

# HOUSE JOURNAL

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EIGHTY-FIFTH LEGISLATURE, FIRST CALLED SESSION

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## PROCEEDINGS

FOURTEENTH DAY — MONDAY, AUGUST 7, 2017

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 69).

Present — Mr. Speaker(C); Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospers; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dukes; Dutton; Elkins; Faircloth; Fallon; Farrar; Flynn; Frank; Frullo; Geren; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliveira; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Rinaldi; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Thompson, S.; Tinderholt; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zedler; Zerwas.

Absent, Excused — Minjarez; Phillips; Thierry.

Absent — Gervin-Hawkins.

The speaker recognized Representative Faircloth who offered the invocation.

The speaker recognized Representative E. Thompson 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 because of important business:

Thierry on motion of Perez.

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

Minjarez on motion of Howard.

The following member was granted leave of absence temporarily for today because of a travel delay:

Phillips on motion of Cook.

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Murphy who presented Dr. Rolf Montalvo Chen of Houston as the "Doctor for the Day."

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

(Cyrier in the chair)

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

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

### **RESOLUTIONS ADOPTED**

Representative Kacal moved to suspend all necessary rules to take up and consider at this time the following congratulatory resolutions.

The motion prevailed.

The following resolutions were laid before the house:

**HR 37** (by Morrison), Commemorating the 50th anniversary of Hall Electric in Victoria.

**HR 184** (by D. Bonnen), Congratulating Brazosport ISD schools that achieved the top rating on the 2017 STAAR tests.

**HR 204** (by Price, Raymond, and S. Davis), Honoring Gary Jessee for his service to the Health and Human Services Commission.

**HR 227** (by Cyrier), Commending the Hunters for the Hungry program for helping to alleviate food insecurity.

The resolutions were adopted.

On motion of Representative Kacal, the names of all the members of the house were added to the resolutions as signers thereof, with the understanding that a member may remove his or her name from any resolution.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of inclement weather:

Frullo on motion of Kuempel.

### **HR 204 - INTRODUCTION OF GUESTS**

The chair recognized Representative Price who introduced Gary Jessee, former deputy executive commissioner of the Texas Health and Human Services Commission, and members of his family.

(Gervin-Hawkins now present)

**HR 233 - ADOPTED**  
**(by Uresti)**

Representative Uresti moved to suspend all necessary rules to take up and consider at this time **HR 233**.

The motion prevailed.

The following resolution was laid before the house:

**HR 233**, Congratulating Frank de la Garza on the success of his family business, De La Garza Fence Company.

**HR 233** was adopted.

On motion of Representative Gervin-Hawkins, the names of all the members of the house were added to **HR 233** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Uresti who introduced Frank de la Garza and members of his family.

**LEAVE OF ABSENCE GRANTED**

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

Smithee on motion of Flynn.

(Speaker in the chair)

**GENERAL STATE CALENDAR**  
**HOUSE BILLS**  
**THIRD READING**

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

**HB 30 ON THIRD READING**  
**(by Zerwas, Huberty, Giddings, Guerra, et al.)**

**HB 30**, A bill to be entitled An Act relating to making supplemental appropriations and giving direction and making adjustments regarding appropriations for public school finance.

**HB 30** was passed by (Record 70): 131 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospers; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dukes; Dutton; Elkins; Faircloth; Fallon; Farrar; Flynn; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; King,

K.; King, P.; King, T.; Klick; Koop; Kuempel; Lambert; Landgraf; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliveira; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schofield; Schubert; Sheffield; Shine; Simmons; Springer; Stephenson; Stucky; Thompson, E.; Thompson, S.; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zerwas.

Nays — Biedermann; Cain; Frank; Keough; Krause; Lang; Rinaldi; Schaefer; Shaheen; Stickland; Swanson; Tinderholt; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Minjarez; Phillips; Smithee; Thierry.

### STATEMENTS OF VOTE

When Record No. 70 was taken, I was excused because of inclement weather. I would have voted yes.

Frullo

When Record No. 70 was taken, I was shown voting yes. I intended to vote no.

Isaac

When Record No. 70 was taken, I was excused because of illness. I would have voted yes.

Minjarez

### HB 23 ON THIRD READING (by Huberty, et al.)

**HB 23**, A bill to be entitled An Act relating to a grant program to fund innovative programs for public school students with autism.

**HB 23** was passed by (Record 71): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospere; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dukes; Dutton; Elkins; Faircloth; Fallon; Farrar; Flynn; Frank; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliveira; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Rinaldi; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert;

Shaheen; Sheffield; Shine; Simmons; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Thompson, S.; Tinderholt; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Minjarez; Phillips; Smithee; Thierry.

### STATEMENTS OF VOTE

When Record No. 71 was taken, I was excused because of inclement weather. I would have voted yes.

Frullo

When Record No. 71 was taken, I was excused because of illness. I would have voted yes.

Minjarez

### HB 21 ON THIRD READING (by Huberty, Zerwas, Bernal, et al.)

**HB 21**, A bill to be entitled An Act relating to the public school finance system.

**HB 21** was passed by (Record 72): 130 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cosper; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Dean; Deshotel; Dukes; Dutton; Elkins; Faircloth; Fallon; Farrar; Flynn; Frank; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Israel; Johnson, E.; Johnson, J.; Kacal; King, K.; King, P.; King, T.; Klick; Koop; Kuempel; Lambert; Landgraf; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Miller; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliveira; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Roberts; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Sanford; Schofield; Schubert; Sheffield; Shine; Simmons; Springer; Stephenson; Stucky; Thompson, S.; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Workman; Wray; Wu; Zerwas.

Nays — Cain; Isaac; Keough; Krause; Lang; Meyer; Rinaldi; Schaefer; Shaheen; Stickland; Swanson; Tinderholt; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Minjarez; Phillips; Smithee; Thierry.

Absent — Thompson, E.

### STATEMENTS OF VOTE

When Record No. 72 was taken, I was excused because of inclement weather. I would have voted yes.

Frullo

When Record No. 72 was taken, I was excused because of illness. I would have voted yes.

Minjarez

When Record No. 72 was taken, my vote failed to register. I would have voted yes.

E. Thompson

### CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

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

#### HJR 30 ON SECOND READING

(by Roberts, Raymond, D. Bonnen, Springer, Darby, et al.)

**HJR 30**, A joint resolution proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homesteads of certain disabled first responders and their surviving spouses.

#### Amendment No. 1

Representative Roberts offered the following amendment to **HJR 30**:

Amend **HJR 30** (house committee printing) on page 2, line 19, by striking "November 7, 2017" and substituting "November 6, 2018".

Amendment No. 1 was adopted.

**HJR 30**, as amended, was adopted by (Record 73): 141 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Arévalo; Ashby; Bailes; Bell; Bernal; Biedermann; Blanco; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Canales; Capriglione; Clardy; Coleman; Collier; Cook; Cortez; Cospes; Craddick; Cyrier; Dale; Darby; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Elkins; Faircloth; Fallon; Farrar; Flynn; Frank; Geren; Gervin-Hawkins; Giddings; Goldman; Gonzales; González; Gooden; Guerra; Guillen; Gutierrez; Hefner; Hernandez; Herrero; Hinojosa; Holland; Howard; Huberty; Hunter; Isaac; Israel; Johnson, E.; Johnson, J.; Kacal; Keough; King, K.; King, P.; King, T.; Klick; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Larson; Laubenberg; Leach; Longoria; Lozano; Lucio; Martinez; Metcalf; Meyer; Miller; Moody; Morrison; Muñoz; Murphy; Murr; Neave; Nevárez; Oliveira; Oliverson; Ortega; Paddie; Parker; Paul; Perez; Phelan; Pickett; Price; Raney; Raymond; Reynolds; Rinaldi; Roberts; Rodriguez, E.;

Rodriguez, J.; Romero; Rose; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Springer; Stephenson; Stucky; Swanson; Thompson, E.; Thompson, S.; Tinderholt; Turner; Uresti; VanDeaver; Villalba; Vo; Walle; White; Wilson; Wray; Wu; Zedler; Zerwas.

Nays — Stickland.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Frullo; Minjarez; Phillips; Smithee; Thierry.

Absent — Dean; Workman.

#### STATEMENTS OF VOTE

When Record No. 73 was taken, I was excused because of inclement weather. I would have voted yes.

Frullo

When Record No. 73 was taken, I was in the house but away from my desk. I would have voted yes.

Workman

#### GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

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

#### **HB 179 ON SECOND READING** **(by Roberts, Raymond, D. Bonnen, Springer, Darby, et al.)**

**HB 179**, A bill to be entitled An Act relating to an exemption from ad valorem taxation of the residence homesteads of certain disabled first responders and their surviving spouses.

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

Representative Roberts offered the following amendment to **HB 179**:

Amend **HB 179** (house committee printing) as follows:

- (1) On page 8, line 10, strike "2018" and substitute "2019".
- (2) On page 8, line 11, strike "2018" and substitute "2019".

Amendment No. 1 was adopted.

**HB 179**, as amended, was passed to engrossment.

#### GENERAL STATE CALENDAR SENATE BILLS SECOND READING

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

#### **CSSB 6 ON SECOND READING** **(Huberty - House Sponsor)**

**CSSB 6**, A bill to be entitled An Act relating to municipal annexation.

**Amendment No. 1**

Representative Huberty offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) on page 1, by striking lines 10-13, and substituting the following:

(2) "Tier 1 county" means a county with a population of less than 500,000.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Huberty offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) on page 4, between lines 15 and 16, by inserting the following appropriately lettered subsection:

( ) A municipality annexing an area described by Subsection (b) must use the procedures applicable to the municipality.

Amendment No. 2 was withdrawn.

**Amendment No. 3**

Representative Geren offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 4, lines 11-12, strike "and the military base enter into a memorandum of agreement that".

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Uresti offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) as follows:

(1) Strike page 19, line 23 through page 20, line 7, and substitute the following:

Sec. 43.0681. AUTHORITY TO ANNEX. A municipality may annex an area with a population of less than 200 only if the municipality obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area.

(2) On page 21, line 10, strike "and property owner".

(3) On page 21, lines 24-25, strike "Except as provided by Subsection (a-1), the" and substitute "The".

(4) On page 22, strike lines 1-10.

(5) On page 22, line 27, strike "and property owners".

(6) On page 24, strike lines 12-22 and substitute the following:

Sec. 43.0691. AUTHORITY TO ANNEX. A municipality may annex an area with a population of 200 or more only if the municipality holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and a majority of the votes received at the election approve the annexation.



(7) Strike page 26, line 16 through page 27, line 1, and renumber sections and references to sections of added Subchapter C-5, Chapter 43, Local Government Code.

(8) On page 27, line 4, strike the underlined colon.

(9) On page 27, strike lines 5-9 and substitute "the 90th day after the date the governing body of the municipality adopts the resolution under Section 43.0692.".

(10) On page 27, line 16, strike "AND PETITION".

(11) On page 27, lines 19-20, strike "and, if applicable, of the petition required by Section 43.0695".

(12) On page 27, lines 22-25, strike "or if the municipality is required to petition owners of land in the area under Section 43.0695 and does not obtain the required number of signatures.".

(13) On page 28, lines 3-5, strike "and if the municipality, as applicable, obtains the required number of petition signatures under Section 43.0695.".

Amendment No. 4 was withdrawn.

#### **Amendment No. 5**

Representative Schaefer offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 1, strike the Huberty Amendment No. 1, and strike lines 10-13, and substitute the following:

(2) "Tier 1 county" means a county:

(A) with a population of:

(i) less than 500,000; or

(ii) more than 665,000 and less than 780,000; and

(B) that is not a county with a population of more than 200,000 and less than 230,000.

(2) On page 4, between lines 15 and 16, insert the following:

Sec. 43.0118. AUTHORITY OF MUNICIPALITIES IN CERTAIN COUNTIES TO ANNEX. Notwithstanding any other law, a municipality wholly or partly located in a county with a population of more than 200,000 and less than 230,000 must use the procedures under Subchapter C-3, C-4, or C-5 to annex an area.

Amendment No. 5 was withdrawn.

#### **Amendment No. 6**

Representative Schaefer offered the following amendment to **CSSB 6**:

Amend **CSSB 6** (house committee printing) as follows:

(1) On page 1, strike lines 10-13, and substitute the following:

(2) "Tier 1 county" means a county:

(A) with a population of:

(i) less than 500,000; or

(ii) more than 665,000 and less than 780,000; and

(B) that is not a county with a population of more than 200,000 and less than 230,000.

(2) On page 4, between lines 15 and 16, insert the following:

Sec. 43.0118. AUTHORITY OF MUNICIPALITIES IN CERTAIN COUNTIES TO ANNEX. Notwithstanding any other law, a municipality wholly or partly located in a county with a population of more than 200,000 and less than 230,000 must use the procedures under Subchapter C-3, C-4, or C-5 to annex an area.

Representative Huberty moved to table Amendment No. 6.

### **CSSB 6 - POINT OF ORDER**

Representative Moody raised a point of order against further consideration of **CSSB 6** under Rule 8, Section 10(b) of the House Rules and Article III, Section 56(b) of the Texas Constitution on the grounds that the bill is limited to one or more subdivisions by means of artificial devices and is an impermissible local law.

(Phillips now present)

The speaker sustained the point of order and submitted the following statement:

Rule 8, Section 10(b) of the House Rules prohibits the house from considering "a bill whose application is limited to one or more political subdivisions by means of population brackets or other artificial devices in lieu of identifying the political subdivision or subdivisions by name." This prohibition does not apply if the proposed classification "bears a reasonable relation to the purpose of the proposed legislation . . ." Article III, Section 56(b) of the Texas Constitution says that "in all other cases where general law can be made applicable, no local or special law shall be enacted . . ." Courts have read the constitutional provision to allow the legislature "to make classifications for legislative purposes" so long as the "legislation is intended to apply uniformly to all who come within the classification . . . and the classification must be broad enough to include a substantial class and must be based on characteristics legitimately distinguishing such class from others with respect to the public purpose sought to be accomplished by the proposed legislation." *Miller v. El Paso Cnty.*, 150 S.W.2d 1000, 1001-1002 (Tex. 1941) (holding unconstitutional a population bracket determined by the preceding federal census where the court could discern no substantial relation between the bracket and the reason objects sought to be accomplished by the legislation).

Representative Moody contends Section 55 of **CSSB 6** contains an impermissible bracket. That section reads:

SECTION 55. The changes in law made by this Act apply to the annexation of an area subject to a development agreement entered into by a municipality with a population of more than 227,000 and less than 236,000, according to the 2010 federal decennial census, under Section 212.172, Local Government Code, before the effective date of this Act that is initiated on or after the expiration date provided for in the

agreement. The annexation of an area subject to the agreement that is initiated before the expiration date of the agreement as the result of a termination of the agreement is governed by the law in effect on January 1, 2017, and the former law is continued in effect for that purpose.

The population bracket in Section 55, "more than 227,000 and less than 236,000," describes one and only one city: Lubbock, while narrowly missing Laredo (with a population of 236,091) and Garland (with a population of 226,876). The additional and unusual limitation of tying the population bracket to the 2010 census means that the bracket will forever apply solely to Lubbock, and never to Laredo, Garland, or any of the other 1,208 cities in Texas. When asked, no member was able to articulate any (let alone a substantial) reason for a closed class containing only Lubbock. One member asserted that this section merely provided for a different effective date for the law to apply to Lubbock, without explaining why it would be reasonable to single out Lubbock for that purpose. Singling out a specific district or districts without an articulable reason runs afoul of both Rule 8, Section 10(b) and the Texas Constitution. See 75 H.J. Reg. 4554-4555 (1997) (Maxey point of order on **HB 1028**); see also 83 H.J. Reg. 2828 (2013) (Dutton point of order on Amendment No. 3 to **CSHB 1790**); 76 H.J. Reg. 3259-3260 (1999) (Turner point of order on **CSSB 5**); 75 H.J. Reg. 1667 (1997) (Maxey point of order on **CSHB 2230**). This would remain true even if the sole purpose of the bracket were to apply a law to a city at a different time. Like any other arbitrary classification, bracketing the law to one city and at one time to provide a different effective date could be used to give a local law the appearance of a general law. For example, a locality could be effectively exempted from a law if it were permissible for the legislature to provide a separate effective date for a certain locality at some distant point in the future.

The method used in Section 55 is so suspect that it is actually specifically mentioned in the *Texas Legislative Council Drafting Manual* as an example of what would violate the Texas Constitution, complete with supporting case law from the Texas Supreme Court:

It is clear from the case law that some suspicions are raised about a classification if only one entity is included in the bracket at the time of enactment. *Miller*, 150 S.W.2d 1000; *Tynan*, 97 S.W.2d 467; *Smith*, 426 S.W.2d 827. This suspicion follows naturally from the focus on the intent behind the law.

The *Manual* further warns:

In most cases, a bracketing scheme that is based on existing circumstances alone results in a closed bracket that would be considered invalid. For example, a bill using population criteria that are tied to a specific census is likely to violate Section 56, Article III, Texas Constitution. *Bobbitt*, 36 S.W.2d at 471-472 (Tex. 1931) (bracket so drawn to only one city "just as clearly" as if the city had been named). *Texas Legislative Council Drafting Manual*, 245-246 (2017).

Following house precedent and guidance from the courts, the chair has previously ruled that a "closed class that may never be expanded" effectively creates a special or local law in violation of the rules and constitution. 74 H.J. Reg. 3292-3293 (1995) (Saunders point of order on **SB 1697**, also noting the dangers of brackets "closed at both ends or by reference to a particular census," which are "consistently held invalid"). Without question, Lubbock is a dynamic Texas city, with a world class law school, excellent universities and primary and secondary schools, and Prairie Dog Town. Each of these factors (or perhaps others) could, when properly applied, form the basis of a reasonable bracket on an appropriate bill. That did not occur here. In the absence of a reason why carving out Lubbock based on its population in 2010 relates to any purpose of **CSSB 6**, the classification scheme contained in Section 55 violates both Rule 8, Section 10(b) and the Texas Constitution.

**CSSB 6** was returned to the Committee on Land and Resource Management.

#### **LEAVE OF ABSENCE GRANTED**

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

Bailes on motion of Kacal.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

State Affairs, 3 p.m. or upon adjournment today, 1W.14, for a formal meeting, to consider pending business.

#### **PROVIDING FOR ADJOURNMENT**

At 3:23 p.m., Representative Lambert 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 Elise Ybarra of Abilene.

The motion prevailed.

(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.)

#### **ADJOURNMENT**

In accordance with a previous motion, the house, at 3:27 p.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 378** (By Isaac), Relating to the prosecution of certain criminal offenses relating to the capturing of images by unmanned aircraft and disposition of those images.

To Criminal Jurisprudence.

**HB 379** (By Reynolds), Relating to assistance for small businesses, the dissemination of information about historically underutilized businesses, and the expansion of the small business development center network.

To Economic and Small Business Development.

**HB 382** (By Martinez), Relating to prohibiting the reckless discharge of a firearm; creating a criminal offense.

To Criminal Jurisprudence.

**HB 383** (By K. King), Relating to a reduction of the amount required to be paid by certain school districts to achieve the equalized wealth level under the public school finance system.

To Public Education.

**HB 384** (By D. Bonnen, Phillips, Morrison, and Price), Relating to the operation of a utility vehicle on a public highway in certain counties.

To Transportation.

**SB 13** to State Affairs.

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**August 4**

General Investigating and Ethics - **HB 15, HB 16, HB 17, HB 18, HB 19, HB 33**

Land and Resource Management - **SB 6**

Public Education - **HB 204**

Ways and Means - **HJR 21**

**ENGROSSED**

**August 4 - HB 25, HB 26, HB 27, HB 32, HB 108, HB 215, HB 239,  
HB 275**