HOUSE JOURNAL  
EIGHTY-SECOND LEGISLATURE, REGULAR SESSION  

PROCEEDINGS  

THIRTY-EIGHTH DAY — MONDAY, MARCH 21, 2011  
The house met at 11 a.m. and was called to order by the speaker.  
The roll of the house was called and a quorum was announced present  
(Roll Call 1).  

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia;  
Anderson, C.; Anderson, R.; Aycock; Bect; Berman; Bonnen; Branch;  
Brown; Burket; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum;  
Christian, Coleman; Cook; Craddock; Creighton; Crow nozzle; Darby; Davis, J.;  
Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins;  
Farra; Farrar; Fletcher; Flynn; Frullo; Gallegos; Garza; Geren; Giddings;  
Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock;  
Hardcastle; Harless; Harper-Brown; Harms; Hernandez Luna; Hilderbrand;  
Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter, Israel;  
Jackson; Johnson; Keffer; King; P.; King, S.; King, T.; Kleinschmidt; Kolkhorst;  
Kuemmel; Landroper; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano;  
Lucio; Lyne; Madden; Mallory Canaway; Margo; Martinez; Martinez, Fischer;  
McKendorn; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy;  
Nuñez; Notter; O’Hearn; Ors; Otto; Parker; Patricia; Paxton; Peña;  
Perry; Phillips; Pickett; Pitts; Price; Quintana; Ray mond; Reynolds; Riddle;  
Ritter; Rodriguez; Schnett; Scott; Sheats; Sheffield; Shelton; Simpson; Smith;  
T.; Smith, W.; Smithie; Solomon; Strama; Taylor, L.; Taylor, V.; Thompson;  
Torres; Tripp; Turner; Veasey; Villarreal, V.; Walle; Weber; White; Woolsley;  
Workman; Zedler; Zerwas.  

Absent — Guitierrez.  

The invocation was offered by Representative Landroper.  
The speaker recognized Representative Landroper who led the house in the  
pledges of allegiance to the United States and Texas flags.  

REGULAR ORDER OF BUSINESS SUSPENDED  
On motion of Representative Landroper and by unanimous consent, the  
reading and referral of bills was postponed until just prior to adjournment.  

CAPITOL PHYSICIAN  
The speaker recognized Representative Lozano who presented Dr. Luis Calo  
of Harlingen as the “Doctor for the Day.”
Representative D. Howard was readmitted to the house chamber and announced present.

HR 500 - PREVIOUSLY ADOPTED  
(by Hardcastle)

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

HR 500. In memory of Texas Department of Public Safety Senior Corporal David Ralph Slaton of Bowis.

On motion of Representative Geren, the names of all the members of the house were added to HR 500 as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Hardcastle who introduced family members and friends of Senior Corporal David Ralph Slaton.

(Price in the chair)

FIVE-DAY POSTING RULE SUSPENDED

Representative Gallego moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Criminal Jurisprudence to consider HB 2482 at 10:30 a.m. or upon final adjournment tomorrow in JHR 120.

The motion prevailed.

Representative S. Miller moved to suspend the five-day posting rule to allow the Committee on Homeland Security and Public Safety to consider HB 1810 at 2 p.m. or upon final adjournment tomorrow in E1.026.

The motion prevailed.

HR 939 - ADOPTED  
(by J. Davis)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time HR 939.

The motion prevailed.

The following resolution was laid before the house:

HR 939, Recognizing March 21, 2011, as World Down Syndrome Day.

HR 939 was adopted.

HR 530 - PREVIOUSLY ADOPTED  
(by Schwertner)

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

HR 530, In memory of J. D. Thomas, Jr., of Georgetown.

On motion of Representative Woolley, the names of all the members of the house were added to HR 530 as signers thereof.
INTRODUCTION OF GUESTS
The chair recognized Representative Bohac who introduced Shelly Vasey and Manny Salazar III.

HR 733 - PREVIOUSLY ADOPTED
(by Garza)
The chair laid out and had read the following previously adopted resolution:
HR 733, Recognizing March 22, 2011, as The University of Texas at Austin Plan II Honors Day.

INTRODUCTION OF GUESTS
The chair recognized Representative Naftnit who introduced professors, students, and staff from The University of Texas at Austin Plan II Honors Program.

(Speaker in the chair)

EMERGENCY CALENDAR
SENATE BILLS
SECOND READING
The following bills were laid before the house and read second time:

CSSB 14 ON SECOND READING
CSSB 14, A bill to be entitled An Act relating to requirements to vote, including presenting proof of identification; providing criminal penalties.

Representative Harless moved to postpone consideration of CSSB 14 until 12:12 p.m. today.
The motion prevailed.

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING
The following bills were laid before the house and read second time:

HB 314 ON SECOND READING
(by Hardcastle)
HB 314, A bill to be entitled An Act relating to the designation of a portion of U.S. Highway 81 as the Corporal David Stelton Memorial Highway.

HB 314 was passed to engrossment.

POSTPONED BUSINESS
The following bills were laid before the house as postponed business:
ANCHIA: Okay, so, under current law, just to be clear so the membership knows, it's actually a third-degree felony. So it's two to 10 years in prison and up to $10,000 worth of fines. And in the committee substitute, it's actually bumped up to a third-degree felony so there's a penalty enhancement from third degree to second degree, so increases in severity, and then there's also an increase, a correlating increase with the attempted voter impersonation that gets bumped up as well, from its current penalty to 180 days—it's a state jail felony—180 days to two years in state jail and an optional fine of $10,000. So there are some pretty severe penalties both in current law and in your proposed bill. Correct? A felony?

HARLESS: Yes.

ANCHIA: And, in terms of risk-reward, how many votes can you change with one case of voter impersonation?

HARLESS: How many votes can you change?

ANCHIA: Yes. You were very concerned about a legitimate voter being disenfranchised by someone conducting voter impersonation. Is it a scalable model, or when you commit an act of voter impersonation, how many votes do you change?

HARLESS: Representative Anchia, this is about restoring confidence in the election process—

ANCHIA: No, I understand that—

HARLESS:—one person, one vote, and to get off on the fraud argument or how often it happens or if it ever happens—we will never agree on that. The purpose of this legislation is that when you show up to vote, you prove who you say you are. It's a very simple, narrowly defined bill and we could care less about that whole day long discussing the fraud, but that is not what this bill is about. This bill is about protecting, deterring, and detecting possible fraud in elections.

ANCHIA: You sure? I'm trying to get at that, because you talked about voter impersonation in your layout, and I know the narrative changes, because when—you know, we studied this thing for eight years now, almost six years, seven years actually, and we haven't been able to find much said voter impersonation. Clearly, to support the bill, your narrative has to change so now it's about integrity of elections, I understand that. In going through the current—you said in your layout, we currently don't have tools to prevent this. So, I was trying to get at the tools that are in current state law, and the first one is sort of the deterrent effect of risking a state jail felony, two to 10 years in jail, $10,000 worth of fines, to change what, one vote, right? So we're talking about deterrent effect and risk, and my question to you was, is it scalable? When you commit an act of voter impersonation, how many votes do you change?

HARLESS: I think it's possibly scalable. If you look at Representative Donna Howard's election and Dan Neil, I think that a decision was decided by, what, two votes?

ANCHIA: Were there any cases of voter impersonation there?
ANCHIA: Do you think issuing an arrest warrant to stop some of this purported voter impersonation is a powerful tool?
HARLESS: I think that the testimony that we've heard and the articles that have been reported on over the last few years, there have been a number of election officers and election judges that said there were people that came in to vote, they had a voter registration, they returned and voted again with a different voter registration, and they felt they didn't have the tools—
ANCHIA: And none of those cases were documented, right? None of them.
HARLESS: They were reported on.
ANCHIA: They were reported, maybe complaints, possibly investigated by the attorney general, but none of them ever documented or conclusively prosecuted, correct?
HARLESS: I don't know if that's correct or not. It was not part of our testimony.
ANCHIA: But don't you think, having the power as an election judge to issue an arrest warrant to satisfy, to enforce the provisions of the Election Code—that's not—you claim that these people are helpless, they don't have the tools. But you don't think that's a tool?
HARLESS: I don't think it's a tool when they're not required to show a photo ID when they show up to vote that says they are who they—
ANCHIA: If you're an election judge and you know you have the power of a state district judge to issue an arrest warrant and you see somebody who is potentially committing voter impersonation, and you don't do anything about it, whose fault is that?
HARLESS: I think that is the legislature's fault—
ANCHIA: It's our fault?
HARLESS: For not putting checks and balances in place that we can require voters to prove who they are when they show up to vote.
ANCHIA: Do you have—and I noticed you avoided presenting any evidence of voter impersonation in your layout—do you have any cases of voter impersonation?
HARLESS: I'm sure you know more about that than I do.
ANCHIA: Okay, okay. You're concerned about legitimate votes being disenfranchised, right? That's really important to you.
HARLESS: I am concerned about protecting the public's trust and the integrity in the elections process.
ANCHIA: I understand, as am I, as am I. And you believe that passage of this bill will restore confidence among members of the public in the voting process and restore integrity, correct? That's what you said in your layout?
HARLESS: I do.
ANCHIA: And you believe that?
HARLESS: I look forward to you bringing that bill to the Texas House.
ANCHIA: --which is specifically ignored by your bill. But this is really about a
desire to make sure that legitimately cast votes are not counter-balanced or offset,
and to really restore integrity of elections. Why don’t you do anything about
mail-in ballots in your bill?
HARLESS: This bill is to address in-person possible voter fraud. I appreciate
you bringing up the mail-in ballots, and I look forward to your bill that you will
bring addressing that type of fraud.
ANCHIA: I actually chair the select committee on that, and I’ve had, in the past,
mail-in ballot bills.
HARLESS: I think that’s great legislation, I look forward to helping you with it.
ANCHIA: Here’s the quandary for this body: If you say passing this bill is going
to restore integrity of elections, you do nothing in this bill to deal with mail-in
ballots and 70 percent of all the prosecutions by the attorney general have been
mail-in ballots, then you’re really not restoring integrity of elections because
people, like they have for the last six years, will be reading about mail-in ballot
fraud, mail-in ballot fraud, mail-in ballot fraud. Let’s talk a little bit about the
Voting Rights Act, if you don’t mind. How much money is in the bill for
informing Texas about the change in the law?
HARLESS: The fiscal note on the bill is $2,024,000.
ANCHIA: Okay, and where’s that money going to come from?
HARLESS: That money is already appropriated in our base budget that
Chairman Pitts presented. We have, officially, $33 million of HAVA funds, Help
America Vote funds, leftover from past sessions, and we are pretty confident once
we request the approval of use of those funds that we can use those funds to
offset the costs of this fiscal note.
ANCHIA: What is that request going to entail?
HARLESS: It entails writing to the department of elections assistance.
ANCHIA: The Elections Assistance Commission? The EAC?
HARLESS: Yes.
ANCHIA: And does it also require an amendment of our state plan?
HARLESS: I’m not advised.
ANCHIA: Okay, let me ask you about how those HAVA funds are going to be
spent? How many of those HAVA funds that are appropriated in this bill are
going to be dedicated to educating Latinos, African Americans, and Asians on the
new photo identification requirement under SB 147?
HARLESS: The methodology and the fiscal note says that there will be
$2 million for the fiscal year 2012 and an estimated half a million dollars to
research and develop ways to inform the public on new identification
requirements. Additional cost of $1.5 million in media advertising, television,
HARLESS: It does not specifically carve anything out. This will increase voter turnout and education for all voters.
ANCHIA: Will the educational materials and promotional materials be presented in English, Spanish, and Vietnamese, with respect to Harris County?
HARLESS: They will be printed in the language that the counties are required to provide language in.
ANCHIA: But there's nothing in your bill that specifically states that you will have bilingual Spanish, English, Vietnamese documents, correct?
HARLESS: There was an amendment that was added in the senate that says the website in each language in which the voter registration materials are available.
ANCHIA: Right, and the website is—
HARLESS: Is that what you're asking?
ANCHIA:—slightly different, the website is a little bit different than the promotional and educational materials that are going to be distributed to people who may be in the protected classes. So I was just trying to get at whether your bill includes anything related to promotional materials in English, Spanish, and Vietnamese.
HARLESS: It allows for the printing in the language that the counties are required to on all the notices at the polling places and that the county registrar will provide.
ANCHIA: And that language is in your bill?
HARLESS: Yes.
ANCHIA: Okay, can you tell me where?
HARLESS: Well, Section 31.012—
ANCHIA: On what page, really quickly.
HARLESS: Page 3, under Section 5, talks about the languages.
ANCHIA: In each language in which voter registration materials are available, I do see it in your bill.
HARLESS: And that is also a requirement of the federal voter right act, I mean that's—
ANCHIA: The Voting Rights Act?
HARLESS: Right—
ANCHIA: But I'm asking a slightly different question. Will the, for example, TV and radio, and additional notices that are above and beyond this section of your bill which is the posted notice, is TV and radio going to be done in multiple languages?
HARLESS: I believe with all my heart that this bill will increase turnout of all voters in the State of Texas.

ANCHIA: But what if you're wrong? Are there any safeguards in the bill to remedy the situation, for example, a Sunset provision, if we see that there's a substantial number of African Americans or Latinos that are disenfranchised by this bill?

HARLESS: In the two states that have passed this type of voter, similar bills to our bill, they have showed increase in election for the minorities, and I think that we will see the same results in Texas. This will increase turnout of all voters because of the restored confidence that their vote counts.

ANCHIA: Okay, and just to be clear, Indiana, which is one of the states, is not a Voting Rights Act covered jurisdiction, right? And Georgia, which is Voting Rights Act covered, doesn't have as large a Latino population as Texas, correct?

HARLESS: I have no idea.

ANCHIA: Okay, I would submit to you it doesn't. Is there any trigger mechanism for more funding or increased outreach if something does go wrong in the bill and it turns out Latinos and African Americans are disenfranchised?

HARLESS: The testimony of the LBB —

REMARKS ORDERED PRINTED

Representative Anchia moved to print remarks between Representative Harless and Representative Anchia.

The motion prevailed.

Amendment No. 1

Representative Anchia offered the following amendment to CSSB 14:

Amend CSSB 14 (house committee printing) by striking the enacting clause (page 1, line 4).

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Giddings offered the following amendment to CSSB 14:

Amend CSSB 14 (house committee printing) as follows:

1. In the recital to SECTION 9 of the bill (page 5, line 1), strike "(g) and (h)" and substitute "(g), (h), and (i)".

2. In SECTION 9 of the bill, in amended Section 63.001(b), Election Code (page 5, line 2), strike "Subsection (g)" and substitute "Subsection (g) or (i)".

3. In SECTION 9 of the bill, following added Section 63.001(b), Election Code (page 6, between lines 23 and 24), add the following:

   (c) A voter who would otherwise be accepted for voting under this chapter but for the requirements of Subsection (b) shall be accepted for voting if, instead of presenting the identification required by Subsection (b), the voter executes an affidavit under penalty of perjury that asserts that the voter's proof of identification meeting the requirements of Subsection (b) has been stolen and the voter presents to an election officer a copy of an official police report, dated not earlier than the 45th day before the date on which the voter seeks to vote, alleging that the voter was a victim of an offense described by Sections 31.03 or 32.51, Penal Code. The voter may redact personal information on the police report relating to the voter, other than the voter's name, address, or date of birth. A police report presented under this section is not required to contain the voter's date of birth.

CSSB 14 — POINT OF ORDER

Representative Martinez raised a point of order against further consideration of CSSB 14 under Rule 4, Section 32(c)(2) and Rule 4, Section 32(f) of the House Rules on the grounds that the bill analysis is incorrect.

The speaker sustained the point of order, speaking as follows:

Mr. Martinez raises a point of order under Rule 4, Section 32(c)(2) and Rule 4, Section 32(f) in that the bill analysis is substantially or materially misleading, specifically because the bill analysis refers to six business days while the text of the bill refers only to six days.

The chair has reviewed the bill and bill analysis and finds the reference in the bill analysis to be materially or substantially misleading in the context of the bill. The point of order is sustained.

CSSB 14 was returned to the Select Committee on Voter Identification and Voter Fraud.

LEAVE OF ABSENCE GRANTED

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

Gutierrez on motion of Burnam.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Business and Industry will reconvene 10 minutes after adjournment today.

Ways and Means will reconvene 15 minutes after adjournment today.

Border and Intergovernmental Affairs, 2 p.m. today.

ADJOURNMENT

Representative L. Taylor moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

The house accordingly, at 1:51 p.m., adjourned until 10 a.m. tomorrow.
ADDENDUM

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
Monday, March 21, 2011

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:

HCR 47

Guillen
SPONSOR: Zaffirini
In memory of U.S. Army Private First Class Ira Benjamin Lanningham IV of Zapata.

SB 160

Williams
Relating to the regulation of certain aggregate production operations by the Texas Commission on Environmental Quality; providing penalties.

SB 173

West
Relating to civil remedy of violations of certain municipal health and safety ordinances.

SB 312

Seliger
Relating to the exemption of certain electric cooperatives from certain regulations.

SB 350

Williams
Relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.

SB 361

Duncan
Relating to indemnification provisions in construction contracts.

SB 370

Seliger
Relating to the authority of the Texas Water Development Board to provide financial assistance for certain projects if the applicant has failed to complete a request for information relevant to the project.

SB 425

Carona

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

March 17
Criminal Jurisprudence - HB 341, HB 350, HB 690
Public Education - HB 1703
State Affairs - HB 888, HB 1064, HB 1165
Ways and Means - HB 234, HB 252, HB 361

March 18
Agriculture and Livestock - HB 92
Business and Industry - HB 681
Culture, Recreation, and Tourism - HB 308, HB 790, HB 1301, HB 1346, HB 1843, HB 1844, HCR 33
Higher Education - HB 9, HB 10
Licensing and Administrative Procedures - HB 378, HB 457, HB 510, HB 1510
Public Education - HB 675, HB 861, HB 1130
Public Health - HB 549, HB 670
State Affairs - HB 51, HB 183, HJR 65
Transportation - HB 238
Ways and Means - HB 499

ENROLLED
March 17 - HCR 10, HCR 28

SENT TO THE GOVERNOR
March 17 - HCR 10, HCR 28, HCR 40, HCR 56, HCR 59, HCR 76

SENT TO THE SECRETARY OF THE STATE
March 17 - HCR 58

SIGNED BY THE GOVERNOR
March 18 - HCR 49, HCR 70