

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SIXTH DAY (CONTINUED) — TUESDAY, MAY 3, 2011

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

The roll of the house was called and a quorum was announced present (Record 628).

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

Absent — Perry; Torres.

The invocation was offered by Ben Dailey, lead pastor, Calvary Church, Irving, as follows:

Almighty God, creator of man and this universe, we bow humbly before you to thank you for the privilege and purpose of this occasion; the people who make the State of Texas so great; the public servants who provide sterling leadership which has kept this state strong; the peace in this state and this country which we have enjoyed for many years; and the prosperity which has enabled us to live relaxed and comfortable lives. We are grateful.

I pray that you will give wisdom to our leaders so their decisions will be in harmony with your divine design; understanding and patience to the people of Texas so that they may live quiet and peaceful lives; protection to our police, firefighters, and the freedom fighters around the world; and thank you for

protecting our special ops this past weekend, as they ended the worldwide manhunt of Osama bin Laden, which began nearly a decade ago on September 11, 2001.

I pray that you will give us thankful hearts for the many blessings you have given us and health and wholeness to those in our state who suffer with sickness and infirmity, shortage and lack. God, forgive us of our pride, prejudice, intolerance, bigotry, and unbelief. Give us an attitude of gratitude, love, forgiveness, and acceptance.

God, please bless our government, our governor and our state legislature, with vision and passion for the future; school system with effective strategies for educating our children; business community with success and profitability; churches with spiritual fire and fervor as they minister hope to our families; and Dallas Cowboys with another Super Bowl Championship. And we will thank you in the authority and awesome name of Jesus Christ. Amen.

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

CAPITOL PHYSICIAN

The speaker recognized Representative Hardcastle who presented Dr. Max G. Latham of Bowie as the "Doctor for the Day."

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

REGULAR ORDER OF BUSINESS SUSPENDED

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

(Perry and Torres now present)

HR 1323 - ADOPTED

(by Harper-Brown)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 1323**.

The motion prevailed.

The following resolution was laid before the house:

HR 1323, Congratulating the girls' basketball team of MacArthur High School in Irving on winning the UIL 5A state championship.

HR 1323 was read and was adopted.

(Ritter in the chair)

On motion of Representative McClendon, the names of all the members of the house were added to **HR 1323** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Harper-Brown who introduced players and coaches of the MacArthur High School girls' basketball team.

HR 1662 - ADOPTED (by Patrick)

Representative Patrick moved to suspend all necessary rules to take up and consider at this time **HR 1662**.

The motion prevailed.

The following resolution was laid before the house:

HR 1662, Recognizing the cadets of the Texas Armed Services Scholarship Program.

HR 1662 was adopted.

On motion of Representative Kuempel, the names of all the members of the house were added to **HR 1662** as signers thereof.

HR 1487 - ADOPTED (by Peña)

Representative Peña 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, In memory of Jorge Saenz of Elsa.

HR 1487 was read and was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The chair recognized Representative Peña who introduced family members of Jorge Saenz.

HR 1682 - ADOPTED (by Fletcher)

Representative Fletcher moved to suspend all necessary rules to take up and consider at this time **HR 1682**.

The motion prevailed.

The following resolution was laid before the house:

HR 1682, Recognizing May 3, 2011, as Cypress-Fairbanks Independent School District Day at the State Capitol.

HR 1682 was adopted.

HR 1701 - ADOPTED
(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1701**.

The motion prevailed.

The following resolution was laid before the house:

HR 1701, Commending the 2011 honorees of the Sugar Valley Chapter of Top Ladies of Distinction's recognition and scholarship luncheon.

HR 1701 was adopted.

HR 1386 - PREVIOUSLY ADOPTED
(by Raymond)

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

HR 1386, Honoring The University of Texas Community Outreach for its achievements in promoting community-based prevention and control of diabetes and obesity.

On motion of Representatives Guillen and Lucio, the names of all the members of the house were added to **HR 1386** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Raymond who introduced representatives of The University of Texas Community Outreach.

HR 1617 - ADOPTED
(by Gooden)

Representative Gooden moved to suspend all necessary rules to take up and consider at this time **HR 1617**.

The motion prevailed.

The following resolution was laid before the house:

HR 1617, Congratulating the North Texas Municipal Water District on its receipt of the 2011 Texas Environmental Excellence Award for water conservation.

HR 1617 was adopted.

FIVE-DAY POSTING RULE SUSPENDED

Representative J. Davis moved to suspend the five-day posting rule to allow the Committee on Economic and Small Business Development to consider **SB 1534** at 9 a.m. Thursday, May 5 in E2.014.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Economic and Small Business Development, 9 a.m. Thursday, May 5, E2.014, for a public hearing, to consider **SB 1534** and the previously posted agenda.

(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 114 (by McClendon, Alvarado, and S. King), A bill to be entitled An Act relating to designating April as Minority Cancer Awareness Month. (Frullo recorded voting no.)

HB 152 was withdrawn.

HB 554 (by D. Howard and Rodriguez), A bill to be entitled An Act relating to the civil service status of emergency medical services personnel in certain municipalities. (Berman, Cain, Flynn, Isaac, Landtroop, Perry, Simpson, and White recorded voting no.)

CSHB 557 (by Deshotel), A bill to be entitled An Act relating to the addition of a county to a freight rail district. (Aycock, Frullo, and Kolkhorst recorded voting no.)

CSHB 592 (by Pitts), A bill to be entitled An Act relating to certain counties that are not required to operate a juvenile justice alternative education program.

HB 633 (by Chisum), A bill to be entitled An Act relating to certain nonrefundable application fees established by the Commission on Law Enforcement Officer Standards and Education.

HB 825 - POSTPONED

Representative Anchia moved to postpone consideration of **HB 825** until 7 a.m. Monday, May 9.

The motion prevailed.

SB 398 (Frullo - House Sponsor), in lieu of **HB 923**, A bill to be entitled An Act relating to the board of hospital managers of the Lubbock County Hospital District.

Representative Frullo moved to lay **HB 923** on the table subject to call, and the motion prevailed.

SB 410 (Lavender - House Sponsor), in lieu of **HB 1012**, A bill to be entitled An Act relating to the name and powers of the Red River Redevelopment Authority. (Phillips recorded voting present, not voting.)

Representative Lavender moved to lay **HB 1012** on the table subject to call, and the motion prevailed.

CSHB 1113 (by Raymond, Gallego, and Christian), A bill to be entitled An Act relating to the sentencing hearing or deferred adjudication hearing and conditions of community supervision for defendants convicted of certain offenses involving controlled substances. (Aycock recorded voting no.)

HB 1199 (by Gallego), A bill to be entitled An Act relating to the penalty for certain intoxication assaults. (Aycock, Chisum, Creighton, and Pitts recorded voting no.)

CSHB 1224 (by Reynolds), A bill to be entitled An Act relating to expulsion of a public school student who commits certain criminal acts involving a computer, computer network, or computer system owned by or operated on behalf of a school district. (Landtroop, Perry, and Simpson recorded voting no.)

SB 483 (T. Smith - House Sponsor), in lieu of **HB 1252**, A bill to be entitled An Act relating to the powers and duties of criminal law magistrates in Tarrant County.

Representative T. Smith moved to lay **HB 1252** on the table subject to call, and the motion prevailed.

CSHB 1253 (by Smithee, Hardcastle, Eiland, and Nash), A bill to be entitled An Act relating to certain modifications of a health benefit plan. (Aycock and Paxton recorded voting no.)

CSHB 1291 (by Hochberg), A bill to be entitled An Act relating to the payment of tolls for highway toll projects.

HB 1314 (by Raymond), A bill to be entitled An Act relating to the operation of the 111th District Court.

Amendment No. 1

Representative Raymond offered the following amendment to **HB 1314**:

Amend **HB 1314** (house committee printing) as follows:
relating to the operation and jurisdiction of certain district courts serving Webb County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 24.151(f), Government Code, is amended to read as follows:

(f) In Webb County, the clerk of the district courts shall file all civil cases[~~except tax suits,~~] on the Clerk's Civil File Docket and shall number the cases consecutively. [~~All tax suits shall be assigned and docketed in the 49th District Court. All cases involving family violence, all cases under the Family Code, and all cases under the Health and Safety Code shall be assigned and docketed in the 406th District Court.~~] All [~~other~~] civil cases not assigned and docketed in a district court based on the types of cases the court gives preference to under applicable law shall be assigned and docketed at random by the district clerk. The clerk shall keep a separate file docket, known as the Clerk's Criminal File Docket, for criminal cases [~~and a separate file docket, known as the Clerk's Tax Suit Docket, for tax suits~~]. The clerk shall number the cases on the Clerk's [~~Tax~~

~~Suit Docket consecutively with a separate series of numbers and shall number the cases on the Clerk's] Criminal File Docket consecutively with a separate series of numbers.~~

SECTION 2. Section 24.213, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (e) to read as follows:

(b) The terms of the 111th District Court begin on the first Mondays in January, ~~April [March, May]~~, July, and October ~~[September, and November]~~. Each term continues until the court disposes of its business.

(c) ~~The [judge of the] 111th District Court has concurrent jurisdiction with the other district courts in Webb County [may not impanel grand juries unless he considers it necessary].~~

(e) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

SECTION 3. Section 24.487(b), Government Code, is amended to read as follows:

(b) The judge of the 341st District Court may select jury commissioners and impanel grand juries in Webb County. The judge of the 341st District Court may alternate the drawing of grand juries with the judge of any other district court in the county. By order entered on the minutes, for any term that the judge considers it necessary, the judge may order grand and petit juries to be drawn. ~~[The 341st District Court has concurrent jurisdiction with the 49th District Court in all tax suits and cases.]~~

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Amendment No. 1 was adopted.

HB 1345 (by Veasey), A bill to be entitled An Act relating to the statute of limitations on prosecution of the offenses of kidnapping and aggravated kidnapping of a minor. (Chisum, Frullo, and Pitts recorded voting no.)

HB 1401 (by Laubenberg), A bill to be entitled An Act relating to who may participate in certain local option elections to prohibit or authorize the sale of alcoholic beverages. (Cain and White recorded voting no.)

HB 1402 (by Guillen), A bill to be entitled An Act relating to the applicability of the law on the consequences of a criminal conviction to law enforcement officer license holders and applicants.

CSHB 1615 (by Brown), A bill to be entitled An Act relating to the administering of medications to children in certain facilities; providing criminal penalties.

Amendment No. 1

Representative Brown offered the following amendment to **CSHB 1615**:

Amend **CSHB 1615** (house committee printing) as follows:

(1) On page 2, line 17, following the period, add "If conduct constituting an offense under this section also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections."

(2) On page 2, strike lines 18-21 and substitute the following:

(g) An offense under this section is a Class A misdemeanor.

Amendment No. 1 was adopted.

HB 1622 (by Menendez), A bill to be entitled An Act relating to suits to enjoin gang activity that constitutes a public nuisance. (Cain and White recorded voting no.)

CSHB 1643 (by Zerwas), A bill to be entitled An Act relating to the duration of a development agreement governing land in the extraterritorial jurisdiction of certain municipalities.

HB 1789 (by Farias), A bill to be entitled An Act relating to the payment of state funds directly to an entity that conducts a primary election under contract in certain counties. (Aycock, Berman, Cain, Chisum, Flynn, Frullo, Harless, Harper-Brown, P. King, Kolkhorst, Laubenberg, Lewis, Paxton, Phillips, Pitts, Shelton, Solomons, and White recorded voting no.)

HB 1805 (by Huberty), A bill to be entitled An Act relating to a public school student's eligibility for a public education grant to attend another public school. (Cain and White recorded voting no.)

HB 1830 (by Naishtat), A bill to be entitled An Act relating to the method of delivery of certain notices sent by statutory probate court associate judges.

HB 1843 was deferred until the end of today's local, consent, and resolutions calendar.

CSHB 1959 (by Thompson), A bill to be entitled An Act relating to appeal of the certification of an area's wet or dry status. (Cain and White recorded voting no.)

HB 1988 was withdrawn.

SB 1258 (Hardcastle - House Sponsor), in lieu of **HB 2013**, A bill to be entitled An Act relating to the disposal of demolition waste from abandoned or nuisance buildings in certain areas.

Representative Hardcastle moved to lay **HB 2013** on the table subject to call, and the motion prevailed.

CSHB 2028 (by Hartnett), A bill to be entitled An Act relating to an additional fee for filing civil cases in certain Rockwall County courts. (Aycock, Berman, Flynn, Frullo, Harless, Isaac, Kolkhorst, Paxton, and White recorded voting no.)

CSHB 2069 (by Naishtat), A bill to be entitled An Act relating to the authority of a pharmacist to dispense up to a 90-day supply of dangerous drugs and accelerate refills.

SB 428 (Thompson - House Sponsor), in lieu of **HB 2094**, A bill to be entitled An Act relating to notice to a judgment debtor of the filing of a foreign judgment.

Representative Thompson moved to lay **HB 2094** on the table subject to call, and the motion prevailed.

CSHB 2189 (by Elkins), A bill to be entitled An Act relating to the regulation of handfishing. (Laubenberg and Simpson recorded voting no.)

HB 2256 (by Phillips), A bill to be entitled An Act relating to abating or deferring the suspension or revocation of a license issued by the Department of Public Safety for victims of identity theft.

HB 2265 (by Ritter), A bill to be entitled An Act relating to a county audit of a hotel regarding the hotel occupancy tax. (Aycock, Frullo, and Paxton recorded voting no.)

HB 2280 (by Eiland), A bill to be entitled An Act relating to the composition of the permanent advisory committee to advise the Texas Commission on Environmental Quality regarding the implementation of the ad valorem tax exemption for pollution control property. (Aycock, Cain, and White recorded voting no.)

HB 2280 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HARDCASTLE: Is it your intent with this bill that the number of advisory committee members remain the same and that the school district or junior college district representative be appointed to fill one of the current positions designated to represent a taxing unit?

REPRESENTATIVE EILAND: Yes.

HARDCASTLE: So, the way you envision the TCEQ implementing this is for a school district or junior college district representative to fill the spot of one of the three slots TCEQ currently has for taxing units the next time their term runs out?

EILAND: Exactly.

HARDCASTLE: I understand that two of the three current taxing unit representatives will complete their two-year terms at the end of this year. So, your idea would be for one of those two slots to be filled by the school district or junior college district representative contemplated by your bill?

EILAND: That is how I expect it to play out, yes.

REMARKS ORDERED PRINTED

Representative Hardcastle moved to print remarks between Representative Eiland and Representative Hardcastle.

The motion prevailed.

CSHB 2310 (by D. Miller), A bill to be entitled An Act relating to appointment of bailiffs for the district courts in Comal, Hays, and Caldwell Counties. (White recorded voting no.)

CSHB 2312 (by Coleman), A bill to be entitled An Act relating to the creation of a sickle cell disease program. (Aycock, Chisum, Creighton, Landtroop, Paxton, Perry, Pitts, Sheffield, and Simpson recorded voting no.)

CSHB 2313 (by Coleman), A bill to be entitled An Act relating to certain notice requirements for municipalities and counties under the open meetings law. (Isaac and Simpson recorded voting no.)

HB 2370 (by Dukes), A bill to be entitled An Act relating to certain notice to applicants to provide care under the permanency care assistance program.

HB 2387 (by Menendez), A bill to be entitled An Act relating to the selection, compensation, and duties of the general counsel to an appraisal district. (Kolkhorst recorded voting no.)

HB 2393 (by S. Davis), A bill to be entitled An Act relating to a request by the owner of an ownership interest in a domestic entity that the interest be uncertificated.

HB 2422 (by Thompson), A bill to be entitled An Act relating to the procedure for providing a copy of the final decree of dissolution of a marriage to a party who waived service of process. (Aycock, Chisum, Creighton, Landtroop, Perry, Pitts, and Simpson recorded voting no.)

Amendment No. 1

Representative Thompson offered the following amendment to **HB 2422**:

Amend **HB 2422** by striking page 1, lines 8-13, and substituting the following:

Sec. 6.710. NOTICE [COPY] OF FINAL DECREE. The clerk of the court shall mail a notice of the signing [copy] of the final decree of dissolution of a marriage to the party who waived service of process under Section 6.4035 [~~by mailing the copy of the decree to the party~~] at the mailing address contained in the waiver or [~~to~~] the office of the party's attorney of record. The notice must state that a copy of the decree is available at the office of the clerk of the court and include the physical address of that office.

Amendment No. 1 was adopted.

HB 2423 was withdrawn.

CSHB 2471 (by Phillips), A bill to be entitled An Act relating to limiting the civil liability of certain persons who obtain or provide medical care and treatment for certain animals.

CSHB 2490 (by Solomons), A bill to be entitled An Act relating to the regulation of certain metal dealers; providing criminal penalties. (C. Anderson, Aycock, Berman, Chisum, Creighton, Flynn, Kleinschmidt, Phillips, and Pitts recorded voting no.)

Amendment No. 1

Representative Solomons offered the following amendment to **CSHB 2490**:

Amend **CSHB 2490** (house committee report) by striking page 1, line 24, through page 2, line 4, and substituting the following:

(1-a) "Crafted precious metal" means jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a [or] commemorative medallion, or scrap or a broken item selling at not more than five percent more than the scrap value of the item [made in whole or in part from precious metal].

Amendment No. 1 was adopted.

HB 2516 (by Alvarado), A bill to be entitled An Act relating to the appeal of an indefinite suspension of a municipal firefighter or police officer. (Aycock and Lewis recorded voting no.)

HB 2519 (by Kuempel), A bill to be entitled An Act relating to the regulation of certain motor vehicle auctions.

HB 2628 (by Branch and Hochberg), A bill to be entitled An Act relating to the posting of signs in school crossing zones regarding the prohibited use of a wireless communication device while operating a motor vehicle.

SB 1269 (Branch - House Sponsor), in lieu of **HB 2629**, A bill to be entitled An Act relating to transportation, lodging, and meals offered to and accepted by public servants. (White recorded voting no.)

SB 1269 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOPSON: Is this bill intended to clarify the law, or does it create new law?

REPRESENTATIVE BRANCH: This bill is solely clarification for how the law was meant to read when it was originally passed. It is not meant to be new law.

HOPSON: Representative Branch, what about instances where an office holder attends a conference, a seminar, or receives a meal, but does not provide services at that event?

BRANCH: The law that's currently written only requires that the office holder provide more than merely perfunctory services at an event if the office holder is going to receive transportation or lodging. The law does not require the office holder to provide those services to receive a meal. Again, this is currently the law and this bill does nothing to change that.

REMARKS ORDERED PRINTED

Representative Hopson moved to print remarks between Representative Branch and Representative Hopson.

The motion prevailed.

Representative Branch moved to lay **HB 2629** on the table subject to call, and the motion prevailed.

CSHB 2630 (by Branch and Brown), A bill to be entitled An Act relating to the formal recognition and administration of The Texas A&M University System Health Science Center.

CSHB 2643 (by Hamilton), A bill to be entitled An Act relating to safety standards for elevators, escalators, and related equipment. (Simpson and White recorded voting no.)

HB 2655 was withdrawn.

HB 2711 (by Thompson, et al.), A bill to be entitled An Act relating to the sealing of the records of juveniles who are the victims of human trafficking and have been adjudicated to have engaged in certain delinquent conduct.

CSHB 2727 (by Thompson), A bill to be entitled An Act relating to the regulation by the Texas Department of Licensing and Regulation of the application of eyelash extensions and private beauty culture schools; providing a criminal penalty. (C. Anderson, Berman, Cain, Creighton, Flynn, Harless, Harper-Brown, Isaac, Kleinschmidt, Kolkhorst, Kuempel, Landtroop, Lewis, Perry, Phillips, Simpson, Weber, and White recorded voting no.)

CSHB 2758 (by Peña), A bill to be entitled An Act relating to mandatory emergency alert systems at institutions of higher education. (White recorded voting no.)

CSHB 2770 (by W. Smith and Callegari), A bill to be entitled An Act relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

CSHB 2790 (by Hunter), A bill to be entitled An Act relating to the operation of a golf cart or utility vehicle on a public highway in certain counties.

HB 2847 (by Madden), A bill to be entitled An Act relating to the use of video conferencing systems in certain criminal proceedings.

CSHB 2851 (by Mallory Caraway), A bill to be entitled An Act relating to deferral of certain surcharge payments for military personnel deployed outside of the continental United States.

CSHP 2853 (by J. Davis, Miles, Reynolds, Sheets, R. Anderson, et al.), A bill to be entitled An Act relating to tax increment financing. (Isaac, Kolkhorst, Landtroop, Perry, Simpson, and Weber recorded voting no.)

CSHB 2911 (by Branch), A bill to be entitled An Act relating to guaranteed student loans and alternative education loans. (Weber recorded voting present, not voting.)

HB 2978 (by Hunter), A bill to be entitled An Act relating to the applicability of open meetings requirements to certain meetings of the governing board of a county hospital or county hospital authority. (Bohac, Laubenberg, Paxton, and White recorded voting no.)

HB 2978 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE Y. DAVIS: Chairman Hunter, your bill deals with open meetings and in no way are you trying to close the open meetings process, is that correct?

REPRESENTATIVE HUNTER: You're absolutely correct.

Y. DAVIS: And, actually, this deals with a particular area only, so we're not going to worry about open meetings being compromised—

HUNTER: One hundred percent correct. And for our intent, so the members know, this only deals with adding words to the statute and it will not open it up or expand it in any way.

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks between Representative Hunter and Representative Y. Davis.

The motion prevailed.

HB 2981 (by Hunter), A bill to be entitled An Act relating to the operation on a highway or street of a motor vehicle that is drawing a boat or personal watercraft in or on which a person is riding; providing a penalty. (White recorded voting no.)

CSHB 2999 (by Lewis), A bill to be entitled An Act relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program. (Weber recorded voting present, not voting.)

HB 3076 (by Gallego), A bill to be entitled An Act relating to the rate of the hotel occupancy tax in certain counties. (Berman and Flynn recorded voting no.)

HB 3033 (by Naishtat, Rodriguez, and Dukes), A bill to be entitled An Act relating to retirement under public retirement systems for employees of certain municipalities. (Weber recorded voting present, not voting.)

HB 3077 was withdrawn.

HB 3093 (by Lewis), A bill to be entitled An Act relating to the amendment of certain reports of political contributions and expenditures.

HB 3099 (by Kolkhorst), A bill to be entitled An Act relating to the office of inspector general of the Department of Public Safety.

CSHB 3146 (by Naishtat), A bill to be entitled An Act relating to consent for treatment for chemical dependency in a treatment facility and required training for the facility's intake personnel.

CSHB 3179 (by Farias, Fletcher, C. Anderson, and Sheffield), A bill to be entitled An Act relating to contributions to the fund for veterans' assistance.

SB 1147 (Ritter - House Sponsor), in lieu of **HB 3184**, A bill to be entitled An Act relating to the nonsubstantive revision of certain local laws concerning special districts, including conforming amendments.

Representative Ritter moved to lay **HB 3184** on the table subject to call, and the motion prevailed.

CSHB 3207 (by Y. Davis), A bill to be entitled An Act relating to the establishment and operation of perpetual care cemeteries by certain organized religious societies and sects in certain populous municipalities.

HB 3246 (by Elkins), A bill to be entitled An Act relating to public improvement districts designated by a municipality or county. (Cain and White recorded voting no.)

Amendment No. 1 (Committee Amendment No. 1)

Representative Callegari offered the following committee amendment to **HB 3246**:

Amend **HB 3246** (introduced version), after Section 12 of the bill, by inserting the following new Section 13 and renumbering the subsequent section accordingly:

SECTION 13. Chapter 372, Local Government Code is amended to add Sec. 372.031 as follows:

Sec. 372.031. ECONOMIC FEASIBILITY OF BONDS PAYABLE FROM ASSESSMENTS. (a) Prior to the issuance of bonds or obligations payable wholly or partly from assessments, a municipality or county issuing such bonds must find and determine the following:

(i) all underground water, wastewater, and drainage facilities and all road and street construction to serve assessed property necessary to support the bonds shall be 95% complete; and

(ii) at least 25% of the property assessed necessary to support the bonds must be developed with completed houses, buildings or other vertical improvements.

(b) This section does not apply to general obligation bonds or certificates of obligations.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Elkins offered the following amendment to **HB 3246**:

Amend **HB 3246** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 372.0015, Local Government Code, is amended to read as follows:

Sec. 372.0015. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Costs" means costs and expenses paid or incurred before, during, or after the establishment of a public improvement district and in connection with or related to the undertaking and funding of a public improvement project authorized under this subchapter.

(2) "Extraterritorial[, -"extraterritorial] jurisdiction" means extraterritorial jurisdiction as determined under Chapter 42.

SECTION 2. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0025 to read as follows:

Sec. 372.0025. PUBLIC IMPROVEMENT DISTRICT. A public improvement district is an area, the boundaries of which are designated by the governing body of a municipality or county under this subchapter, that may include two or more noncontiguous areas separated by:

(1) a right-of-way or other land dedicated to or owned, leased, or used by a political subdivision or other governmental entity, tax-exempt entity, public or private utility, or railroad; or

(2) not more than 1,000 feet, as measured in a straight line, between the nearest points on the property lines of the closest situated noncontiguous areas.

SECTION 3. Sections 372.003(b) and (c), Local Government Code, are amended to read as follows:

(b) A public improvement project may include:

(1) landscaping;

(2) erection of fountains, distinctive lighting, and signs;

(3) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;

(4) construction or improvement of pedestrian malls;

(5) acquisition and installation of pieces of art;

(6) acquisition, construction, or improvement of libraries;

(7) acquisition, construction, or improvement of off-street parking facilities;

(8) acquisition, construction, improvement, or rerouting of mass transportation facilities;

(9) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;

(10) the establishment or improvement of parks and recreation facilities;

(11) facilities or equipment for firefighters, police, sheriffs, and emergency service providers;

(12) the right to receive or provide utility services;

(13) projects similar to those listed in Subdivisions (1)-(12) [(+) (10)];

(14) [(+2)] acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;

(15) [(+3)] special supplemental services for improvement and promotion of the district, including services relating to:

(A) advertising;

(B) [;] promotion;

(C) [;] health and sanitation;

(D) [;] water and wastewater;

(E) firefighters, police, sheriffs, emergency service providers, and other public safety and [;] security personnel;

(F) [;] business recruitment;

(G) [;] development;

(H) [;] recreation; [;] and

(I) cultural enhancement;

(16) [(14)] payment of expenses incurred in the establishment, administration, and operation of the district; and

(17) [(15)] the development, rehabilitation, or expansion of affordable housing.

(c) A public improvement project may be limited to the provision of the services described by Subsection (b)(15) [(b)(13)].

SECTION 4. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0035 to read as follows:

Sec. 372.0035. AUTHORIZED HIGHER EDUCATION FACILITIES; LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) A public improvement project under Section 372.003 may include the acquisition, construction, maintenance, or improvement of buildings and other facilities commonly used for:

(1) teaching, research, or the preservation of knowledge by an institution of higher education; or

(2) an auxiliary purpose of an institution of higher education, including the provision of administrative services, student services, student housing, athletics, performing arts, and alumni support.

(c) The governing body of a municipality or county that establishes a public improvement district to finance a public improvement project described by Subsection (b) may enter into a memorandum of understanding with an institution of higher education that provides educational services in the municipality or county under which the municipality or county leases the public improvement project to the institution, at a nominal rate, for use by the institution in providing teaching, research, public service, or auxiliary enterprise activities to students of the institution.

SECTION 5. Section 372.014, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) The assessment plan is intended to be flexible to provide for various development scenarios, including:

(1) assessments against all property to pay the costs of improvements that benefit all the property and additional assessments levied against portions of the property to pay the costs of improvements that benefit those portions of the property; or

(2) assessments levied to pay the costs for all improvements contemplated for all phases of development of the property with different payment and collection dates for the different phases determined by events established by the plan, including events related to the future phased development of the property.

SECTION 6. Section 372.015, Local Government Code, is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) The annual installment of an assessment payable in installments may be increased or decreased by the governing body of the municipality or county as reflected in the updated annual service plan and the corresponding updated assessment roll.

(f) If a parcel is subdivided, the assessment against the parcel before the parcel was subdivided may be reallocated among the subdivided parcels.

(g) If two or more parcels are consolidated, the assessments against each parcel may be reallocated to the consolidated parcel.

(h) If a proposed use of an undeveloped parcel changes after an assessment is levied against a parcel:

(1) the change in use does not affect the validity of the assessment against the parcel; and

(2) the aggregate amount of assessments levied against multiple undeveloped parcels for which the proposed use has changed may be reallocated among the undeveloped parcels.

SECTION 7. Subchapter A, Chapter 372, Local Government Code, is amended by adding Section 372.0175 to read as follows:

Sec. 372.0175. CONTRACTS FOR COLLECTION OF ASSESSMENTS.

The governing body of a municipality or county may contract with the governing body of another taxing unit, as defined by Section 1.04, Tax Code, or the board of directors of an appraisal district to perform the duties of the municipality or county relating to collection of special assessments levied under this subchapter.

SECTION 8. Section 372.018, Local Government Code, is amended by amending Subsections (a) and (f) and adding Subsection (g) to read as follows:

(a) An assessment bears interest at the rate specified by the governing body of the municipality or county beginning at the time or times or on the occurrence of one or more events specified by the governing body. If general obligation bonds, revenue bonds, installment sales contracts, reimbursement agreements, time warrants, or temporary notes are issued or entered into to finance or pay for the improvement for which the assessment is levied [assessed], the interest rate for the [that] assessment may not exceed a rate that is one-half of one percent higher than the actual interest rate paid on the debt. [Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment.] The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid. The added interest may be used to pay costs, including the payment or prepayment of the assessment, administrative costs, costs of improvements, and costs of financing such as reserves for debt service.

(f) Delinquent installments of the assessment shall incur interest, penalties, and attorney's fees in the same manner as delinquent ad valorem taxes.

(g) The owner of assessed property may pay at any time on any parcel or lot all or any part of the assessment, with interest that:

(1) has accrued on the assessment; and

(2) will accrue on the assessment until the next scheduled prepayment or redemption date on the general obligation bonds, revenue bonds, installment sales contract, reimbursement agreement, temporary note, or time warrant issued or entered into to finance or pay for the improvements [on any lot or parcel].

SECTION 9. Section 372.023, Local Government Code, is amended by amending Subsections (a), (d), (e), and (g) and adding Subsections (a-1) and (d-1) to read as follows:

(a) Costs of improvements may be paid or reimbursed by any combination of the methods described by this section if the improvements are dedicated, conveyed, leased, or otherwise provided to or for the benefit of:

(1) a municipality or county;

(2) a political subdivision or other entity exercising the powers granted under this subchapter as authorized by other law; or

(3) an entity that:

(A) is approved by the governing body of an entity described by Subdivision (1) or (2); and

(B) is authorized by order, ordinance, resolution, or other official action to act for an entity described by Subdivision (1) or (2) [The cost of an improvement made under this subchapter must be paid in accordance with this section].

(a-1) The payment or reimbursement may be provided before or after a method of payment or reimbursement authorized by this section is entered into or issued.

(d) Costs [A cost] payable from a special assessment that is payable [to be paid] in installments may be paid by any combination of the following methods [and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds shall be paid]:

(1) under an installment sales [sale] contract or a reimbursement agreement between the municipality or county and [with] the person who acquires, installs, or constructs the improvements [contracts to install or construct the improvement for which the costs apply];

(2) as provided by a temporary note or time warrant issued by the municipality or county and payable to the [reimburse a] person who acquires, installs, or constructs the improvements [for money advanced or work performed in connection with an improvement]; or

(3) by the issuance and sale of [revenue or general obligation] bonds under Section 372.024.

(d-1) An installment sales contract, reimbursement agreement, temporary note, or time warrant described by Subsection (d) may be assigned by the payee without the consent of the municipality or county.

(e) The [net effective] interest rate[as computed for a public security under Section 1204.005, Government Code,] on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary note, or time warrant described by [money owed or paid under] Subsection (d):

(1) may not exceed, for a period of not more than five years, as determined by the governing body of the municipality or county, five [one half of one] percent above the highest average index [interest] rate for tax-exempt bonds reported in a daily or [by a newspaper in a] weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred; and

(2) after the period described by Subdivision (1), may not exceed two percent above the bond index rate described by Subdivision (1) [of the contract or agreement or the issuance of the bond, temporary note, or time warrant. The newspaper must specialize in bonds and be acceptable as a reliable source for bond interest rates to the governing body of the municipality or county that enters into the contract or agreement or that issues the bond, temporary note, or time warrant].

(g) The cost of more than one improvement may be paid:

(1) from a single issue and sale of bonds without other consolidation proceedings before the bond issue; or

(2) under a single installment sales contract, reimbursement agreement, temporary note, or time warrant ~~[an agreement with a person who contracts to install or construct the improvement and who sells the improvement to the municipality or county].~~

SECTION 10. Section 372.024, Local Government Code, is amended to read as follows:

Sec. 372.024. GENERAL OBLIGATION AND REVENUE BONDS. (a) The governing body of a municipality or county may issue:

(1) general [General] obligation bonds [issued to pay costs under Section 372.023(d) must be issued] under [the provisions of] Subtitles A and C, Title 9, Government Code;

(2) certificates of obligation under Subchapter C, Chapter 271; and

(3) revenue [~~Revenue~~] bonds, issued [to pay costs under that subsection may be issued from time to time] in one or more series [and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments].

(b) The bond or obligation may be:

(1) issued on the terms determined by the governing body of the municipality or county;

(2) issued to pay costs;

(3) issued to refund any obligation entered into or issued under this subchapter, including an installment sales contract, reimbursement agreement, temporary note, and time warrant; and

(4) payable from and secured by special assessments.

(c) If the bond or obligation is issued for the purpose described by Subsection (b)(3) and is secured wholly or partly by a special assessment, the lien created by the originally levied special assessment continues uninterrupted for the term of the bond or obligation to secure payment of the bond or obligation.

SECTION 11. Section 372.026, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) If an assessment is collected and applied to pay an amount due under an installment sales contract, reimbursement agreement, temporary note, or time warrant, the governing body of a municipality or county may pledge all or any part of the revenue collected to pay general obligation bonds, certificates of obligation, or revenue bonds issued to refund those obligations. The pledge authorized by this subsection:

(1) does not affect the lien of that assessment; and

(2) is not a reassessment or a new assessment.

SECTION 12. Section 372.023(f), Local Government Code, is repealed.

SECTION 13. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Amendment No. 2 was adopted.

HB 3270 (by Veasey), A bill to be entitled An Act relating to the list of candidates compiled by a state or county party chair for a primary election.

HB 3307 (by Muñoz), A bill to be entitled An Act relating to the confidentiality of certain home address information in ad valorem tax appraisal records.

HB 3309 (by Rodriguez), A bill to be entitled An Act relating to the authority to set maximum weights for state highways, roads, and bridges. (Cain, Kolkhorst, Landtroop, Perry, and White recorded voting no.)

HB 3342 (by Naishtat), A bill to be entitled An Act relating to representation of and by the state and joinder of the state in certain mental health proceedings.

HB 3384 (by Madden), A bill to be entitled An Act relating to the penalties for repeat and habitual felony offenders. (Harper-Brown, Phillips, and White recorded voting no.)

CSHB 3409 (by Kolkhorst), A bill to be entitled An Act relating to reporting of changes in lobbying activities during a legislative session.

CSHB 3478 (by Gallego), A bill to be entitled An Act relating to the punishment for criminal mischief involving cattle, horses, and exotic livestock.

HB 3547 (by Alvarado), A bill to be entitled An Act relating to enforcement by a local government of fire safety standards at certain child-care facilities.

CSHB 3570 (by Smithee), A bill to be entitled An Act relating to insurance coverage requirements for certain amusement rides.

HB 3616 (by Naishtat and Raymond), A bill to be entitled An Act relating to designating October as Disability History and Awareness Month.

HB 3670 was withdrawn.

CSHB 3674 (by Eiland), A bill to be entitled An Act relating to the use of an unsworn declaration.

CSHB 3708 (by Hochberg), A bill to be entitled An Act relating to the Early High School Graduation Scholarship program and to the funding of certain exemptions from tuition and fees at public institutions of higher education from savings attributable to the program. (Weber recorded voting present, not voting.)

HB 3814 (by Rodriguez), A bill to be entitled An Act relating to certain financial powers and duties of the Travis-Creedmoor Municipal Utility District.

CSHB 3815 (by Lewis), A bill to be entitled An Act relating to the authority of the Ector County Hospital District to employ and commission peace officers.

HB 3818 (by Geren), A bill to be entitled An Act relating to a limitation on production fees on groundwater withdrawals assessed by the Northern Trinity Groundwater Conservation District.

HB 3819 (by Crownover), A bill to be entitled An Act relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

HB 3821 (by Eiland), A bill to be entitled An Act relating to temporary directors and the continuation in existence of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County.

HB 3827 (by Zerwas), A bill to be entitled An Act relating to the creation of the Fulshear Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds.

HB 3828 (by Hochberg), A bill to be entitled An Act relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

HB 3831 (by Marquez and Margo), A bill to be entitled An Act relating to the creation of the Montecillo Municipal Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 3834 (by Zerwas), A bill to be entitled An Act relating to the creation of North Fort Bend County Improvement District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 3835 (by Laubenberg), A bill to be entitled An Act relating to the Rockwall County Juvenile Board.

CSHB 3836 (by Pitts), A bill to be entitled An Act relating to the creation of the Windsor Hills Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

CSHB 3847 (by Lavender), A bill to be entitled An Act relating to the Riverbend Water Resources District. (Cain recorded voting no; Phillips recorded voting present, not voting.)

CSHB 3857 (by Dutton), A bill to be entitled An Act relating to the creation of the Near Northside Management District.

CSHR 306 (by Marquez, Pickett, Quintanilla, Margo, and Gonzalez), Expressing support for the conservation of Castner Range.

HCR 42 (by Madden), Expressing support for the current FBI effort to reevaluate existing policies, standards, and protocols for forensic DNA testing laboratories and expressing support for any new policies, standards, and protocols that would hold public and private labs to the same standards, audits, and review process, urging Congress to pass any necessary federal legislation that ensures continued quality in forensic science while holding public and private lab DNA analysis to the same standards, and encouraging Texas law enforcement agencies to use forensic science review methods that will eliminate DNA testing backlogs.

SB 116 - CALLED FROM THE TABLE

Representative Castro moved to call **SB 116** from the table.

The motion prevailed.

SB 116 - RECOMMITTED

Representative Castro moved to recommit **SB 116** to the Committee on Local and Consent Calendars.

The motion prevailed.

HB 1843 was withdrawn.

HB 2051 - RECOMMITTED

Representative L. Taylor moved to recommit **HB 2051** to the Committee on Elections.

The motion prevailed.

HB 1696 - RECOMMITTED

Representative L. Taylor moved to recommit **HB 1696** to the Committee on Elections.

The motion prevailed.

RESOLUTIONS REFERRED TO COMMITTEES

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

COMMITTEE GRANTED PERMISSION TO MEET

Representative Marquez requested permission for the Committee on County Affairs to meet while the house is in session, at 1:30 p.m. today, in 3W.15, to consider pending items.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Defense and Veterans' Affairs, upon first adjournment today, Desk 15, for a formal meeting, to consider pending business.

Rules and Resolutions, upon first adjournment today, 1W.14, for a formal meeting, to set a congratulatory and memorial calendar.

County Affairs, 1:30 p.m. today, 3W.15, for a formal meeting, to consider pending items.

ADJOURNMENT

Representative Marquez moved that the house adjourn until 1 p.m. today.

The motion prevailed.

The house accordingly, at 12:05 p.m., adjourned until 1 p.m. today.

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

HR 1670 (By Bonnen), Urging the government of Turkey to uphold and safeguard religious and human rights of all its citizens without compromise, to grant the Ecumenical Patriarch appropriate international recognition, ecclesiastical succession, and the right to train clergy of all nationalities, and to respect the property rights and human rights of the Ecumenical Patriarchate and all religious and faith traditions.

To Rules and Resolutions.

