

HOUSE JOURNAL

EIGHTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SIXTH DAY (CONTINUED) — WEDNESDAY, MAY 2, 2007

The house met at 9 a.m. and, at the request of the speaker, was called to order by Representative Farabee.

The roll of the house was called and a quorum was announced present (Record 863).

Present — Mr. Speaker; Allen; Alonzo; Anchia; Anderson; Aycock; Bailey; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Escobar; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Garcia; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Haggerty; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Krusee; Kuempel; Latham; Laubenberg; Leibowitz; Lucio; Macias; Madden; Mallory Caraway; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miles; Miller; Morrison; Mowery; Murphy; Naishtat; Noriega; O'Day; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Vaught; Veasey; Villarreal; Vo; West; Woolley; Zedler; Zerwas.

Absent, Excused — Moreno.

The invocation was offered by Dr. W. Boyd Bush, Jr., minister of education, Crestview Baptist Church, Georgetown, as follows:

Dear God and Father in heaven, we humbly bow before you this morning accepting your divine providence in our life. Lord, guide the decisions of this day. May they be in accordance with your glorious will.

As we gather today, we ask for your guidance in conduct of the state's business. May your will be brought forth, may your love be shared with all, and may you be seen in the decisions of these fine men and women who seek only what is best for the citizens of this great state.

For the legislators placed here by your hand, I pray for wisdom to understand the impact of their decisions, perseverance in prayer as they approach your throne of glory daily for the direction of their lives, and patience to wait on your leadership. I thank you for their dedication to serving the State of Texas and serving you.

I especially pray for the men and women who faithfully serve you daily in the protection of our country. May your hand be on their lives, may a hedge of protection be around them, and may this country rise in support of the sacrifice they make daily to preserve our right to assemble here today and govern our state. May they and all those who serve their fellow citizens be praised from the mountain tops for their diligence, be richly blessed for their sacrifice, and be an inspiration and comfort to all of us.

On the eve of our National Day of Prayer, I pause to recognize the sacrifices of the ones who have gone before us, paving the way for us through hard work, a love for you and our country, and especially through time spent daily with you in prayer. May we learn from their example and appreciate the path made smooth by their dreams and sacrifices.

As each of us leave this chamber today, guide us to walk in your grace and give you the glory and honor you deserve for our place in life. In the glorious name of Jesus Christ our Lord and Savior. Amen.

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

CAPITOL PHYSICIAN

The chair recognized Representative Gattis who presented Dr. Daniel Voss of Georgetown as the "Doctor for the Day."

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

HR 1434 - READ (by Rose)

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

HR 1434, Congratulating the Wimberley High School Lady Texans volleyball team on winning the 2006 UIL Class 3A State Championship.

(Speaker pro tempore in the chair)

RULES SUSPENDED TO ADD BILLS TO LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

On motion of Representative C. Howard and by unanimous consent, the Committee on Local and Consent Calendars was granted permission to set house bills awaiting senate companion bills on today's local, consent, and resolutions calendar on an addendum to the local, consent, and resolutions calendar scheduled for Friday, May 4.

**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 42 (by Paxton, et al.), A bill to be entitled An Act relating to the electronic database of major state contracts.

HB 149 (by Phillips), A bill to be entitled An Act relating to rates charged for water or sewer services by an entity that takes over a nonfunctioning water or sewer system.

HB 182 (by B. Brown and Bailey), A bill to be entitled An Act relating to the authority of certain counties to enact noise regulations; providing a criminal penalty.

HB 434 (by Madden), A bill to be entitled An Act relating to the appointment of certain employees of the Texas Department of Criminal Justice as peace officers for certain purposes.

HB 556 (by Hilderbran), A bill to be entitled An Act relating to voting station requirements for elections held by the Hickory Underground Water Conservation District No. 1.

HB 599 was withdrawn.

HB 606 (by Madden, Macias, and Hilderbran), A bill to be entitled An Act relating to certain election procedures for common school district board elections.

CSHB 616 (by Quintanilla, Patrick, et al.), A bill to be entitled An Act relating to specialty license plates benefiting the classroom supply reimbursement program.

HB 643 (by Hughes and Branch), A bill to be entitled An Act relating to the renewal of an expired dental license for a dentist practicing voluntary charity care.

HB 693 (by Paxton), A bill to be entitled An Act relating to the form of "Welcome to Texas" signs along certain highways.

CSHB 1158 (by Goolsby), A bill to be entitled An Act relating to the address to which notice of the forfeiture of a bail bond is delivered.

HB 1207 (by Keffer), A bill to be entitled An Act relating to corrections to the revised franchise tax transition provisions of **HB 3**, 79th Legislature, 3rd Called Session, 2006. (Harper-Brown recorded voting no.)

CSHB 1352 (by Paxton), A bill to be entitled An Act relating to the operation of a farm, ranch, factory, or other business by the personal representative of a decedent's estate.

HB 1456 (by Coleman), A bill to be entitled An Act relating to the requirements for filing an annual financial statement by a municipality.

CSHB 1498 (by Hopson), A bill to be entitled An Act relating to the creation of the Panola County Groundwater Conservation District; providing authority to impose a tax and issue bonds.

HB 1567 (by Goolsby), A bill to be entitled An Act relating to the requirement to hold a certificate of registration as a landscape architect.

CSHB 1585 (by S. King), A bill to be entitled An Act relating to administrative penalties imposed by a public health district or a county for violations of health and safety provisions relating to retail food service.

CSHB 1587 (by Kuempel), A bill to be entitled An Act relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

CSHB 1733 (by Goolsby), A bill to be entitled An Act relating to a structure that is considered a homestead exempt from seizure for certain claims.

Amendment No. 1

Representative Goolsby offered the following amendment to **CSHB 1733**:

Amend **CSHB 1733** on page 1, lines 13-19, by striking SECTION 2 of the bill and substituting the following:

SECTION 2. This Act takes effect September 1, 2007.

Amendment No. 1 was adopted.

HB 1833 (by R. Cook and Bonnen), A bill to be entitled An Act relating to the eligibility of certain Texas Rangers for burial in the state cemetery.

HB 1944 (by Coleman), A bill to be entitled An Act relating to the elimination of sexual assault against inmates confined in a facility operated by or under contract with the Texas Department of Criminal Justice.

SB 622 (Callegari - House Sponsor), in lieu of **HB 2039**, A bill to be entitled An Act relating to the collection of certain data for the Texas Natural Resources Information System and the duties of the Texas Geographic Information Council.

Representative Callegari moved to lay **HB 2039** on the table subject to call.

The motion prevailed.

HB 2060 (by Geren), A bill to be entitled An Act relating to the Texas Board of Architectural Examiners; providing penalties.

HB 2095 (by Guillen), A bill to be entitled An Act relating to allowing certain counties with no incorporated territory to participate in programs designed to assist municipalities.

SB 1074 (Corte - House Sponsor), in lieu of **HB 2114**, A bill to be entitled An Act relating to short-term revenue bonds in certain metropolitan rapid transit authorities.

Representative Corte moved to lay **HB 2114** on the table subject to call.

The motion prevailed.

HB 2128 (by Murphy and Eiland), A bill to be entitled An Act relating to sexual abuse and child molestation prevention training for certain public or private institutions of higher education employees and volunteers who work at programs for minors.

HB 2171 (by Swinford), A bill to be entitled An Act relating to the first day of instruction in school districts whose prospective or former students generally attend certain grades in another state.

CSHB 2195 (by McCall), A bill to be entitled An Act relating to the time of day by which a report must be filed electronically with the Texas Ethics Commission.

HB 2217 was withdrawn.

HB 2222 (by Heflin), A bill to be entitled An Act relating to the membership of the Food and Fibers Research Council.

HB 2271 was withdrawn.

CSHB 2293 (by Noriega and Bonnen), A bill to be entitled An Act relating to a requirement that state agencies purchase low-emissions vehicles as a minimum percentage of their vehicles purchased.

HB 2346 (by Anderson), A bill to be entitled An Act relating to the authority of a veterinarian to fill certain prescriptions in an emergency.

HB 2371 (by Morrison), A bill to be entitled An Act relating to hearings regarding cease and desist orders against certain persons operating a career school or college without proper authority.

HB 2455 (by B. Cook and Strama), A bill to be entitled An Act relating to the absence of a student from public school for a required court appearance.

HB 2460 was withdrawn.

HB 2557 (by Zerwas), A bill to be entitled An Act relating to the authority of the Texas Department of Transportation to enter real property for a toll project.

HB 2585 (by Aycock), A bill to be entitled An Act relating to the authority of the State Board of Veterinary Medical Examiners to assess certain administrative costs.

CSHB 2591 (by Bonnen), A bill to be entitled An Act relating to county improvement of subdivision roads.

HB 2619 was withdrawn.

CSHB 2621 (by Isett), A bill to be entitled An Act relating to the preservation, maintenance, and restoration of certain state buildings by the Texas Historical Commission.

HB 2623 (by Kuempel), A bill to be entitled An Act relating to the cancellation of a dating service contract within a certain period after execution of the contract.

HB 2625 (by Murphy), A bill to be entitled An Act relating to the determination of prevailing wage rates in Texas counties.

HB 2639 (by Smithee and Heflin), A bill to be entitled An Act relating to risk management programs for members of fraternities and other student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

SB 1634 (Goolsby - House Sponsor), in lieu of **HB 2659**, A bill to be entitled An Act relating to a court order for a land surveyor to cross land.

Amendment No. 1 (Committee Amendment No. 1)

Representative Goolsby offered the following committee amendment to **SB 1634**:

Amend **SB 1634** as follows:

On page 1, line 13 strike "private party" and substitute "person or entity".

Amendment No. 1 was adopted.

Representative Goolsby moved to lay **HB 2659** on the table subject to call.

The motion prevailed.

CSHB 2714 (by Bonnen, Gattis, Rodriguez, Crabb, Leibowitz, et al.), A bill to be entitled An Act relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

CSHB 2718 (by Paxton, Turner, and T. Smith), A bill to be entitled An Act relating to treatment of retrospective premiums for group life insurance issued through certain nonprofit membership associations.

HB 2820 (by Jones), A bill to be entitled An Act relating to the practice of professional land surveying by a business entity.

HB 2833 (by Driver), A bill to be entitled An Act relating to the licensing and regulation of certain private security services.

Amendment No. 1 (Committee Amendment No. 1)

Representative Driver offered the following committee amendment to **HB 2833**:

Amend **HB 2833** on page 22, line 19, by striking "Government" and substituting "Occupations".

Amendment No. 1 was adopted.

HB 2859 - REMARKS

REPRESENTATIVE MARTINEZ FISCHER: Ms. Brown, would you mind postponing this bill to a time certain, being the local and consent calendar Friday at 9 a.m.?

REPRESENTATIVE B. BROWN: I would like to know why.

MARTINEZ FISCHER: We would like to make sure that all bills that have been set on the local and consent calendar on Friday get passed.

B. BROWN: Alright, but I would just like to make you aware of the background of this bill. And if for some reason this bill doesn't get passed, you will owe an apology to a grieving family who brought me this bill. Their 16-year-old daughter was killed by a drunk driver. They testified in the committee meeting and the committee was so moved that they elected to vote at that time to move this bill to local and consent. It was their wishes that it be passed very quickly. The family had gone through so much before. I was hoping that they would be here today, and I could introduce them from the gallery, so that you could look them in the face and say that because I want to throw a tantrum on the floor. I am going to cost you your bill that they had worked two years on bringing.

MARTINEZ FISCHER: I don't believe there is a tantrum being thrown on this floor. And I believe as apologies are concerned, there are lots of apologies—

HB 2859 was withdrawn.

STATEMENT BY REPRESENTATIVE MARTINEZ FISCHER

Ms. Brown has asked that the statements between she and I be reduced to writing and placed in the journal. The conversation was one-sided and I feel it appropriate to respond more fully. Let me be very clear, I asked Ms. Brown to postpone her bill to preserve the sanctity of future local and consent calendars and the safe passage of her bill. It was Ms. Brown that chose not to extend a courtesy to a fellow member by allowing postponement—a courtesy that all members extend to their colleagues. The bill's fate rests in her hands and on her conscience no matter her protestations.

Bills by myself and my colleagues that have been fully investigated by bipartisan committees and given unanimous consent are languishing in the Local and Consent Calendars Committee with no hope of being heard. All the while, hundreds of bills by members loyal to the leadership have been passed without having to wait. If the local and consent calendar becomes infected with partisan zealotry and unfairness, then every part of the legislative process carries that stain. If there is an apology owed to anyone, it is owed by the members of the Local and Consent Calendars Committee to the millions of Texans whose elected representatives have not been given the privilege of a fair hearing on the floor.

HB 2864 was withdrawn.

HB 2895 (by Flynn), A bill to be entitled An Act relating to the criteria for awarding the Texas Humanitarian Service Medal to certain members of the state military forces.

HB 2896 (by Flynn), A bill to be entitled An Act relating to an award for certain members of the state military forces and civilians for superior service.

HB 2897 (by Flynn), A bill to be entitled An Act relating to an award for certain members of the state military forces who served in defense support to a civilian authority mission.

HB 2898 was withdrawn.

CSHB 2945 (by Murphy), A bill to be entitled An Act relating to authorizing a method for certain municipalities to compensate a person for the removal of an on-premise sign as required by the municipality.

HB 2988 was withdrawn.

CSHB 2992 (by Murphy), A bill to be entitled An Act relating to the registration of semitrailers.

HB 3083 was withdrawn.

HB 3093 was withdrawn.

HB 3129 (by R. Cook), A bill to be entitled An Act relating to the creation of a judicial district composed of Bastrop County.

Amendment No. 1

Representative R. Cook offered the following amendment to **HB 3129**:

Amend **HB 3129** as follows:

- (1) On page 1, line 5, strike "Effective January 1, 2009,".
- (2) On page 1, lines 19 - 24 and page 2, lines 1 and 2, strike SECTION 3 of the bill and renumber the following SECTIONS accordingly.
- (3) On page 2, lines 3 and 4, strike "January 1, 2009" and substitute "September 1, 2008".

Amendment No. 1 was adopted.

HB 3131 (by R. Cook), A bill to be entitled An Act relating to the issuance of certain search warrants.

HB 3210 (by Harless), A bill to be entitled An Act relating to the authority of an investigator employed by a prosecuting attorney.

HB 3211 (by Harless), A bill to be entitled An Act relating to access to criminal history record information by certain county attorneys.

CSHB 3273 (by Crownover), A bill to be entitled An Act relating to the powers and duties of the Railroad Commission of Texas; providing an administrative penalty.

HB 3441 was withdrawn.

CSHB 3449 (by Rose), A bill to be entitled An Act relating to the imposition of an intercollegiate athletics fee at Texas State University–San Marcos.

CSHB 3460 (by Paxton), A bill to be entitled An Act relating to the statutory probate court of Collin County.

HB 3493 (by Otto, Hill, Kolkhorst, Ritter, Thompson, et al.), A bill to be entitled An Act relating to the regulation of property tax professionals and appraisal review boards.

HB 3494 (by Otto, Hill, Kolkhorst, Ritter, Thompson, et al.), A bill to be entitled An Act relating to the appeal through binding arbitration of a protest of an appraisal review board order, and to related complaints filed by a property owner and disciplinary action by the Board of Tax Professional Examiners; providing penalties.

CSHB 3514 (by Rodriguez), A bill to be entitled An Act relating to the disclosure by the Texas Department of Public Safety to appraisal districts of driver's license records and personal identification certificate records, or certain information in those records, for use in determining an individual's eligibility for a residence homestead exemption from ad valorem taxation.

CSHB 3601 (by Swinford), A bill to be entitled An Act relating to contested cases involving the regulation of, and enforcement of certain laws concerning the sale or lease of motor vehicles.

CSHB 3630 (by Van Arsdale), A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of a parcel of land that is used for single-family residential purposes and is contiguous to a parcel of agricultural or open-space land owned by the same person. (Latham recorded voting no.)

CSHB 3725 (by Elkins and C. Howard), A bill to be entitled An Act relating to the governance of certain municipal school districts.

Amendment No. 1

Representative Elkins offered the following amendment to **CSHB 3725**:

Amend **CSHB 3725** on page 1, lines 10 and 11, by striking "November 6, 2008," and substituting "May 10, 2008,".

Amendment No. 1 was adopted.

HB 3731 (by Guillen), A bill to be entitled An Act relating to the administration of retirement systems for paid, partly paid, or volunteer fire fighters.

CSHB 3768 (by T. Smith), A bill to be entitled An Act relating to the method of providing notice for certain municipal zoning changes.

CSHB 3769 (by Puente), A bill to be entitled An Act relating to the eligibility of an employee of a political subdivision of this state to be a member of the governing body of certain state agencies. (Burnam recorded voting no.)

HB 3827 (by Morrison), A bill to be entitled An Act relating to the authority of the governing board of a junior college district to hold an open or closed meeting by telephone conference call.

HB 3879 (by Menendez), A bill to be entitled An Act relating to the powers and duties of defense base development authorities; modifying the power of eminent domain.

HB 3955 (by Macias), A bill to be entitled An Act relating to the delegation of a county commissioners court's powers to regulate traffic on county roads.

HB 3992 (by P. King), A bill to be entitled An Act relating to the county courts at law in Parker County.

HB 3993 (by P. King), A bill to be entitled An Act relating to the compensation of the members of the juvenile board of Parker County.

HB 4007 (by Ortiz), A bill to be entitled An Act relating to the county courts at law in Nueces County.

HB 4037 (by Raymond), A bill to be entitled An Act relating to the terms of court for the 49th District Court.

Amendment No. 1

Representative Raymond offered the following amendment to **HB 4037**:

Amend **HB 4037** (House Committee Report) as follows:

(1) On page 1, line 6, between "Court" and "begin", insert "and the 341st District Court".

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 24.487(c), Government Code, is repealed.

Amendment No. 1 was adopted.

HB 4045 (by Callegari), A bill to be entitled An Act relating to the creation of the Towne Lake Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

HCR 111 (by Strama, Straus, Naishtat, P. King, et al.), Authorizing the placement of a monument commemorating the federal Bill of Rights.

SB 57 (Gonzales - House Sponsor), A bill to be entitled An Act relating to the priority given to the hearing by trial courts of certain ad valorem tax matters.

SB 91 (Zedler - House Sponsor), A bill to be entitled An Act relating to point-of-sale health warnings for tobacco products.

SB 158 (Eissler - House Sponsor), A bill to be entitled An Act relating to the certification and employment of educational diagnosticians.

SB 237 (Madden - House Sponsor), A bill to be entitled An Act relating to the supreme court's adoption of rules on the electronic filing of documents in civil cases in justice of the peace courts.

SB 331 (Deshotel - House Sponsor), A bill to be entitled An Act relating to the maximum length for certain vehicles.

SB 342 (Turner - House Sponsor), A bill to be entitled An Act relating to eligibility requirements for a beginning position in a police department in certain municipalities under municipal civil service.

SB 355 (Naishtat - House Sponsor), A bill to be entitled An Act relating to the duty of the judge of the 147th District Court to impanel grand juries and to the terms of court for certain district courts in Travis County.

SB 393 (Callegari - House Sponsor), A bill to be entitled An Act relating to creating a recognition day in honor of election volunteers.

SB 471 (Eiland - House Sponsor), A bill to be entitled An Act relating to certain information reporting requirements regarding workers' compensation claims.

SB 484 was withdrawn.

CSSB 500 (Zerwas - House Sponsor), A bill to be entitled An Act relating to the establishment of a tow truck rotation list in certain counties; providing a penalty.

SB 580 (Zerwas - House Sponsor), A bill to be entitled An Act relating to the manner of recording documents filed with a county clerk.

CSSB 593 (Hartnett - House Sponsor), A bill to be entitled An Act relating to providing notice to certain beneficiaries under a decedent's will.

CSSB 893 (Raymond - House Sponsor), A bill to be entitled An Act relating to international railroad toll bridges in certain counties.

SB 948 (Van Arsdale - House Sponsor), A bill to be entitled An Act relating to the waiver of penalty and interest on a taxing unit's delinquent payment of its allocation of the budget of an appraisal district.

(Speaker in the chair)

INTRODUCTION OF GUESTS

The speaker introduced the Texas Bluebonnet Queen and members of her family.

REMARKS ORDERED PRINTED

Representative B. Brown moved to print remarks between Representative Martinez Fischer and Representative B. Brown.

The motion prevailed.

HR 1853 - ADOPTED (by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 1853**.

The motion prevailed.

The following resolution was laid before the house:

HR 1853, Recognizing May 2, 2007, as Texas Environmental Excellence Awards Day and commending the award recipients.

(Driver in the chair)

HR 1853 was read and was adopted.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1853** as signers thereof.

SB 182 - RECOMMITTED

Representative Hilderbran moved to recommit **SB 182** to the Committee on Culture, Recreation, and Tourism.

The motion prevailed.

FIVE DAY POSTING RULE SUSPENDED

Representative Hilderbran moved to suspend the five day posting rule to allow the Committee on Culture, Recreation, and Tourism to consider **HB 4135** upon first adjournment today at Desk 66.

The motion prevailed.

(Speaker in the chair)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Culture, Recreation, and Tourism, upon first adjournment today, Desk 66, for a formal meeting, to consider **HB 4135** and pending business.

Law Enforcement, upon first adjournment today, Desk 56, for a formal meeting, to consider **HB 2813** and pending business.

Insurance, upon first adjournment today, Desk 24, for a formal meeting, to consider pending business.

Economic Development, upon first adjournment today, Desk 47, for a formal meeting, to consider **SB 1152**, **SB 1424**, and pending business.

Business and Industry, upon first adjournment today, Desk 103, for a formal meeting, to consider pending business.

ADJOURNMENT

The speaker announced that the house would adjourn until 11:30 a.m. today.

The house accordingly, at 11:06 a.m., adjourned until 11:30 a.m. today.