

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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SIXTY-FIFTH DAY (CONTINUED) — THURSDAY, MAY 7, 2009

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 618).

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

Absent, Excused — Driver; Shelton.

Absent — Quintanilla.

The invocation was offered by Reverend Kevin Fausz, pastor, Holy Redeemer Catholic Church, San Antonio, as follows:

Lord God, we ask your blessings upon us this day as we gather to do the work entrusted to us. We ask that you give us wisdom and understanding, charity, peace, and unity, that we might always seek the common good. Help us, Lord, to put all of our gifts and talents at your service, that we might be worthy public servants seeking what is right and just as we strive to represent all the citizens of the State of Texas.

Lord, send down your blessings upon these your servants, who so generously devote themselves to the service of our state, her people, and to helping others. May you reward them for the good that they do. Lord, bless all who are serving in the Texas House of Representatives and in all state offices. And may God bless the great State of Texas and her people. Amen.

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

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Rodriguez who presented Dr. Sandra Worrell of Austin as the "Doctor for the Day."

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

(Quintanilla now present)

### **LEAVES OF ABSENCE GRANTED**

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

Driver on motion of Sheffield.

Shelton on motion of Sheffield.

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

Crabb on motion of Fletcher.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### **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 1880 - ADOPTED (by Peña)**

Representative Peña moved to suspend all necessary rules to take up and consider at this time **HR 1880**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1880**, Honoring the Edinburg Consolidated Independent School District on the centennial of the founding of the city's first organized school.

**HR 1880** was adopted.

**HR 1821 - ADOPTED**  
**(by Martinez)**

Representative Martinez moved to suspend all necessary rules to take up and consider at this time **HR 1821**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1821**, Honoring the Texas A&M University–Kingsville Citrus Center on the 60th anniversary of its founding and recognizing the center's staff for their outstanding achievements.

**HR 1821** was adopted.

On motion of Representative Gonzales, the names of all the members of the house were added to **HR 1821** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Martinez who introduced representatives of the Texas A&M University–Kingsville Citrus Center.

**HCR 121 - ADOPTED**  
**(by Maldonado, Kleinschmidt, Rodriguez, Dukes, Strama, et al.)**

Representative Maldonado moved to suspend all necessary rules to take up and consider at this time **HCR 121**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 121**, Recognizing all those who participated in the 2008 Capital Area State Employee Charitable Campaign.

**HCR 121** was adopted.

**HR 1247 - ADOPTED**  
**(by Farabee)**

Representative Farabee moved to suspend all necessary rules to take up and consider at this time **HR 1247**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1247**, Encouraging Texas employers to hire veterans.

**HR 1247** was adopted.

**HR 1475 - PREVIOUSLY ADOPTED**  
**(by D. Miller)**

The chair laid out the following previously adopted resolution:

**HR 1475**, Honoring the 2009 inductees of the Frontier Times Museum Texas Heroes Hall of Honor in Bandera.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative D. Miller who introduced 2009 inductees of the Frontier Times Museum Texas Heroes Hall of Honor.

**HR 917 - ADOPTED  
(by Gattis)**

Representative Gattis moved to suspend all necessary rules to take up and consider at this time **HR 917**.

The motion prevailed.

The following resolution was laid before the house:

**HR 917**, Recognizing May 7, 2009, as the 58th annual National Day of Prayer.

**HR 917** was adopted.

On motion of Representative Taylor, the names of all the members of the house were added to **HR 917** as signers thereof.

**HR 1257 - ADOPTED  
(by Morrison)**

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 1257**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1257**, Congratulating John M. Roberts of the Victoria Advocate on his receipt of the 2008 Frank W. Mayborn Award for Community Leadership from the Texas Daily Newspaper Association.

**HR 1257** was adopted.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Morrison who introduced John M. Roberts and members of his family.

**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.)

(McClendon in the chair)

**CONGRATULATORY AND MEMORIAL CALENDAR**

The following congratulatory resolutions were laid before the house:

**HR 128** (by Morrison), Honoring the contributions of the Texas Society of Certified Public Accountants and its members.

**HR 1116** was withdrawn.

**HR 1281** (by Maldonado), Congratulating the Williamson County and Cities Health District on its selection for the Action Communities for Health, Innovation, and EnVironmental ChangE initiative of the National Association of Chronic Disease Directors.

**HR 1398** (by Naishtat), Recognizing May 9-16, 2009, as AmeriCorps Week.

**HR 1474** (by Olivo), Commemorating the grand opening of the Missouri City campus of Houston Community College.

**HR 1476** was previously adopted.

**HR 1673** (by Coleman), Honoring Natasha Egharevba for her participation in the Texas Legislative Internship Program.

**HR 1689** was withdrawn.

**HR 1698** (by Hughes and Merritt), Commending Judge Alvin Khoury for his long service to Gregg County on the occasion of his retirement.

**HR 1699** (by Swinford, et al.), Recognizing the Texas A&M University Agricultural and Natural Resources Policy Internship Program and Public Policy Internship Program and the interns for the 81st legislative session.

**HR 1700** (by Hughes), Congratulating Faye and Troy Redd of Alba on their 50th wedding anniversary.

**HR 1703** (by Truitt), Congratulating Dr. Jim McDermott of Tarrant County on his receipt of the 2009 Lifetime Achievement Award for Staff Leadership from the National Council for Community Behavioral Healthcare.

**HR 1705** (by Moody), Honoring Jonathan "J. J." Lietzke of Austin for his service as an intern in the office of State Representative Joseph E. Moody.

**HR 1706** (by Deshotel), Congratulating photographer and educator Keith Carter of Beaumont on being named the 2009 Texas Medal of Arts honoree for Visual Arts.

**HR 1709** (by Rodriguez), Honoring Ben De Leon of Austin on being named the 2009 Big Brothers Big Sisters National Big Brother of the Year.

**HR 1710** (by Shelton), Honoring Brian Srba of Fort Worth on his graduation from the 54th Texas Game Warden Cadet Class.

**HR 1711** (by Bolton), Congratulating Cub Scout Pack 61 of Austin on its 10th anniversary.

**HR 1713** (by Cook), Recognizing May 13, 2009, as Texas Environmental Excellence Awards Day and commending award recipients.

**HR 1714** (by Sheffield), Congratulating Candance L. Hawks on her appointment to the Texas Special Education Continuing Advisory Committee.

**HR 1716** (by Sheffield), Congratulating Dr. Larry R. Montgomery of Belton on his appointment to the Texas Board of Chiropractic Examiners.

**HR 1718** (by Marquez), Congratulating Master Sergeant Daniel Cano on his retirement from the U.S. Air Force.

**HCR 11** (by Branch and McCall), Congratulating Nastia Liukin of Parker for her medal-winning performances in the 2008 Olympic Games.

**HCR 62** was withdrawn.

The resolutions were adopted.

The following memorial resolutions were laid before the house:

**HR 690** was withdrawn.

**HR 1704** (by Truitt), In memory of Lisa Veitenheimer of Keller.

**HR 1707** (by Gutierrez), In memory of Mary S. Wallace of San Antonio.

**HR 1715** (by Sheffield), In memory of the Reverend Theiss L. Jones of Temple.

**HR 1717** (by Marquez, Pickett, Quintanilla, and Moody), In memory of El Paso County Sheriff Leo Samaniego.

**HCR 185** (by Merritt), In memory of Cory James Galloway of Tyler.

**HCR 186** (by Merritt), In memory of Kyle W. Perkins of Kilgore.

**HCR 206** (by Homer), In memory of Christian Tyler Dunn-Donihoo of Mount Pleasant.

**HCR 207** (by Homer), In memory of Jack Ray Stevenson of Bogata.

**HCR 208** (by Homer), In memory of Herbert Hugh Campbell of Paris.

The resolutions were unanimously adopted by a rising vote.

(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 570** (by McClendon), A bill to be entitled An Act relating to requiring the disclosure of certain information to purchasers and renters of residential property. (Anderson, Aycocock, Button, Chisum, Christian, Darby, Flynn, Kleinschmidt, D. Miller, and Phillips recorded voting no.)

**HB 912** (by Dutton), A bill to be entitled An Act relating to the enforcement by contempt of certain orders in family law proceedings. (Button, Chisum, Christian, Kleinschmidt, D. Miller, and Phillips recorded voting no.)

**CSHB 1041** (by Parker), A bill to be entitled An Act relating to school district policies addressing sexual abuse of children.

**CSHB 1090** (by Parker), A bill to be entitled An Act relating to the powers and duties of the Oak Point Water Control and Improvement District No. 4 of Denton County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain. (Miklos recorded voting present, not voting.)

**HB 1309** (by Otto), A bill to be entitled An Act relating to the date by which the comptroller must certify the apportioned amount of the market value of railroad rolling stock to a county assessor-collector.

**CSHB 1457** (by Hochberg), A bill to be entitled An Act relating to procedures concerning verification of certain information submitted in a voter registration application. (Anderson, Chisum, Christian, Flynn, and Phillips recorded voting no.)

**CSHB 2121** (by Olivo), A bill to be entitled An Act relating to participation in the process for evaluating an application for a low income housing tax credit.

**CSHB 2547** (by Giddings), A bill to be entitled An Act relating to the use of a description of employment in determining the safety and appropriateness of a return to employment by an injured employee.

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

Representative Giddings offered the following amendment to **CSHB 2547**:

Amend **CSHB 2547** as follows:

(1) On page 2, strike lines 1-21 and substitute the following:

(d) The commissioner shall prescribe a form to provide information from an employer to a treating doctor concerning the functions and physical responsibilities of an injured employee's job. To the extent possible, the form prescribed under this subsection shall be one page, use a check box format as appropriate, and be compatible with electronic mail. The form must include:

(1) the name and address of the employer and the contact information and availability of the individual representing the employer who has knowledge of the injured employee's job;

(2) the scope of the injured employee's employment, including any specific tasks, job duties, or work activities that the injured employee was required to perform at the time the employee sustained the injury; and

(3) an area for additional comments or information by the employer or individual representing the employer concerning:

(A) the injured employee's job; or

(B) the availability, if any, of other jobs that the employer may have that the employer would like the treating doctor to consider in determining whether an injured employee is able to return to work.

(2) On page 2, strike lines 22-25 and substitute the following:

(e) The commissioner may adopt rules as necessary to implement this section and to facilitate communication between the employer and the treating doctor regarding return-to-work opportunities.

(3) Strike SECTION 2 of the bill (page 2, line 26 through page 3, line 5).

(4) On page 3, line 6, strike "SECTION 3" and substitute "SECTION 2".

Amendment No. 1 was adopted.

**CSHB 2682** (by Alvarado, Guillen, McClendon, Merritt, et al.), A bill to be entitled An Act relating to the authority of municipalities to alter speed limits.

**HB 2697** (by Gutierrez), A bill to be entitled An Act relating to the licensing and regulation of plumbers. (Christian, Phillips, Sheffield, and Weber recorded voting no.)

**CSHB 2954** (by Coleman), A bill to be entitled An Act relating to authorizing an increase in the student center fee at Texas Southern University. (Anderson, Bohac, and Madden recorded voting no.)

**CSHB 2994** (by Heflin), A bill to be entitled An Act relating to the powers and duties of the Reagan Hospital District. (Sheffield recorded voting no.)

**CSHB 3119** (by Alvarado, C. Howard, Villarreal, Taylor, et al.), A bill to be entitled An Act relating to the creation of a pilot program to provide certain taxable entities with a franchise tax credit for the acquisition and installation of certain air quality monitoring devices to monitor the emission of air contaminants. (Sheffield recorded voting no.)

**CSHB 3287** (by McReynolds), A bill to be entitled An Act relating to the amendment of restrictions affecting real property in certain subdivisions.

**HB 3356** (by B. Brown), A bill to be entitled An Act relating to the issuance of AMBER alert system specialty license plates.

**CSHB 3526** (by Callegari), A bill to be entitled An Act relating to the adoption of rules by the Texas Water Development Board regarding supplemental funding resulting from federal economic recovery legislation.

**HB 3666** was deferred until the end of today's local, consent, and resolutions calendar.

**HB 3829** (by Thompson), A bill to be entitled An Act relating to the per diem for members of the Texas Alcoholic Beverage Commission.

**HB 3850** (by Thompson), A bill to be entitled An Act relating to importation and shipment of alcoholic beverages for personal consumption; providing a criminal penalty. (Flynn recorded voting no.)

**CSHB 3861** (by Hopson and McReynolds), A bill to be entitled An Act relating to the financing by the Texas Water Development Board of the proposed Lake Columbia reservoir project.

**SB 1755** (Sheffield - House Sponsor), in lieu of **HB 4210**, A bill to be entitled An Act relating to the election of directors of the Clearwater Underground Water Conservation District.

Representative Sheffield moved to lay **HB 4210** on the table subject to call, and the motion prevailed.

**HB 4343** (by Smithee), A bill to be entitled An Act relating to access to certain criminal history record information maintained by the Department of Public Safety.

**HB 4412** (by Taylor), A bill to be entitled An Act relating to the arbitration deposit required for an appeal through binding arbitration of appraisal review board orders involving multiple tracts of land.

**CSHB 4424** (by Hernandez), A bill to be entitled An Act relating to operations fees and child support service fees assessed by domestic relations offices.



**HB 4492** (by Eiland), A bill to be entitled An Act relating to annuities registered under the Securities Act of 1933.

**HB 4754** (by Kuempel), A bill to be entitled An Act relating to the creation of the Guadalupe County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**HCR 5** (by Peña, Vaught, C. Turner, Maldonado, Farias, et al.), Posthumously conferring the Texas Legislative Medal of Honor on Pedro Cano of Hidalgo County for his heroic actions in World War II.

**HCR 137** (by Gonzalez Toureilles), Commending Orange Grove High School Family, Career, and Community Leaders of America students for their efforts to raise awareness of cancer of unknown primary (CUP) origin and for choosing zebra stripes as the ribbon color to symbolize this rare form of cancer.

**HCR 171** (by Guillen), Memorializing Congress to direct the U.S. Department of Health and Human Services to establish a public health region for the counties along the Texas-Mexico border. (Button, Chisum, Christian, Flynn, Harless, Kleinschmidt, D. Miller, Phillips, Sheffield, and Weber recorded voting no.)

**CSHB 1425** (by Lewis, Pitts, Craddick, Swinford, et al.), A bill to be entitled An Act relating to the determination of the population of a county required to develop a juvenile justice alternative education program.

**HB 1968** (by Hartnett), A bill to be entitled An Act relating to the estates of decedents.

**HB 2548** was deferred until the end of today's local, consent, and resolutions calendar.

**CSHB 2888** (by Martinez), A bill to be entitled An Act relating to recipients of financial assistance administered by the Texas Department of Housing and Community Affairs. (Button, Chisum, Christian, Kleinschmidt, D. Miller, and Phillips recorded voting no.)

### **Amendment No. 1**

Representative Martinez offered the following amendment to **CSHB 2888**:

Amend **CSHB 2888** (house committee printing) on page 2, lines 1-8, by striking SECTION 2 of the bill and renumbering the remaining SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

**CSHB 3181** (by Thompson and Anchia), A bill to be entitled An Act relating to authorizing injunctive relief during proceedings to cancel or suspend certain alcoholic beverage permits and licenses.

**CSHB 3674** (by Thompson and Naishtat), A bill to be entitled An Act relating to the licensing requirements for a foreign-trained physician applicant.

**CSHB 2548** (by Kuempel), A bill to be entitled An Act relating to membership of certain advisory bodies to the Texas Department of Licensing and Regulation.

**HB 3666** was withdrawn.

**HB 4438 - RECOMMITTED**

Representative Kolkhorst moved to recommit **HB 4438** to the Committee on Land and Resource Management.

The motion prevailed.

**HR 1827 - ADOPTED  
(by Y. Davis)**

Representative Y. Davis moved to suspend all necessary rules to take up and consider at this time **HR 1827**.

The motion prevailed.

The following resolution was laid before the house:

**HR 1827**, Congratulating Mariah L. Willis on her graduation from West Texas A&M University.

**HR 1827** was adopted.

**ADJOURNMENT**

Representative Smithee moved that the house adjourn until 11:30 a.m. today.

The motion prevailed.

The house accordingly, at 11:26 a.m., adjourned until 11:30 a.m. today.

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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**

**SB 61** to Criminal Jurisprudence.

**SB 108** to Technology, Economic Development, and Workforce.

**SB 275** to Natural Resources.

**SB 455** to Public Health.

**SB 590** to Ways and Means.

**SB 681** to State Affairs.

**SB 1370** to County Affairs.

**SB 1382** to Transportation.

**SB 1476** to Public Health.

**SB 1586** to Culture, Recreation, and Tourism.

**SB 1589** to Business and Industry.

**SB 1713** to Public Health.

**SB 2048** to Criminal Jurisprudence.

**SJR 50** to Natural Resources.

**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 328, HB 3456**

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 7, 2009

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:  
LOCAL AND UNCONTESTED CALENDAR

**HB 752** England SPONSOR: Harris  
Relating to the authority of certain municipalities to enter into an agreement with a school district to dedicate revenue from a tax increment fund to the district for the acquisition, construction, or reconstruction of an educational facility.

**HB 782** Pickett SPONSOR: Carona  
Relating to registration exemptions for certain foreign commercial motor vehicles.

**HB 1213** Rios Ybarra SPONSOR: Lucio  
Relating to the promulgation by the commissioner of the General Land Office of rules authorizing the use on a public beach of a golf cart for the transportation of a person with a physical disability.

**HB 1615** Kuempel SPONSOR: Averitt  
Relating to the practice of veterinarians in certain mercantile establishments.

**HB 1637** Turner, Chris SPONSOR: Ellis  
Relating to normal weekly hours of work under the shared work unemployment compensation program.

**HB 2546** Isett SPONSOR: Hinojosa  
Relating to the continuation and functions of the Texas Military Preparedness Commission.

**SB 411** Carona  
Relating to a restitution lien for the state to secure fines or costs in a misdemeanor case.

**SB 413** Carona  
Relating to the prosecution of a Class C misdemeanor offense for which the defendant does not appear.

**SB 414** Carona  
Relating to conducting by electronic means a hearing to determine a defendant's ability to discharge certain fines and court costs.

**SB 415** Carona  
Relating to the court in which certain persons charged with misdemeanors punishable by fine only may be arraigned.

**SB 449** Carona  
Relating to the penalty group classification of certain controlled substances.

**SB 549** Carona  
Relating to the authority of the Department of Public Safety of the State of Texas to obtain and use criminal history record information for certain departmental authorizations.

**SB 710** Nelson  
Relating to the punishment for the offense of employment harmful to children.

**SB 1530** Whitmire  
Relating to including playgrounds in the designation of certain places as drug-free zones for purposes of the criminal penalties that apply to certain drug-related offenses.

**SB 2064** West  
Relating to the issuance of state and local government securities, including the powers and duties of the Bond Review Board and the issuance of private activity bonds.

**SB 2472** Patrick, Dan  
Relating to the creation of the Harris County Improvement District No. 14; providing authority to impose an assessment, impose a tax, and issue bonds.

**SB 2486** Williams  
Relating to the creation of the Montgomery County Water Control and Improvement District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**SB 2496** Patrick, Dan  
Relating to the powers of the Westchase District.

**SB 2509** Williams  
Relating to the creation of the Montgomery County Water Control and Improvement District No. 2; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**SB 2518** Nichols  
Relating to the creation of the Somerset Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Respectfully,  
Patsy Spaw  
Secretary of the Senate