the effective date of this Act is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted.

**HB 3283** (by Guillen), A bill to be entitled An Act relating to the authority of certain development corporations to undertake projects with respect to community libraries.

**HB 3369** (by S. King), A bill to be entitled An Act relating to the registration of certain physical therapy facilities by the Texas Board of Physical Therapy Examiners. (White recorded voting no.)

**HB 3387** (by Rodriguez, Workman, Isaac, Aliseda, Hughes, et al.), A bill to be entitled An Act relating to the regulation of food prepared, stored, distributed, or sold at farmers' markets. (Aycock, Craddick, Darby, Frullo, Hamilton, Kuempel, Legler, Parker, Paxton, Shelton, and V. Taylor recorded voting no.)

**CSHB 3399** (by Legler, Strama, Reynolds, and Chisum), A bill to be entitled An Act relating to the requirements for grant programs funded through the Texas emissions reduction plan. (Huberty recorded voting present, not voting.)

**CSHB 3475** (by Gallego), A bill to be entitled An Act relating to the recusal and disqualification of municipal judges. (Frullo, Garza, Hamilton, Kuempel, Parker, Shelton, and Zedler recorded voting no.)

**CSHB 3595** (by Chisum and Strama), A bill to be entitled An Act relating to energy efficiency goals and energy efficiency programs. (White recorded voting no.)

**CSHB 3723** (by Guillen), A bill to be entitled An Act relating to optional fees on the registration of a vehicle imposed by a county. (C. Anderson, Berman, Burkett, Cain, Chisum, Craddick, Flynn, Frullo, Garza, Hamilton, Huberty, Kuempel, Landtroop, Laubenberg, Legler, Parker, Paxton, Perry, Phillips, Price, Schwertner, Sheets, Shelton, V. Taylor, White, Workman, and Zedler recorded voting no.)

**CSHB 3730** (by Martinez), A bill to be entitled An Act relating to certain privatization of maintenance contracts awarded by the Texas Department of Transportation. (R. Anderson, Garza, Laubenberg, Perry, Sheets, Simpson, White, and Zedler recorded voting no.)

**CSHB 3797** (by Gallego), A bill to be entitled An Act relating to the validation of the creation of, and certain acts related to, a venue project, and the dissolution of certain venue districts.

**HR 1483** (by Vo), Endorsing the inclusion of Taiwan in the United States Visa Waiver Program.

### ADJOURNMENT

Representative Larson moved that the house adjourn until 11:35 a.m. today in memory of Lieutenant Colonel James R. Gamble, Jr., (Ret.) of San Antonio.

The motion prevailed.

The house accordingly, at 11:31 a.m., adjourned until 11:35 a.m. today.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

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

**House List No. 26**

**HB 438, HB 444, HB 571, HB 610, HB 755, HB 841, HB 1322, HB 1404, HB 1527, HB 1806, HB 1832, HB 1917, HB 2559, HB 2680, HB 2785, HCR 116, HCR 119, HCR 132, HCR 139**