

HOUSE JOURNAL

EIGHTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTIETH DAY — MONDAY, MARCH 30, 2015

The house met at 2:02 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 99).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Ashby; Aycocock; Bell; Bernal; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Craddick; Crownover; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Deshotel; Dutton; Elkins; Faircloth; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Galindo; Geren; Giddings; Goldman; Gonzales; González; Guerra; Guillen; Gutierrez; Hernandez; Herrero; Howard; Huberty; Hughes; Hunter; Isaac; Israel; Johnson; Kacal; Keffer; Keough; King, K.; King, P.; King, S.; King, T.; Klick; Koop; Krause; Kuempel; Landgraf; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; McClendon; Metcalf; Meyer; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Murr; Naishtat; Nevárez; Oliveira; Otto; Paddie; Paul; Peña; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Riddle; Rinaldi; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Schaefer; Schofield; Schubert; Shaheen; Sheets; Sheffield; Simmons; Simpson; Smith; Spitzer; Springer; Stephenson; Stickland; Thompson, E.; Thompson, S.; Tinderholt; Turner, C.; Turner, E.S.; Turner, S.; VanDeaver; Villalba; Vo; Walle; White, J.; White, M.; Workman; Wray; Wu; Zedler; Zerwas.

Absent, Excused — Dukes; Harless; Smithee.

Absent — Parker; Sanford.

The speaker recognized Representative D. Miller who introduced Ray Still, senior pastor, Oakwood Church, New Braunfels, who offered the invocation as follows:

Heavenly Father, we come before your presence today giving you thanks and recognizing your gracious hand in our lives, knowing that every good and perfect gift flows from above. Lord, we are in the season for people all over the world that holds such significance for our faith—a season to remember your deliverance and to remember your power over life and death. May this be a season of spiritual renewal to us all.

I pray for these ladies and gentlemen that serve in this house. Give them wisdom to know what is good and right, help them to discern the important from the trivial, and may all they do be seasoned with grace. Keep them pure and

focused upon the task which you have set in their hands. Watch over their families during their time away and give them protection and patience. Lord, remind these leaders what you say in your word of what you require: "To act justly and to love mercy and to walk humbly with their God."

Lord, I pray for those today that are in need, those who have been in service to our nation who carry with them physical, emotional, and mental wounds who need our attention and our respect and care. For the sick, the underresourced, and for the hurting, may they see in us your kindness and mercy. Let us be your instrument of good in this world. Father, may our thoughts not be focused only on ourselves, but on the good of our communities and the common good of all people. May your goodness and mercy follow us all the days of our lives. I ask all of this in the powerful name of Christ, our Lord. Amen.

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

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business in the district:

Harless on motion of Otto.

Smithee on motion of Otto.

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

Dukes on motion of Alvarado.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 2:20 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 2:20 p.m. today, 3W.9, for a formal meeting, to set a calendar.

(J. White in the chair)

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

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

HR 1548 - ADOPTED
(by Faircloth)

Representative Faircloth moved to suspend all necessary rules to take up and consider at this time **HR 1548**.

The motion prevailed.

The following resolution was laid before the house:

HR 1548, Recognizing March 30, 2015, as Galveston County Day at the State Capitol.

HR 1548 was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Faircloth who introduced a delegation from Galveston County.

CAPITOL PHYSICIAN

The chair recognized Representative R. Miller who presented Dr. Stephen Ho of Sugar Land as the "Doctor for the Day."

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

HR 1550 - ADOPTED
(by Alvarado)

Representative Alvarado moved to suspend all necessary rules to take up and consider at this time **HR 1550**.

The motion prevailed.

The following resolution was laid before the house:

HR 1550, Congratulating Carol Lewis on her induction into the Southwest Conference Hall of Fame.

HR 1550 was adopted.

On motion of Representative S. Turner, the names of all the members of the house were added to **HR 1550** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Alvarado who introduced Carol Lewis, members of her family, and the Honorable Rick Noriega.

HR 1657 - ADOPTED
(by Smith)

Representative Smith moved to suspend all necessary rules to take up and consider at this time **HR 1657**.

The motion prevailed.

The following resolution was laid before the house:

HR 1657, Commemorating the one-year anniversary of the dedication of the Texas Capitol Vietnam Veterans Monument.

HR 1657 was adopted.

On motion of Representative Farias, the names of all the members of the house were added to **HR 1657** as signers thereof.

SCR 19 - ADOPTED
(Price - House Sponsor)

Representative Price moved to suspend all necessary rules to take up and consider at this time **SCR 19**.

The motion prevailed.

The following resolution was laid before the house:

SCR 19, Recognizing Johnny Trotter of Hereford on the occasion of his induction into the Texas Cowboy Hall of Fame.

SCR 19 was adopted.

LEAVE OF ABSENCE GRANTED

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

McClendon on motion of Allen.

HR 1601 - ADOPTED
(by C. Anderson)

Representative C. Anderson moved to suspend all necessary rules to take up and consider at this time **HR 1601**.

The motion prevailed.

The following resolution was laid before the house:

HR 1601, Commending Baylor University on the occasion of Baylor Day at the State Capitol.

HR 1601 was adopted.

On motion of Representatives S. Davis and Leach, the names of all the members of the house were added to **HR 1601** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative C. Anderson who introduced representatives of Baylor University.

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. 9).

HR 1487 - ADOPTED
(by Raney)

Representative Kacal moved to suspend all necessary rules to take up and consider at this time **HR 1487**.

The motion prevailed.

The following resolution was laid before the house:

HR 1487, Commemorating the centennial of the Texas A&M Engineering Experiment Station.

HR 1487 was adopted.

On motion of Representative Geren, the names of all the members of the house were added to **HR 1487** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Kacal who introduced representatives of the Texas A&M Engineering Experiment Station.

SCR 35 - ADOPTED
(Kuempel - House Sponsor)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **SCR 35**.

The motion prevailed.

The following resolution was laid before the house:

SCR 35, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, March 25, 2015, and ending on Monday, March 30, 2015.

SCR 35 was adopted by (Record 100): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Ashby; Aycock; Bell; Bernal; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Craddick; Crownover; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Deshotel; Dutton; Elkins; Faircloth; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Galindo; Geren; Giddings; Goldman; Gonzales; González; Guerra; Guillen; Gutierrez; Hernandez; Howard; Huberty; Hughes; Hunter; Isaac; Israel; Johnson; Kacal; Keffer; Keough; King, K.; King, P.; King, S.; King, T.; Klick; Koop; Krause; Kuempel; Landgraf; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; Metcalf; Meyer; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Murr; Naishtat; Nevárez; Oliveira; Otto; Paddie; Peña; Phelan; Phillips; Pickett; Price; Raney; Raymond; Reynolds; Riddle; Rinaldi; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Schaefer; Schofield; Schubert; Shaheen; Sheets; Sheffield; Simmons;

Simpson; Smith; Spitzer; Springer; Stephenson; Stickland; Thompson, E.; Thompson, S.; Tinderholt; Turner, E.S.; Turner, S.; VanDeaver; Villalba; Vo; White, M.; Workman; Wray; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker; White, J.(C).

Absent, Excused — Dukes; Harless; McClendon; Smithee.

Absent — Herrero; Parker; Paul; Sanford; Turner, C.; Walle.

STATEMENTS OF VOTE

When Record No. 100 was taken, I was temporarily out of the house chamber. I would have voted yes.

Parker

When Record No. 100 was taken, I was in the house but away from my desk. I would have voted yes.

Paul

(Geren in the chair)

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

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

SB 293 ON THIRD READING **(Isaac - House Sponsor)**

SB 293, A bill to be entitled An Act relating to a clarification of the law governing eligibility of certain events for funding under the Major Events trust fund.

SB 293 - POINT OF ORDER

Representative Simpson raised a point of order against further consideration of **SB 293** under Rule 4, Section 32(c) and Rule 8, Section 1 of the House Rules and under Article III, Section 35 of the Texas Constitution on the grounds that the bill analysis is incorrect and the bill caption is inaccurate.

(Parker now present)

The chair overruled the point of order and submitted the following statement:

Representative Simpson raised a point of order against further consideration of **SB 293** under Rule 4, Section 32(c) of the House Rules, under Rule 8, Section 1 of the House Rules, and under Article III, Section 35 of the Texas Constitution on the grounds that the bill's caption does not give the legislature and the public reasonable notice of the subject of the proposed measure. The point of order is respectfully overruled.

Under Rule 4, Section 32(c) of the House Rules, "Each committee report on a bill. . .must include in summary or section-by-section form a detailed analysis of the subject matter of the bill. . ." Representative Simpson argues that **SB 293's**

bill analysis does not contain any explanation of Section 2 of the bill which would allow for a retroactive effective date and that the bill analysis describes the bill as an expansion of the law, whereas the caption and bill itself state that the bill is a clarification of the law. Representative Simpson cites no precedent for his contention that an alleged defective bill analysis survives to third reading of a bill. Opponents of the point of order argue that Representative Simpson's point of order is untimely and that defects in the committee process, as opposed to his constitutional caption issue, must be raised on second reading. They also argue that any defects in the committee process were cleansed when the bill moved between second and third reading (or when it moves between being the bill product of the underlying committee process and the product of the entire chamber). They argue that the purpose of the various items reported in the committee process was fulfilled when the house debated and passed the bill to third reading.

As noted in note 1 of the explanatory notes and house precedents to Rule 1, Section 9 of the House Rules, a point of order must be timely. See 48 H.J. Reg. 1024 (1943). In this case, Mr. Simpson's allegation is too late because the time to raise the particular point of error he identified had been passed by the layout, discussion, amendment, and vote on passage to third reading of **SB 293**. In the last 25 years of house practice, none of the 36 points of order raising issues on third reading have ever attempted to raise defects in the committee process, similar to Rule 4, Section 32 of the House Rules.

Under Rule 8, Section 1(a)(1) of the House Rules, "Proposed laws or changes in laws must be incorporated in bills, which shall consist of. . . a brief statement that gives the legislature and the public reasonable notice of the subject of the proposed measure." See Rule 8, Section 1(a)(1) of the House Rules. Article III, Section 35(b) of the Texas Constitution dictates that "The rules of procedure of each house shall require that the subject of each bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject. The legislature is solely responsible for determining compliance with the rule." See TEX. CONST. art. III, § 35. **SB 293**'s caption reads as follows: "Relating to a clarification of the law governing eligibility of certain events for funding under the Major Events trust fund." Representative Simpson argues that the bill is not clarifying in nature, but rather adds another eligible site selection organization amounting to a substantive addition to or expansion of the law.

Having reviewed the three sections of the bill, the argument cited by Representative Simpson, and other precedents of the house as determined under Rule 4, Section 32(c) and Rule 8, Section 1 of the House Rules and Article III, Section 35 of the Texas Constitution, the chair concludes that the caption complies with the rule and the constitutional provision. A bill caption needs only to give reasonable notice of the subject of the bill and needs not to detail the elements of the bill. See 83 H.J. Reg. 4059 (2013), (Dutton point of order on **SB 11**); 81 H.J. Reg. 2624 (2009), (Burnam point of order on **CSHB 4525**); 78 H.J. Reg. 1676 (2003), (Burnam point of order on **CSHB 1567**).

SB 293 - REMARKS

REPRESENTATIVE SIMPSON: The points of order that I brought had to do primarily with Section 2 of the bill. The bill analysis refers to the bill expanding the eligibility, but the bill itself, and in the caption, it refers only to a clarification. There's a discrepancy. I think that's the whole purpose of having a second and third reading, so that the public and the legislature can have due notice and make rulings and vote based upon facts. The bill analysis did not even refer to Section 2 of the bill, which has an effective date in the past. And I believe the language will cover, despite what Representative Isaac has said, events that have already taken place and are soon to take place on April 11, even though the 45-day deadline for submitting those applications has passed.

We all, when we came here, took an oath. We took an oath to uphold the constitution, and our rules here in the Texas House are to support that constitution. And it's not only the duty of the speaker, but it's the duty of each of us as members to honor that oath and to uphold it. Article I, Section 16, says we are not to pass retroactive laws—laws that have a retroactive effect. Now, we can all just wink wink, nod nod, but the plain truth is that this bill applies to events in the past and ones shortly to take place despite the deadline. I want to urge you to vote to uphold the constitutional law that limits our ability to do things. For the sake of everyone, there should be equal justice under the law, and not certain application made for certain events. I would have no problem if he would want to take out Section 2 of the bill and move forward. I would still vote against it, but I would not have brought the points of order. This is a retroactive bill in violation of the Texas Constitution, and I urge you, uphold your oath, and to vote no on the passage of **SB 293**.

SB 293 was passed by (Record 101): 114 Yeas, 27 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Bell; Bernal; Blanco; Bohac; Burkett; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Crownover; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Deshotel; Dutton; Faircloth; Fallon; Farias; Farney; Farrar; Fletcher; Flynn; Frank; Frullo; Galindo; Giddings; Gonzales; González; Guerra; Guillen; Gutierrez; Hernandez; Herrero; Howard; Huberty; Hunter; Isaac; Israel; Johnson; Kacal; Keffer; Keough; King, K.; King, P.; King, T.; Koop; Kuempel; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Márquez; Martinez; Martinez Fischer; Metcalf; Meyer; Miles; Miller, D.; Miller, R.; Moody; Morrison; Muñoz; Murphy; Naishtat; Nevárez; Oliveira; Otto; Paddie; Parker; Paul; Peña; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Riddle; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Schofield; Schubert; Sheets; Sheffield; Simmons; Smith; Springer; Stephenson; Thompson, S.; Turner, C.; Turner, S.; VanDeaver; Villalba; Vo; Walle; Workman; Wu; Zerwas.

Nays — Ashby; Bonnen, D.; Bonnen, G.; Burns; Burrows; Craddick; Elkins; Goldman; Hughes; King, S.; Klick; Krause; Landgraf; Murr; Phillips; Rinaldi; Schaefer; Shaheen; Simpson; Spitzer; Stickland; Thompson, E.; Tinderholt; Turner, E.S.; White, M.; Wray; Zedler.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Dukes; Harless; McClendon; Smithee.

Absent — Sanford; White, J.

STATEMENTS OF VOTE

When Record No. 101 was taken, I was presiding in the chair and was shown voting present, not voting. I would have voted no.

Geren

When Record No. 101 was taken, I was temporarily out of the house chamber. I would have voted no.

Sanford

When Record No. 101 was taken, I was in the house but away from my desk. I would have voted no.

J. White

COMMITTEE GRANTED PERMISSION TO MEET

Representative Morrison requested permission for the Committee on Environmental Regulation to meet while the house is in session, at 8 a.m. tomorrow, in E1.026, to consider the previously posted agenda.

Permission to meet was granted.

REMARKS ORDERED PRINTED

Representative Stickland moved to print remarks by Representative Simpson on **SB 293**.

The motion prevailed.

LEAVE OF ABSENCE GRANTED

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

Lucio on motion of Rose.

ADJOURNMENT

Representative Craddick moved that the house adjourn until 10 a.m. tomorrow in memory of Jefferson Jones "J. J." Baskin of Austin.

The motion prevailed.

The house accordingly, at 3:23 p.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 244 (By Longoria), Relating to the lunch period for classroom teachers at the middle school, junior high school, or high school grade level.

To Public Education.

HB 245 (By Longoria), Relating to a classroom teacher's lunch period.

To Public Education.

HB 3552 (By Parker), Relating to enhancing the security of the electric grid, making an appropriation.

To Appropriations.

SIGNED BY THE SPEAKER

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

House List No. 9

HCR 60

Senate List No. 9

SB 219

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

March 26

Corrections - **HB 583, HB 1914**

Economic and Small Business Development - **HB 1606**

Energy Resources - **HB 497**

Government Transparency and Operation - **HB 288, HB 640, HB 685, HB 1443, HB 1890, HB 2000**

State Affairs - **HB 184, HB 416**

March 27

Energy Resources - **HB 1184**

Human Services - **HB 418, HB 1678, HB 1680, HB 2463**

Natural Resources - **HB 1016, HB 1088, HB 1221, HB 1336**

Public Health - **HB 698**

Urban Affairs - **HB 74**

ENGROSSED

March 26 - HB 80

ENROLLED

March 26 - HCR 60

SIGNED BY THE GOVERNOR

March 27 - HCR 47, HCR 79, HCR 100

