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 143).

Present — Mr. Speaker; Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Fimmell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoary; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Absent, Excused — Patrick; Wallace.

Absent — Hackney.

The invocation was offered by M. W. Putnam, pastor, Hurst Assembly of God Church, Hurst, Texas, as follows:

Father, we approach thee in prayer with deepening conviction of the needs and problems that are before us. History is laden with the acts of men who have guided mankind back to the paths of righteousness. As it is written in thy holy word—"Righteousness exalteth a nation"—God, give us men who are bigger than ambition and greater than the appetites of selfish desires, that will lead the way to improve our human relationship and defuse the attitudes of disruptive forces.

Father, grant these who legislate great wisdom as they deal with the many problems confronting them this day. Grant these of our great state discernment of thy ways of righteousness. And may this discernment bring a release from the pressures of these problems as we each ask you, our Heavenly Father, for your ultimate grace for the task that lies before us and strength for the day. Amen.

LEAVES OF ABSENCE GRANTED

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

Wallace on motion of Colbert.
The following member was granted leave of absence for today because of important business:

Patrick on motion of Pierce.

MESSAGE FROM THE SENATE

Austin, Texas, April 13, 1983

The Honorable Speaker of the House of Representatives
House Chamber
The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has appointed the following conferees to adjust the differences between the two Houses on SB 98: Traeger, Chairman, Brooks, Sharp, Whitmire, Edwards.

I am directed by the Senate to inform the House that the Senate has passed the following:

SCR 74 by McFarland, et al., in memory of the Honorable Jerry Mebus, Tarrant County Commissioner.

SB 319 by McFarland, relating to the regulation of nepotism in government.

SB 428 by Caperton, et al., relating to the rights, powers and duties of the board of the Texas State University System.

SB 470 by Doggett, relating to tort liability of certain units of government.

SB 474 by Leedom, relating to office space, equipment and supplies, and courtrooms for justices of the peace.

SB 543 by Mauzy, relating to a tuition exemption for certain students enrolled in a teacher education scholarship program.

SB 669 by Farabee, relating to juvenile court orders affecting parents and others.

SB 708 by Lyon, relating to an exemption for certain persons from the requirement of possessing a waterfowl stamp.

SB 879 by Brooks, relating to the authority of a peace officer to make an arrest or cause an arrest to be made without a warrant.

SB 671 by Glasgow, et al., relating to licensing and regulation of dietitians.

Respectfully,
Betty King
Secretary of the Senate

HB 2355 - PERMISSION TO INTRODUCE

Representative Leonard moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2355.

The motion prevailed by (Record 144): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Banton; Bonner; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geisweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.;
HB 2356 - PERMISSION TO INTRODUCE

(Hackney now present)

Representative Price moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2356.

The motion prevailed by (Record 145): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blandon; Bomer; Buchanan; Burnett; Cain; Carricker; Cary; Cavazos; Ceverha; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddock; Cripp; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kueppl; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madia; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Peveto; Pierce; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schluter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Patrick; Wallace.

Absent — Agnich; Evans, C.; Hackney; Horn; Messer; Millsap; Pennington; Polk; Toomey.

HB 2357 - PERMISSION TO INTRODUCE

Representative Cavazos moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2357.

The motion prevailed by (Record 146): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blandon; Bomer; Buchanan; Burnett; Cain; Carricker; Cary; Cavazos; Ceverha;
Representative English moved to suspend the 5-day posting rule to allow the Committee on Ways and Means to consider HB 1736 and HB 1836.

The motion prevailed without objection.

Representative A. Moreno moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2358.

The motion prevailed by (Record 147): 134 Yeas, 0 Nays, 1 Present, not voting.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Patrick; Wallace.

Absent — Agnich; Bush; Evans, C.; Fox; Hill, A.; Horn; Hudson, S.; Leonard; Millsap; Pennington; Robnett; Thompson, G.; Willis.

HB 1736 AND HB 1836 - RULES SUSPENDED

Representative English moved to suspend the 5-day posting rule to allow the Committee on Ways and Means to consider HB 1736 and HB 1836.

The motion prevailed without objection.

HB 2358 - PERMISSION TO INTRODUCE

Representative A. Moreno moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2358.

The motion prevailed by (Record 147): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hernandez; Hightower; Hilbert; Hill, G.; Hill, P.; Hinojosa; Hollowell; Hudson, D.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubik; Kuempel; Lane; Lee, D.; Lee, E. F.; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Peveo; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Rudd; Russell; Salinas; Saunders; Schulter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Patrick; Wallace.

Absent — Agnich; Bush; Evans, C.; Garcia, M.; Hackney; Hill, A.; Horn; Lee, E. F.; Millsap; Pennington; Rudd; Thompson, G.; Waldrop.
HR 256 - ADOPTED

Representative Khoury moved that all necessary rules be suspended to take up and consider at this time, HR 256.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Khoury:

HR 256, Recognizing April 13, 1983, as Waco Day.

The resolution was adopted.

On motion of Representative Denton, the names of all the members of the house were added to HR 256 as signers thereof.

LEAVE OF ABSENCE GRANTED

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

J. Gibson on motion of Rudd.

SB 86 ON SECOND READING

(Emmett - House Sponsor)

The speaker laid before the house, in lieu of HB 541, on its second reading and passage to third reading,

SB 86, A bill to be entitled An Act relating to vehicles hauling loose materials on highways; providing penalties; amending Subsections (d), (i), (j), and (k), Section 3A, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon’s Texas Civil Statutes).

The bill was read second time and was passed to third reading. (Salinas and Rudd recorded voting no)

HB 541 - LAID ON THE TABLE SUBJECT TO CALL

Representative Emmett moved that HB 541 be laid on the table subject to call.

The motion prevailed without objection.

HJR 1 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HJR 1, A joint resolution proposing a constitutional amendment to allow for the assignment of income for the enforcement of court-ordered child support payments.

A record vote was requested.

The resolution was read second time and was adopted by (Record 148): 137 Yeas, 7 Nays, 3 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Danburg; Davis; DeLay; Delco; Denton; Eckels; Edwards; Eikenberg; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff;
The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 593.

CSHB 593

A BILL TO BE ENTITLED
AN ACT
relating to the administration, powers, duties, and continuation of the Railroad Commission of Texas; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Article 6447, Revised Statutes, is amended to read as follows:

Art. 6447. THE COMMISSION. Election.—The Railroad Commission of Texas shall be composed of three members, one of whom shall be elected biennially at each general election for a term of six years.

Qualifications.—The members shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. No member shall be directly or indirectly interested in any railroad, or in any stock, bond, mortgage, security or earnings of any railroad, and should a member voluntarily become so interested his office shall become vacant; or should he become so interested otherwise than voluntarily, he shall within a reasonable time divest himself of such interest; failing to do this, his office shall become vacant.

Shall hold no other office, etc.—No railroad commissioner shall hold any other office of any character, while such commissioner, nor engage in any occupation or business inconsistent with his duties as such commissioner.

Oath, etc.—Before entering upon the duties of his office, each commissioner shall take and subscribe to the official oath and shall in addition thereto, swear that he is not directly or indirectly interested in any railroad, nor in the bonds, stock, mortgages, securities, contracts or earnings of any railroad, and that he will to the best of his ability faithfully and justly execute and enforce the provisions of this title, and all laws of this State concerning railroads, which oath shall be filed with the Secretary of State.

Organization.—The commissioners shall elect one of their number chairman. They may make all rules necessary for their government and proceedings. They may
appoint a secretary at a salary not exceeding $2,000.00 per annum, and not more than two clerks at salaries not exceeding $1,500.00 per annum each, and such other experts as may be necessary. They shall be known collectively as the "Railroad Commission of Texas," and shall have a seal, a star of five points with the words "Railroad Commission of Texas" engraved thereon. They shall be furnished with an office at the Capitol, and with necessary furniture, stationery, supplies and all necessary expenses, to be paid for on the order of the Governor.

Secretary's duties.— The secretary shall keep full and correct minutes of all the transactions and proceedings of the Commission, and perform such duties as the Commission may require of him.

Expenses.— The Commissioners [and their employees] shall receive from the State their [actual] necessary traveling expenses while traveling on the business of the Commission, which shall include the cost only of transportation while traveling on business for the Commission, upon an itemized statement thereof, sworn to by the party who incurred the expense, and approved by the Commission. Employees of the Commission are entitled to reimbursement for expenses incurred in traveling on the business of the Commission as provided by the General Appropriations Act.

SECTION 2. Title 112, Revised Statutes, is amended by adding Articles 6447a-1 through 6447h to read as follows:

Art. 6447a-1. DEFINITION. In Articles 6447b-6447h, Revised Statutes, "commission" means the Railroad Commission of Texas.

Art. 6447b. EMPLOYEE PERFORMANCE. (a) The commission or its designee shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of all nonentry level positions for at least 10 days before any public posting.

(b) The commission or its designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

Art. 6447c. CONFLICT OF INTEREST. (a) An employee of the commission may not be an officer, employee, or paid consultant of a trade association in a business or industry regulated by the commission.

(b) An employee of the commission may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in a business or industry regulated by the commission.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the commission.

(d) The commission, as often as necessary, shall provide information regarding the employees' responsibilities under applicable laws relating to standards of conduct for state employees.

Art. 6447d. COMMISSION AUDIT. The state auditor shall audit the financial transactions of the commission during each fiscal year.

Art. 6447e. APPLICATION OF OTHER LAWS. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Art. 6447f. HEARING REQUIREMENT. (a) If the commission proposes to suspend or revoke a person's license, permit, or certificate of public convenience and necessity, the person is entitled to a hearing before the commission.
Art. 6447g. INFORMATION RELATING TO COMMISSION ACTIVITIES. The commission shall prepare information of consumer interest describing the regulatory functions of the commission and describing the commission's procedures by which consumer complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

Art. 6447h. COMPLAINTS. (a) The commission shall keep an information file about each complaint filed with the commission relating to a person who has a license, permit, or certificate of public convenience and necessity from the commission.

(b) If a written complaint is filed with the commission relating to a person who has a license, permit, or certificate of public convenience and necessity from the commission, at least as frequently as quarterly and until final disposition of the complaint, the commission shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. This section does not apply to complaints under Subchapter H, Chapter 91, Natural Resources Code.

SECTION 3. Section 10, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 91 la, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. The hearing shall be conducted under such rules and regulations as the Commission may prescribe, and all parties interested, including the Highway Commission of this State, may appear either in person or by counsel, and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of said application. It shall be the duty of the Highway Commission of this State, upon the request of the Commission to furnish any and all information that it has at its command relating to the highway or highways designated in such application as well as such other information as said Commission may deem pertinent to the granting or refusal of such application. After such hearing, and such investigation as the Commission may make of its own motion, it shall be the duty of said Commission to either refuse said application and certificate, or to grant said application and issue said certificate, in whole or in part, upon such terms and conditions as it may impose, and subject to such rules and regulations as it may thereafter prescribe.

The Commission, at any time by its order duly entered after hearing had upon notice to the holder of any certificate granted under this Act and an opportunity given such holder to be heard, at which hearing it shall be proven to the satisfaction of the Commission that such certificate holder has discontinued operation or has violated or refused or neglected to observe any of its proper orders, rates, fares, rules, or regulations, may suspend, revoke, alter or amend any certificate issued under the provisions of this Act, provided that the holder of such certificate shall have the right of appeal as provided herein. The Commission may place on probation a person whose certificate has been suspended, but if the Commission does place the certificate holder on probation and does allow him to continue to operate, the fact that the certificate has been suspended and the certificate holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

SECTION 4. Subsection (b), Section 12, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:
(b) The Commission at any time after hearing, had, upon notice to the holder of any certificate or permit and after opportunity given such holder to be heard, may by its order revoke, suspend or amend any certificate or permit issued under the provisions of this Act, where in such hearing the Commission shall find that such certificate or permit holder has discontinued operation or has violated, refused or neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate or permit; provided, that the holder of such certificate or permit shall have the right of appeal as provided in this Act. The Commission may place on probation a person whose certificate or permit has been suspended, but if the Commission does place the certificate or permit holder on probation and does allow him to continue to operate, the fact that the certificate or permit has been suspended and the certificate or permit holder has been put on probation shall appear in the records of the Commission relating to the suspension and probation.

SECTION 5. Section 113.163, Natural Resources Code, is amended to read as follows:

Sec. 113.163. FINDINGS AND JUDGMENT. (a) If the commission finds that the licensee or registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule or standard promulgated and adopted under this chapter, or both, the commission may suspend the license or registration for a definite period not to exceed 90 days or may revoke the license or registration. If the commission determines that no violation has occurred or is occurring, its order shall so state.

(b) The commission may place on probation a person whose license or registration has been suspended under Subsection (a) of this section, but if the commission does place the licensee or registrant on probation and does allow him to continue to operate, the fact that the license or registration has been suspended and the licensee or registrant has been put on probation shall appear in the records of the commission relating to the suspension and probation.

SECTION 6. Chapter 113, Natural Resources Code, is amended by adding Section 113.0511 to read as follows:

Sec. 113.0511. LIMITATIONS ON RULEMAKING AUTHORITY. (a) The commission may not adopt rules restricting competitive bidding or advertising by a person regulated by the commission except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in any rules to prohibit false, misleading, or deceptive practices by a person regulated by the commission a rule that:

1. restricts the person's use of any medium for advertising;
2. restricts the person's personal appearance or use of his voice in an advertisement;
3. relates to the size or duration of an advertisement by the person.

or

4. restricts the person's advertisement under a trade name.

SECTION 7. Sections 113.082, 113.087, and 113.093, Natural Resources Code, are amended to read as follows:

Sec. 113.082. CATEGORIES OF LICENSEE; FEES. A prospective licensee in LPG may apply to the LPG division for a license to engage in any one or more of the following categories:

(A) manufacturers/fabricators: the manufacture, fabrication, assembly, repair, installation, subframing, and sale of LPG containers, including LPG motor fuel containers and systems, and the repair and installation of transport and transfer systems; and category "A" application and original license fee is an amount not to exceed $1,000 as determined by the commission ($500); the
annual renewal license fee is an amount not to exceed $600 as determined by the commission [$300];

(B) transport outfitters: the subframing and sale of LPG transport containers, the installation and sale of LPG motor fuel containers, and the installation and repair of transport and motor fuel systems; the category “B” application and original license fee is an amount not to exceed $200 as determined by the commission [$100]; the annual renewal license fee is an amount not to exceed $100 as determined by the commission [$50];

(C) carriers: the transportation of LPG by transport, including the loading and unloading of LPG, and the installation and repair of transport systems; the category “C” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(D) general installers and repairmen: the sale, service, and installation of containers, excluding motor fuel containers, and the service, installation, and repair of piping, certain appliances as defined by rule, and LPG systems, excluding motor fuel systems; except that the commission may, by rule, exempt journeymen and/or master plumbers duly licensed by the Texas State Board of Plumbing Examiners from this licensing requirement; the category “D” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(E) retail and wholesale dealers: the storage, sale, transportation, and distribution of LPG at retail and wholesale, and all other activities included in this section except the manufacture, fabrication, assembly, repair, and subframing of LPG containers; the category “E” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(F) bottle exchanges: the operation of a bottle-filling and container exchange dealership, including bottle filling and the sale of bottled LPG; the category “F” application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $50 as determined by the commission [$25];

(G) service station: the operation of an LPG service station filling ASME containers designed for motor and mobile fuel; the category “G” application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; the annual renewal license fee is an amount not to exceed $50 as determined by the commission [$25];

(H) bottle dealers: the transportation and sale of bottled LPG; the category “H” application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(I) service station and bottle exchanges: any service station and bottle activity set out in categories “F” and “G” of this section; the category “I” application and original license fee is an amount not to exceed $150 as determined by the commission [$75]; the annual renewal license fee is an amount not to exceed $70 as determined by the commission [$35];

(J) service station and bottle dealerships: the operation of a bottle-filling and container-exchange dealership, including bottle filling and the sale, transportation, installation, and connection of bottled LPG, and the operation of an LPG service station as set out in category “G”; the category “J”
application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(K) distribution system: the sale and distribution of LPG through mains or pipes and the installation and repair of LPG systems; the category "K" application and original license fee is an amount not to exceed $1,000 as determined by the commission [$500]; the annual renewal license fee is an amount not to exceed $300 as determined by the commission [$150];

(L) carburetion: the sale and installation of LPG motor fuel containers, and the sale and installation of LPG motor fuel systems; application and original license fee is an amount not to exceed $100 as determined by the commission [$50]; annual renewal license fee is an amount not to exceed $50 as determined by the commission [$25].

Sec. 113.087. EXAMINATION AND SEMINAR REQUIREMENTS. (a) The satisfactory completion of the requirements of this section is mandatory, and operations requiring an LP-gas license may not commence, continue, or resume unless examination and seminar requirements are fulfilled.

(b) Before license issuance, the commission shall require the individual designated as the licensee's representative to the commission to provide good and sufficient proof through examination prepared and administered by the commission of working knowledge of this chapter and rules of the commission which affect the category of license for which application is made. Thereafter, each licensee shall maintain a qualified representative at all times.

(c) Each individual who will be actively supervising those operations requiring any license under this chapter at any outlet or location, as designated by the commission, shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the supervisor has a working knowledge of the safety requirements and penalties in this chapter and the rules of the commission which apply to that category of license.

(d) As determined by commission rule, each individual who is or will be utilized by a licensee in LPG-related activities shall be required to provide good and sufficient proof through examination prepared and administered by the commission that the employee has a working knowledge of the safety requirements in the rules of the commission relating to the activity or activities.

(e) No licensee may employ or otherwise utilize any person as a representative to the commission, nor as a supervisor or employee in LPG-related activities, unless and until the person has qualified by satisfactory completion of the examination requirements established by this section.

(f) The commission shall promulgate rules relating to changes in representatives, supervisors, and employees, and may permit temporary exemption from the examination requirements for a maximum period of 45 days.

(g) In no event shall an original license be issued to an applicant when the representative's required examination was last taken and passed more than five years before the proposed date of license issuance.

(h) Satisfactory completion of any required examination under this section shall accrue to the individual.

(i) Not later than the 30th day on which an examination is administered under this section, the commission shall notify each examinee of the results of the examination. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the commission shall notify the examinee of the reason for the delay before the 90th day.

(j) If requested in writing by a person who fails the licensing examination administered under this section, the commission shall furnish the person with an analysis of the person's performance on the examination.
(k) [eh] The commission, by appropriate rule, may require, in addition to examination requirements as set out in Subsections (b), (c), and (d) of this section, attendance at approved academic, trade, professional, or commission-sponsored seminars, other continuing education programs, and periodic reexaminations.

Sec. 113.093. LICENSE RENEWAL. (a) A license issued pursuant to this chapter is renewable on the timely payment or tender of the renewal license fee before the expiration date of the license [by 12 midnight, August 31, of each year].

(b) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the commission the required renewal fee and a fee that is one-half of the amount of the renewal fee for the license.

(c) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the commission all unpaid renewal fees and a fee that is equal to the amount of the unpaid renewal fees for the license.

(d) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(e) Renewal license fees shall be nonrefundable.

(f) At least 30 days before the expiration of a person's license the commission shall notify the person in writing of the impending license expiration and shall attempt to obtain from the person a signed receipt confirming receipt of the notice.

SECTION 8. Chapter 113, Natural Resources Code, is amended by adding Sections 113.094 and 113.095 to read as follows:

Sec. 113.094. STAGGERED RENEWAL OF LICENSES. The commission, by rule, may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on a specified date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Sec. 113.095. LICENSE BY ENDORSEMENT. The commission may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

SECTION 9. Section 15, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 911a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of Ten Dollars ($10) for each motor-propelled vehicle, and a further fee, computed on the basis of One Dollar ($1) per passenger seat for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month established for registration [of September of any year], the fees paid shall be proportionate to the remaining portion of the registration year [ending August 31st following], but in no case less than one-fourth (1/4) the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for
additional motor-propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer, be deposited in the State Treasury at Austin and credited to the General Revenue Fund.

The Commission, by rule, may adopt a system under which fees become due on various dates during the year. In the year in which the registration expiration date is changed, the fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

SECTION 10. Subsection (a), Section 17, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) For the purpose of defraying the expense of administering this Act, every common carrier motor carrier now regularly operating, or which shall hereafter regularly operate in this state, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special fee of ten dollars ($10), for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month established for registration, the fee paid shall be prorated to the remaining portion of the registration year ending August 31st following, but in no case less than one-fourth (1/4) the annual fee. In case of an emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five ($25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

SECTION 11. Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended by adding Section 17A to read as follows:

Sec. 17A. The Commission, by rule, may adopt a system under which registrations expire on various dates during the year. For the year in which the registration expiration date is changed, registration fees payable under the existing system shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee that is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration renewal fee is payable.

SECTION 12. Section 5b, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5b. (a) A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds an [a seasonal agricultural permit] (license) issued by the Commission. A person holding an [a seasonal agricultural permit] (license) may transport eligible agricultural commodities only to a farm or ranch or from the place where the commodities are produced and harvested to the first processor. A holder of an [a seasonal agricultural permit] (license) may also
transport cotton and cottonseed from a cotton gin to the next processor or point of storage. This transportation may not exceed a distance of seventy-five (75) miles; and must be in intrastate commerce. Agricultural commodities in their natural state include those commodities produced and harvested on a farm which must be transported to storage or a first processor, but do not include the manufactured products of agricultural commodities, nor do they include livestock, milk, wool, mohair, or timber in its natural state.

(b) The Commission may issue a seasonal agricultural license to a person who files an application meeting the requirements of this Act if the motor vehicles to be used in the transportation are not used for carrying any other property or passengers for compensation.

(b) (e) The Commission may issue seasonal agricultural permits licenses without notice, hearing, or proof of public convenience and necessity. Each permit is valid for one year [hundred twenty (120) days] from the date of issuance unless a shorter period is requested by the applicant.

(c) (e)(f) An application for an [seasonal] agricultural permit license must include:

1. the applicant’s full name and address;
2. a complete list of all motor vehicles proposed to be used, including the make, unit number, and identification number of each vehicle; and
3. a sworn statement by the applicant that he will transport under the permit license only those agricultural commodities eligible to be transported under this section and will transport them only in intrastate commerce.

(d) (e)(g) An [A seasonal] agricultural permit license may not be sold, assigned, inherited, or otherwise transferred.

(e) (g) An application for an [a seasonal] agricultural permit license must be accompanied by a Twenty-five Dollar ($25) filing fee, which shall be retained by the Commission whether or not the permit license is granted. This fee covers up to five (5) motor vehicles. If the permit license is to cover more than five (5) motor vehicles, the applicant shall pay at the time the permit license is issued an additional fee of Five Dollars ($5) for each motor vehicle in excess of five (5) to be operated under the permit license.

(f) (g)(h) The issuance of seasonal agricultural permits licenses is exempt from the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes) and from the requirements of Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon’s Texas Civil Statutes).

(g) (h)(i) The Commission shall issue to each permittee licensee an identification card for each motor vehicle covered by the permit license. The card must be displayed within the cab of the vehicle. The card shall include the permit license number and the name and address of the owner of the permit license. A person may not use an identification card after the permit license has expired. The Commission shall prescribe the form for the identification card and may include additional information on the card.

(h) (i)(j) The transportation of eligible agricultural commodities in their natural state under a permit issued under this section is not subject to the ratemaking authority of the Commission, and the Commission may not adopt or enforce rates, fares, or charges for that transportation.

(i) (k) The transportation of eligible agricultural commodities in their natural state under a permit issued under this section is subject to the provisions of this Act and rules of the Commission adopted under this Act relating to insurance and bond requirements and to safety requirements.

(j) (l) This section does not apply to any person transporting in the person’s own vehicle agricultural commodities in their natural state, which that person owns,
to and from the area of production and to and from the market or place of storage thereof.

SECTION 13. Section 16, Chapter 314, Acts of the 43rd Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Subsection (1) to read as follows:

(1) A person holding a current, valid agricultural permit issued by the Commission under Section 5 of this Act, or an officer, agent, servant, or employee of that person, who, without lawful authority, transports a commodity other than an eligible agricultural commodity in its natural state commits an offense. An offense under this subsection is punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Two Hundred Dollars ($200.00). Each violation is a separate offense.

SECTION 14. Section 4, Chapter 314, Acts of the 43rd Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by law and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought, it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service shifts from the applicant to the opposing carrier or carriers.

SECTION 15. Subsections (c) and (d), Section 5a, Chapter 314, Acts of the 43rd Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or
service, and shall specify wherein additional facilities or service are required and
would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear,
consider and determine said application in accordance with Subsection (e) of
Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the
Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil
Statutes of the State of Texas, 1925, as amended), and if the Commission shall find
any such applicant entitled thereto, it shall issue a certificate hereunder on such
terms and conditions as is justified by the facts; otherwise said application shall be
denied. The Commission shall have no authority to grant any application for a
certificate of convenience and necessity authorizing operation as a
"Specialized
Motor Carrier" or any other common carrier unless it is established by substantial
evidence (I) that the services and facilities of the existing carriers serving the
territory or any part thereof are inadequate; (2) that there exists a public necessity
for such service, and (3) the public convenience will be promoted by granting
said application. The order of the Commission granting said application and the
certificate issued thereunder shall be void unless the Commission shall set forth in
its order full and complete findings of fact [pointing out in detail the inadequacies
of the services and facilities of the existing carriers, and the public need for the
proposed service. Likewise, the Commission shall have no authority to grant any
contract carrier application for the transportation of any commodities in any
territory or between any points where the existing carriers are rendering, or are
capable of rendering, a reasonably adequate service in the transportation of such
commodities.

SECTION 16. Subsection (c), Section 6, Chapter 314, Acts of the 41st
Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is
amended to read as follows:

(c) No application for permit shall be granted by the Commission until after
a hearing [nor shall any such permit be granted if the Commission shall be of the
opinion that the proposed operation of any such contract carrier will impair the
efficient public service of any authorized common carrier or common carriers then
adequately serving the same territory; provided, however, any person now lawfully
operating as a Class "B" operator in this State who may desire to continue in the
business of a motor carrier shall file an application for a permit or certificate under
the terms of this Act within thirty (30) days after the effective date hereof and it shall
be the duty of the Commission to determine such applications forthwith and such
applicants may, subject to the provisions of this Act and to the orders, rules, rates
and regulations of the Commission continue to operate as motor carriers pending
the determination by the Commission of such application.

SECTION 17. Sections 8 and 10, Chapter 314, Acts of the 41st Legislature,
Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended
to read as follows:

Sec. 8. The Commission is hereby vested with power and authority, and it is
hereby made its duty upon the filing of an application for a certificate of public
convenience and necessity to ascertain and determine under such rules and
regulations as it may promulgate, [after considering existing transportation
facilities and the demand for; or need of additional service;] if there exists a public
necessity for such service, and if public convenience will be promoted by granting
said application and permitting the operating of motor vehicles on the highways
designated in such application as a common carrier for hire.

Sec. 10. No application for a certificate of public convenience and necessity
shall be considered by said Commission unless it be in writing and set forth the
following facts:
(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the Highway Commission's opinion on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

SECTION 18. Section 4, Chapter 141, Acts of the 66th Legislature, Regular Session, 1979 (Article 5920-11, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. JURISDICTION. (a) The commission has exclusive jurisdiction over all surface coal mining and reclamation operations in the State of Texas.

(b) The commission has exclusive jurisdiction over iron ore and iron ore gravel mining and reclamation operations in the State of Texas, and the provisions of this Act apply to iron ore and iron ore gravel mining and reclamation operations to the extent that those provisions can be made applicable. The jurisdiction conferred by this subsection does not extend to:

(1) a mining or reclamation activity in progress on September 1, 1983; or

(2) a mining or reclamation activity confined to a single tract of land smaller than five acres.

SECTION 19. Regardless of whether the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is continued in effect, those provisions of that Act, as they existed January 1, 1983, pertaining to regulation of gas utilities by the Railroad Commission of Texas are hereby transferred to the Revised Statutes as Article 6445b, to take effect September 1, 1983.

SECTION 20. Title 3, Natural Resources Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. OIL TANKER VEHICLES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Oil" means crude petroleum oil, crude petroleum, and crude oil.

(3) "Oil tanker vehicle" means a self-propelled vehicle licensed for highway use or used on a public highway:

(A) that is equipped with, carrying, or otherwise transporting an assembly that is used for transporting, hauling, or delivering liquids;
(B) that consists of a tank that has one or more compartments mounted on a wagon, truck, automobile, trailer, or wheels, and includes accessory piping, valves, and meters; and
(C) that is being used to transport oil on a public highway.

(4) “Public highway” means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.

Sec. 114.002. APPLICABILITY OF CHAPTER. This chapter does not apply to a common carrier as defined by and regulated under Chapter 111 of this code.

[Sections 114.003-114.010 reserved for expansion]

SUBCHAPTER B. MANIFEST SYSTEM

Sec. 114.011. CARGO MANIFEST REQUIRED. A cargo manifest must be carried in each oil tanker vehicle transporting oil on a public highway in this state and must be presented on request for inspection as provided by Section 114.101 of this code.

Sec. 114.012. CONTENTS OF CARGO MANIFEST. For each load of oil loaded onto and transported by an oil tanker vehicle, the cargo manifest must include:

(1) the name and address of each person who operates the oil tanker vehicle covered by the cargo manifest;
(2) the name and address of the person responsible for delivering the oil to the oil tanker vehicle at the time it was loaded onto the oil tanker vehicle and of the person who owns the oil immediately preceding the loading of the oil onto the oil tanker vehicle;
(3) the amount of oil that is initially loaded onto the oil tanker vehicle;
(4) the date, time, and place at which the oil is initially loaded onto the oil tanker vehicle;
(5) the date, time, and place at which all or each part of a load of oil is unloaded from the oil tanker vehicle, to whom the oil is delivered, and the amount of oil delivered; and
(6) any other information that may be required by commission rule.

Sec. 114.013. CARRYING CARGO MANIFEST IN OIL TANKER VEHICLE. The cargo manifest must be placed in the oil tanker vehicle at or immediately before the time oil covered by the cargo manifest is loaded onto the vehicle and must remain in the oil tanker vehicle and be available for inspection for the entire period for which all or any part of such load of oil remains in the cargo tank of the oil tanker vehicle.

Sec. 114.014. CARGO MANIFEST RECORDS. After the delivery of all oil in an oil tanker vehicle is completed, the cargo manifest must be maintained in the records of the owner or lessee of the oil tanker vehicle for a period of not less than five years from the date removed from the oil tanker vehicle.

[Sections 114.015-114.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

Sec. 114.101. AUTHORITY TO STOP AND EXAMINE VEHICLES AND CARGO MANIFESTS. To enforce this chapter, the commission, its designated agents or employees, or a peace officer may stop a tanker vehicle that appears to be transporting oil in order to examine the cargo manifest and make any other investigation to determine whether or not this chapter is being violated and whether or not the oil that is being transported has been acquired by legal means.
April 13, 1983   HOUSE JOURNAL   935

Sec. 114.102. DESIGNATED AGENTS AND EMPLOYEES. The commission shall designate the specific persons who may act as designated agents and employees under Section 114.101 of this code.

Sec. 114.103. CRIMINAL OFFENSES. (a) A person commits an offense if the person knowingly or intentionally:

1. refuses to stop or permit the inspection and examination of an oil tanker vehicle on demand of the commission or its designated agent or employee or of a peace officer;

2. operates an oil tanker vehicle without a cargo manifest as required by this chapter;

3. refuses to exhibit a cargo manifest carried by an oil tanker vehicle on request of the commission, a designated agent or employee of the commission, or a peace officer;

4. forges or falsifies a cargo manifest required by this chapter.

(b) An offense under this section is a felony of the third degree.

SECTION 21. Article 6445a, Revised Statutes, is amended to read as follows:

Art. 6445a. APPLICATION OF SUNSET ACT. The Railroad Commission of Texas is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1995.

SECTION 22. (a) Section (a), Article 6447b, Revised Statutes, takes effect September 1, 1984.

(b) Section (b), Article 6447b, Revised Statutes, takes effect September 1, 1985.

(c) Except as provided by Subsections (a) and (b) of this section, this Act takes effect September 1, 1983.

SECTION 23. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 593 was read second time.

Representatives E. F. Lee and Delco offered the following amendment to CSHB 593:

Amend CSHB 593 on page 4, line 26, by adding a new Section (c) to Article 6447f, to read as follows:

"(c) The commission may not:

(a) refuse to issue a license, permit, or certificate to a person because of the person's race, religion, color, sex or national origin;

(b) revoke or suspend the license, permit or certificate of a person because of the person's race, religion, color, sex or national origin."

(J. Gibson now present)

The amendment was adopted without objection.

Representative DeLay offered the following amendment to CSHB 593:

Amend CSHB 593 by adding the following:

Section 17A. Amend Section 22(b), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended by deleting it in its entirety and substituting in lieu thereof the following:

Sec. 22(b) (1). Declaration of Policy. The business of operating as a motor carrier of property for hire along the highways of this state is declared to be a business which affects the public interest. The rapid growth of the economy of this
state and its increasing diversity mandates updating of the regulation of motor carriage for hire. It is the intention of the Legislature in adopting these changes that the requirements for entry into the intrastate motor carrier system be eased. It is declared to be the policy of this state that the granting of permits and certificates for all classes of motor carriage for hire upon the highways of this state shall be in accord with the public interest and that such public interest shall be determined by a showing of fitness to provide the service for which a permit or certificate is requested by all applicants seeking a permit, and a showing of the public convenience and necessity to be served by the granting of such permit or certificate. In determining the public convenience and necessity, the convenience to the applicant and to shippers supporting the application which would be promoted by the granting of the requested permit or certificate shall be considered as well as the level of current service as demonstrated by protesting carriers authorized to provide service which would be in competition with that sought to be provided by applicant.

Representative Hackney moved to table the DeLay amendment.

The motion to table prevailed.

(J. Gibson in the chair)

(Speaker in the chair)

Representatives Hackney and Messer offered the following amendment to CSHB 593:

Amend CSHB 593 by striking Sections 15-17 and substituting new Sections 14A, 14B, and 15-17 to read as follows:

SECTION 14A. Declaration of Policy and Findings. The Legislature hereby finds with respect to reenactment of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), as amended heretofore and by Sections 14B, 15, 16, and 17 of this Act, that continuation of and improvement in effective regulation of the intrastate motor carrier system are required to achieve the objectives, purposes, and transportation policies of the Legislature as stated heretofore and in this Act. The Legislature further finds that the amendments enacted in Sections 14B, 15, 16, and 17 of this Act are required to help achieve uniformity in enforcement as between specialized motor carriers, regular route common carriers and contract carriers.

SECTION 14B. Section 4, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by law and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought, it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not
be promoted or that a public necessity does not exist for the proposed service or that the existing carriers are rendering a reasonably adequate service shifts from the applicant to the opposing carrier or carriers.

SECTION 15. Subsections (c) and (d), Section 5a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of any existing transportation facilities or service; shall point out the public necessity for the proposed service and in what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Subsection (e) of Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue a certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. In the event an applicant meets the requirements of Subsection (e) of Section 4, as well as other requirements of this Article 911b, the [Fire] Commission [shall have no authority to] shall grant an application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier except as provided in the preceding paragraph unless it is established by the substantial evidence of record considered as a whole that (1) [that] the services and facilities of the existing carriers serving the territory or any part thereof are [inadequate] adequate; or (2) [that there does not [exists] exist a public necessity for such service, [and] or (3) the public convenience will not be promoted by granting said application. The order of the Commission granting said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact (pointing out in detail the inadequacies) on the issues of adequacy of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where it is established by substantial evidence in the record as a whole that the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities.

SECTION 16. Subsection (c), Section 6, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:
(c) No application for permit shall be granted by the Commission until after a hearing nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory, provided, however, any person now lawfully operating as a Class "B" operator in this State who may desire to continue in the business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty (30) days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such application.

SECTION 17. Section 10, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall point out the public necessity for the proposed service and in what particulars the public convenience would be promoted by the institution of the proposed service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the [Highway Commission's] opinion of the State Department of Highways and Public Transportation on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the [Highway Commission of Texas] State Department of Highways and Public Transportation; provided, however, nothing herein contained shall be deemed to restrict the powers of the [Highway Commission] State Department of Highways and Public Transportation under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

Representative Price moved to table the Hackney-Messer amendment.

A record vote was requested.

The motion to table was lost by (Record 149): 17 Yeas, 128 Nays, 1 Present, not voting.
Yeas — Agnich; Ceverha; Clark; DeLay; Fox; Geistweidt; Hammond; Harrison, W.; Hightower; Hollowell; Horn; Leonard; Pennington; Price; Smith, A.; Smith, C.; Whaley.

Nays — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Borner; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Clemmons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison, D.; Heflin; Hernandez; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Luna; McKenna; McWilliams; Madla; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Peveto; Pierce; Polk; Polumbo; Presnal; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schueter; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uber; Valles; Vowell; Waldrop; Watson; Wieting; Willis; Wilson; Wolens; Word; Wright.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Patrick; Wallace.

Absent — Jackson; Mankins.

MESSAGE FROM THE SENATE

Austin, Texas, April 13, 1983

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HB 1352 by Criss, relating to levying a surtax on employers for the payment of interest owed to the federal unemployment trust fund.

Respectfully,
Betty King
Secretary of the Senate

CSHB 593 - (consideration continued)

Representatives Wolens and J. Gibson offered the following amendment to the Hackney-Messer amendment:

Amend the Messer Amendment (AMENDMENT NO. ___) as follows:
(1) On page 4, line 15, by inserting after the word “granting” the words “or denying”.

The amendment was adopted without objection.

Representative DeLay offered the following amendment to the Hackney-Messer amendment:

Amend CSHB 593 by adding the following:
SECTION 14B. Section 4, Chapter 14, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by law and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought, it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service shifts from the applicant to the opposing carrier or carriers.

SECTION 15. Subsections (c) and (d), Section 5a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate; and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify whether additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Subsection (e) of Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 91 lb, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue a certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. The Commission shall have no authority to grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by prima facie [substantial] evidence (1) [that the service and facilities of the existing carriers
serving the territory or any part thereof are inadequate; (2) that there exists a public necessity for such service, and (2) [39] the public convenience will be promoted by granting said application. The order of the Commission granting said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact [pointing out in detail the inadequacies of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities].

SECTION 16. Subsections (c) and (d), Section 6, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) No application for permit shall be granted by the Commission until after a hearing [nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory; provided, however, any person now lawfully operating as a Class "B" operator in this State who may desire to continue in the business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty (30) days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such application].

(d) The Railroad Commission is hereby given authority to issue upon application to those persons who desire to engage in the business of transporting for hire over the highways of this state, livestock, mohair, wool, milk, livestock feedstuff, household goods, used office furniture and equipment, oil field equipment, timber in its natural state, farm machinery and grain, "Specialized Motor Carrier" certificates when it is shown by substantial evidence that there exists (1) a public necessity for such service, and that (2) public convenience will be promoted by the granting of said application.

Such certificates shall be granted upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and said Railroad Commission is authorized to make rules and regulations governing such operations, keeping in mind the protection of the highways and the safety of the traveling public.

[Provided that the order of the Commission granting said application, and the certificate issued thereunder shall set forth in its order findings of fact pointing out the inadequacies of the service of the existing carriers and the public need for such proposed service.]

SECTION 17. Sections 8 and 10, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 8. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to ascertain and determine under such rules and regulations as it may promulgate, after considering whether [existing transportation facilities, and the demand for, or need of additional service, if] there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application as a common carrier for hire.
Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

1. It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

4. It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the Highway Commission's opinion on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

SECTION 17A. Amend Section 22(b), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended by deleting it in its entirety and substituting in lieu thereof the following:

Sec. 22(b) (1) Declaration of Policy. The business of operating as a motor carrier of property for hire along the highways of this state is declared to be a business which affects the public interest. The rapid growth of the economy of this state and its increasing diversity mandates updating of the regulation of motor carriage for hire. It is the intention of the Legislature in adopting these changes that the requirements for entry into the intrastate motor carrier system be eased. It is declared to be the policy of this state that the granting of permits and certificates for all classes of motor carriage for hire upon the highways of this state shall be in accord with the public interest and that such public interest shall be determined by a showing of fitness to provide the service for which a permit or certificate is requested by all applicants seeking a permit, and a showing of the public convenience and necessity to be served by the granting of such permit or certificate. In determining the public convenience and necessity, the convenience to the applicant and to shippers supporting the application which would be promoted by the granting of the requested permit or certificate shall be considered as well as the level of current service as demonstrated by protesting carriers authorized to provide service which would be in competition with that sought to be provided by applicant.

Representative Hackney moved to table the DeLay amendment.

The motion to table prevailed.

Representative DeLay offered the following amendment to the Hackney-Messer amendment:
Amend the Hackney-Messer amendment to CSHB 593 by deleting all the language thereof and inserting therefor the following:

SECTION 14A. Declaration of Policy and Findings. The Legislature hereby finds with respect to reenactment of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended heretofore and by Sections 14B, 15, 16 and 17 of this Act, that continuation of and improvement in effective regulation by easing entry of new carriers into the intrastate motor carrier system are required to achieve the objectives, purposes and transportation policies of the 68th Legislature as stated in this Act. The Legislature further finds that the amendments enacted Sections 14B, 15, 16 and 17 of this Act are required to help achieve uniformity in enforcement and entry standards as between specialized motor carriers, regular route common carriers and contract carriers.

SECTION 14B. Section 4, Chapter 14, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) In enforcing motor carrier entry requirements, the Commission shall require that the applicant and the protestant make the showings otherwise required by this Act and the showings required by this subsection. In determining the issues of public convenience and necessity, the Commission shall give no consideration to any protestant who does not show it possesses authority to handle, in whole or in part, the traffic for which authority is sought, it is willing and able to provide service that meets the reasonable needs of the shippers involved, and it has either performed service within the geographical scope of the application during the preceding 24-month period or has, actively and in good faith, solicited service within the geographical scope of the application during such period. Also, in determining the issues of public convenience and necessity, the Commission shall give no consideration to services and facilities of motor carriers not parties to the proceeding. With respect to showing public convenience and necessity, the applicant is required to prove a prima facie case that the public convenience would be promoted and a prima facie case that a public necessity exists, and in these circumstances, the burden of proof to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service shifts from the applicant to the opposing carrier or carriers. In determining whether a public necessity exists for the proposed service, the Commission may consider such factors as:

(i) the level, frequency and degree of service provided by existing and applicant carriers;
(ii) the responsiveness of existing and proposed carriers to the needs of the existing and new shippers and businesses to be served;
(iii) the complaint and safety records and history of existing and proposed carriers;
(iv) the effect and benefit the existing and proposed service has and will have on small and rural communities; and
(v) the need for additional services.

SECTION 15. Subsections (c) and (d), Section 5a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a “specialized motor carrier” or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:
1. It shall contain the name and address of the applicant, who shall be the real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, and a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Subsection (e) of Section 4 and Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such application entitled thereto, it shall issue a certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. The Commission shall have no authority to grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by the substantial evidence of record considered as a whole that (1) there does not exist a public necessity for such service, and (3) the public convenience will not be promoted by granting said application.

The order of the Commission granting said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact pointing out in detail the inadequacies of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points unless it is established by substantial evidence in the record as a whole that the existing carriers are rendering or are capable of rendering a reasonably adequate service in the transportation of such commodities.

SECTION 16. Subsection (c), Section 6, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is hereby repealed.

SECTION 17. Section 10, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. No application for a certificate of public convenience and necessity shall be considered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.
It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the opinion of the Texas Department of Highways and Public Transportation on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Texas Department of Highways and Public Transportation [Highway Commission of Texas]; provided, however, nothing herein contained shall be deemed to restrict the powers of the Texas Department of Highways and Public Transportation [Highway Commission] under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

Representative Hackney moved to table the Delany amendment.

A record vote was requested.

The motion to table prevailed by (Record 150): 115 Yeas, 26 Nays.

Yeas - Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriler; Cary; Cavazos; Clemens; Colbert; Collazo; Connelly; Coody; Criss; Crockett; Danburg; Davis; Denton; Edwards; Eikenburg; English; Evans, C.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison, D.; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hurley; Jones; Kemp; Khoury; Kubik; Kuempel; Lane; Lee, D.; Luna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patronella; Patterson; Pierce; Polk; Polumbo; Presnal; Ragsdale; RANGE; Robinson; Robnett; Russell; Salinas; Schlueter; Shaw; Shea; Short; Simpson; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays - Agnich; Ceverha; Clark; Delany; Emmett; Fox; Geistweidt; Haley; Hammond; Harrison, W.; Heffin; Hollowell; Horn; Jackson; Keller; Leonard; McKenna; Pennington; Peveto; Price; Rudd; Schoolcraft; Smith, A.; Smith, C.; Smith, T.; Whaley.

Present, not voting — Mr. Speaker (C).

Absent, Excused — Patrick; Wallace.

Absent — Craddick; Delco; Eckels; Evans, L.; Lee, E. F.; Saunders.

Representative Delany offered the following amendment to the Hackney-Messer amendment:

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the opinion of the Texas Department of Highways and Public Transportation on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Texas Department of Highways and Public Transportation [Highway Commission of Texas]; provided, however, nothing herein contained shall be deemed to restrict the powers of the Texas Department of Highways and Public Transportation [Highway Commission] under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.
Amend the Hackney-Messer amendment to CSHB 593 by adding the following:

SECTION 16. Subsection (c), Section 6, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 Ib, Vernon's Texas Civil Statutes), is hereby repealed.

(Speaker pro tempore in the chair)

Representative Hackney moved to table the DeLay amendment.

A record vote was requested.

The motion to table prevailed by (Record 151): 126 Yeas, 17 Nays, 2 Present, not voting.

Yea - Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Clark; Clemmons; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; Delco; Denton; Eckels; Edwards; Eikenburg; Emmett; English; Evans, C.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison; D.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hudson, D.; Hudson, S.; Hury; Keller; Kemp; Khoury; Kubik; Kuempel; Laney; Lee, D.; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliver; Oliver; Parker; Patroneila; Patterson; Peavert; Pierce; Polk; Polumbo; Presnal; Ragsdale; Range; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Shaw; Shea; Short; Simpson; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Tooney; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Wisting; Willis; Wilson; Wolens; Word; Wright.

Nay - Agnich; Ceverha; DeLay; Fox; Geistweitdt; Hammond; Harrison, W.; Hollowell; Horn; Jackson; Leonard; Pennington; Price; Schoolcraft; Smith, A.; Smith, C.; Whaley.

Present, not voting - Mr. Speaker; Berlanga(C).

Absent, Excused — Patrick; Wallace.

Absent — Evans, L.; Jones; Lee, E. F.

The Hackney-Messer amendment, as amended, was adopted.

Representative Emmett offered the following amendment to CSHB 593:

Amend CSHB 593 as follows:

On page 2, lines 17 and 18, strike “with an office at the capitol, and with”

The amendment was adopted without objection.

Representative Emmett offered the following amendment to CSHB 593:

Amend CSHB 593 as follows:

On page 1, lines 13 through 19, strike the entire sentence beginning with “No member . . . .” and on page 2, lines 2 through 5, strike “he is not directly or indirectly interested in any railroad, nor in the bonds, stock, mortgages, securities, contracts or earnings of any railroad, nor that” and on page 2, line 7 strike “concerning railroads” and on page 1, line 20, strike “railroad”.  

The amendment was adopted without objection.

Representative Ragsdale offered the following amendment to CSHB 593:
Amend HB 593, (page 3) Section 2, by adding a subsection (c) to proposed Article 6447b to read as follows:

(c) The commission shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plan shall include plans for recruitment, selection, appointment, training, promotion, and other personnel practices. The plan shall also include steps reasonably designed to overcome any identified underutilization of minorities and women in the commission's workforce and shall include objectives and goals, timetables for achieving those objectives and goals, and assignments of responsibility for their completion. The plan shall be filed with the Governor's office within sixty days after the effective date of the Act, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the Governor's office within thirty days of November 1 and April 1 of each year and shall include the steps the commission has taken within the reporting period to comply with this requirement of this Act.

(Speaker in the chair)

The amendment was adopted without objection. (Toomey, Eckels, Kuempel, Connelly, Hilbert, Blanton, and A. Smith recorded voting no)

Representative Simpson offered the following amendment to CSHB 593:

Amend the committee substitute for CSHB 593 by striking lines 25 through 27 on page 18 and lines 1 through 15 on page 19 of the committee substitute and inserting in lieu thereof the following:

Sec. 5b (a) A person transporting eligible agricultural commodities is not required to obtain a certificate of convenience and necessity if he holds an agricultural permit issued by the Commission. A person holding an agricultural permit may transport eligible agricultural commodities from any point of origin to any destination, within the State. Eligible agricultural commodities include those agricultural commodities which have been or which may be exempted from economic regulation by the U.S. Interstate Commerce Act, Title 49, U.S. Code, or as ordered by the Interstate Commerce Commission. [A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to have a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to have a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission.]

And by striking the words: “in their natural state” on line 9, page 21, and on line 14, page 21, and on line 4, page 22.

(Salinas in the chair)

Representative Messer moved to table the Simpson amendment.

A record vote was requested.
The vote of the house was taken on the motion to table the Simpson amendment and the vote was announced yeas 73, nays 68.

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted, as follows (Record 152): 74 Yeas, 70 Nays, 1 Present, not voting.

Yeas — Arnold; Barton, E.; Berlanga; Blanton; Bush; Cain; Cary; Cavazos; Clemons; Colbert; Collazo; Connelly; Coody; Criss; Crockett; Edwards; English; Evans, C.; Evans, L.; Gamez; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Hackney; Hall, L.; Hall, T.; Hanna; Heflin; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hudson, D.; Hury; Jones; Kemp; Lee, E. F.; Luna; Madla; Mankins; Martinez, R.; Martinez, W.; Meser; Millsap; Oliver; Parker; Patronella; Pierce; Polk; Polunno; Presnal; Ragsdale; Rangel; Russell; Saunders; Shea; Smith, C.; Smith, T.; Staniswalsi; Sutton; Tejeda; Thompson, S.; Toomey; Tow; Valles; Vowell; Wilson; Wolens; Wright.

Nays — Agnich; Armbrister; Barrientos; Barton, B.; Bomer; Buchanan; Burnett; Carriker; Ceverha; Clark; Craddick; Danburg; Davis; DeLay; Denton; Eckels; Ekenburg; Emmett; Finnell; Fox; Gandy; Garcia, A.; Geistwelt; Grisham; Haley; Hall, W.; Hammond; Harrison, D.; Harrison, W.; Hightower; Hinojosa; Hollowell; Horn; Jackson; Keller; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Leonard; McKenna; McWilliams; Moreno, A.; Moreno, P.; Oliveira; Patterson; Pennington; Peveto; Price; Robinson; Robnett; Rudd; Salinas(C); Schoolcraft; Shaw; Short; Simpson; Smith, A.; Stiles; Thompson, G.; Turner; Uher; Waldrop; Watson; Whaley; Wieting; Willis; Word.

Present, not voting — Mr. Speaker.

Absent, Excused — Patrick; Wallace.

Absent — Delco; Hernandez; Hudson, S.

By unanimous consent, the house dispensed with the verification of those voting nay.

The chair stated that the motion to table prevailed by the above vote.

(Speaker in the chair)

MESSAGE FROM THE SENATE

Austin, Texas, April 13, 1983

The Honorable Speaker of the House of Representatives

House Chamber

The Honorable

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

CSHJR 19 by Delco, et al., proposing a constitutional amendment to provide funds for the support of higher education and to restructure the permanent university fund. (amended)

Respectfully,

Betty King

Secretary of the Senate
CSHB 593 - (consideration continued)

Representatives A. Moreno, et al., offered the following amendment to CSHB 593:

Amend CSHB 593 as follows:
On line 8, page 19 after "storage." and before "This" insert the following:
A holder of an agricultural permit may also transport fruit and vegetables from a packing house to the next processor or point of distribution.

Representative Messer moved to table the A. Moreno, et al., amendment.
The motion to table prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:
Delco on motion of Peveto.

CSHB 593 - (consideration continued)

Representative Simpson offered the following amendment to CSHB 593:

Amend the committee substitute for HB 593 by striking lines 25 through 27 on page 18 and lines 1 through 15 on page 19 of the committee substitute and inserting in lieu thereof the following:
Sec. 5b. (a) A person transporting eligible agricultural commodities is not required to obtain a certificate of convenience and necessity if he holds an agricultural permit issued by the Commission. A person holding an agricultural permit may transport eligible agricultural commodities from any point of origin to any destination within the State. Eligible agricultural commodities include those agricultural commodities which have been exempted from economic regulation by the U.S. Interstate Commerce Act, Title 49, U.S. Code, or as ordered by the Interstate Commerce Commission as of January 1, 1983. [A person transporting eligible agricultural commodities in their natural state for compensation or hire is not required to obtain a certificate of convenience and necessity if he holds a seasonal agricultural license issued by the Commission. A person holding a seasonal agricultural license may transport eligible agricultural commodities only from the place where the commodities are produced and harvested to the first processor. A holder of a seasonal agricultural license may also transport cotton and cottonseed from a cotton gin to the next processor or point of storage. This transportation may not exceed a distance of seventy-five (75) miles, and must be in intrastate commerce. Agricultural commodities in their natural state include those commodities produced and harvested on a farm which must be transported to storage or a first processor, but do not include the manufactured products of agricultural commodities, nor do they include livestock, milk, wool, mohair, or timber in its natural state.]
And by striking the words: "in their natural state" on line 9, page 21, and on line 14, page 21, and on line 4, page 22.

Representative Messer moved to table the Simpson amendment.
A record vote was requested.
The motion to table prevailed by (Record 153): 73 Yeas, 71 Nays, 1 Present, not voting.
Yeas — Armbrister; Arnold; Barrientos; Barton, E.; Berlanga; Blanton; Cain; Cary; Cavazos; Clemons; Colbert; Collazo; Connelly; Eckels; Edwards; English;
Representative Ceverha offered the following amendment to CSHB 593:

Amend CSHB 593, as follows:

(1) On page 2, lines 11-14 strike "They may appoint a secretary at a salary not exceeding $2,000.00 per annum, and not more than two clerks at salaries not exceeding $1,500.00 per annum each, and such other experts as may be necessary."

(2) On page 2, lines 21-24 strike: "Secretary's duties—The secretary shall keep full and correct minutes of all the transactions and proceedings of the commission, and perform such duties as the commission may require of him."

The amendment was adopted without objection.

Representative Peveto offered the following amendment to CSHB 593:

Amend CSHB 593 by adding an appropriately numbered section to read as follows:

Section — Section 1a, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) Any person transporting steel produced from iron ore, manufactured within the state of Texas, provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation.

Representative Hackney moved to table the Peveto amendment.

A record vote was requested.

The motion to table prevailed by (Record 154): 80 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Armbrister; Arnold; Barton, E.; Berlanga; Blandon; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Clemens; Colbert; Coody; Craddick; Criss; Danburg; Denton; Edwards; Eikenburg; English; Evans, C.; Gilley; Glossbrenner; Granoff; Green; Hackney; Hall, L.; Hall, T.; Hanna; Hellin; Hernandez; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hudson, D.; Hudson, S.; Hurst; Jones; Kemp; Luna; McKenna; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Oliver; Parker, Pierce; Polk; Polumbo; Presnal; Rangel; Robnett; Saunders; Shea; Smith, C.; Smith, T.; Staniswalis; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Valles; Vowell; Watson; Willis; Wilson; Wolens.

Nays — Agnich; Barton, B.; Bomer; Buchanan; Burnett; Bush; Ceverha; Clark; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Denton; Eikenburg; Emmett; Evans, L.; Finnell; Fox; Gandy; Garcia, A.; Gavin; Geistweidt; Grisham; Haley; Hall, W.; Hammond; Harrison, D.; Harrison, W.; Hightower; Hinojosa; Hollowell; Horn; Jackson; Keller; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; McWilliams; Moreno, A.; Moreno, F.; Oliveira; Patronella; Patterson; Pennington; Peveto; Price; Ragland; Robinson; Rudd; Russell; Salinas; Schlueter; Schoolcraft; Shaw; Short; Simpson; Smith, A.; Stiles; Turner; Uber; Waldrop; Whaley; Wieting; Word; Wright.
Representative DeLay offered the following amendment to CSHB 593:

Amend CSHB 593 by adding the following:

SECTION 17L. Amend Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended, by adding the following:

"SECTION 24. Intercorporate Hauling. Any person having a regular, separate, fixed and established place of business other than a transportation business may transport property for affiliated corporations for compensation without becoming a motor carrier and without a certificate or permit from the Commission."

Representative Hackney moved to table the DeLay amendment.

The motion to table prevailed.

Representative Danburg offered the following amendment to CSHB 593:

Amend CSHB 593 by adding the following:

SECTION 17M. Section 5, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended, is amended to read as follows:

Sec. 5. No motor carrier shall hereafter operate as a common carrier for the transportation of property for compensation or hire over the public highways of this State without first having obtained from the Commission, under the provisions of this Act, a certificate declaring that the public convenience and necessity requires such operation; provided, however, the Commission shall, without application or hearing when this Act goes into effect, issue all motor carriers then operating lawfully under permanent certificates of public convenience and necessity heretofore issued to them, certificates in lieu of the certificates issued under the
terms of the former law covering the same routes that said common carrier shall have been operating over, and no more.

[Any certificate held, owned or obtained by an motor carrier operating as a common carrier under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public necessity and convenience in the territory covered by the certificate, or that said proposed sale, assignment, lease, or transfer is not best for the public interest; the Commission, in approving or disapproving the sale, assignment, lease, or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary.

SECTION 17N. Section 5a(a), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 91 lb, Vernon's Texas Civil Statutes), as amended, is amended to read as follows:

Sec. 5a. (a) The Commission is hereby given authority to issue upon application and hearing as provided in this Act, to those persons who desire to engage in the business of a "specialized motor carrier," certificates of convenience and necessity in the manner and under the terms and conditions as provided in this Act.

[Any certificate held, owned, or obtained by any motor carrier operating as a "specialized motor carrier" under the provisions of this Act, may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public necessity and convenience in the territory covered by the certificate, or that said proposed sale, assignment, lease, or transfer is not best for the public interest; the Commission, in approving or disapproving the sale, assignment, lease, or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary.
April 13, 1983 HOUSE JOURNAL 953

qualifications of any proposed purchaser, assignee, lessee, or transferee, provided however, that in case a certificate is transferred that the transferee shall pay the Commission a sum of money equal to ten (10) percent of the amount paid as a consideration for the transfer of the certificate, which sum of ten (10) percent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the rights of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars ($25), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity is approved or not.

SECTION 170. Sections 6(e) and (f), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended, are hereby repealed.

SECTION 17P. Section 13, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), as amended, is amended by adding the following:

(c) After the effective date of this Act, no certificate or permit, acquired or obtained by any motor carrier operating as a common carrier, specialized motor carrier, or contract carrier under the provisions of this Act may be sold, assigned, leased, transferred, or inherited. A certificate or permit confers upon the holder a privilege to utilize the public highways as a commercial motor carrier. This privilege to serve the public is not a property right and the certificate or permit is not transferable. Likewise, sale of any interest in a corporation which possesses a certificate or permit is deemed to be a transfer and such act shall cancel said certificate or permit. A stock purchaser must make a separate, independent application for new operating authority under the provisions of this Act. The Commission shall establish procedures and regulations for identifying and cancelling certificates which are sold, assigned, leased, transferred, or inherited, without formal notice to the Commission. The Commission shall treat any application for a cancelled authority as a new application for which the burden of proof prerequisite to the granting thereof shall be the same as with any new application and without regard to the fact that authority had been previously granted. Upon the effective date of this subsection, all leases then in effect and approved by the Commission shall continue under the terms of said lease. Upon expiration or termination, the lease shall not be renewable. Applications for sale, assignment, lease, or transfer, which are not published by the Commission prior to the effective date of this subsection shall be returned without processing.

Representative Hackney moved to table the Danburg amendment.

The motion to table prevailed.

Representative C. Evans offered the following amendment to CSHB 593:

CSHB 593 is amended as follows:
(1) Renumber Sections 19-23 of the bill as Sections 20-24.
(2) Add a new Section 19 to read as follows:

SECTION 19. Article 6053, Revised Statutes is amended by adding Section 3 to read as follows:

Sec. 3. No person shall acquire control of any gas utility operating within this State without first secured authorization to do so from the Commission. A person who, directly or indirectly, owns, controls or has power to vote (other than
by proxy solicitation) twenty percentum or more of any class of voting securities of a gas utility or of any person who controls a gas utility shall be presumed to control such gas utility. The Commission shall not authorize such acquisition if it finds that such control will impair the ability of the gas utility to render adequate service to its customers or otherwise contravene such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of customers of such gas utility.

Representative Coody moved to table the C. Evans amendment.

The motion to table prevailed. (Toomey recorded voting yes)

Representative Hanna offered the following amendment to CSHB 593:

Amend CSHB 593 by striking Section 20 and substituting the following: SECTION 20. Title 3, Natural Resources Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. OIL TANKER VEHICLES
SUBCHAPTER A. GENERAL PROVISIONS
Sec. 114.001. DEFINITIONS. In this chapter:
(1) “Commission” means the Railroad Commission of Texas.
(2) “Liquid hydrocarbons” means unrefined oil or condensate and refined oil or condensate to be blended with unrefined liquid hydrocarbons.
(3) “Transporter” means each gatherer, storer, or other handler of liquid hydrocarbons who moves or transports those liquid hydrocarbons by truck or other motor vehicle.
(4) “Oil tanker vehicle” means a motor vehicle licensed for highway use on a public highway or used on a public highway:
   (A) that is equipped with, carrying, pulling, or otherwise transporting an assembly, compartment, tank, or other container that is used for transporting, hauling, or delivering liquids; and
   (B) that is being used to transport liquid hydrocarbons on a public highway.
(5) “Public highway” means a way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, even if the way or place is temporarily closed for the purpose of construction, maintenance, or repair.
(6) “Lease” means a well producing oil, gas, or oil and gas, and any group of contiguous wells producing oil, gas, or oil and gas of any number operated as a producing unit.
(7) “Facility” means any place used to store, process, refine, reclaim, dispose of, or treat liquid hydrocarbons.
(8) “Cargo manifest” means one or more documents that together contain the information required by Section 114.012 of this code.
Sec. 114.002. APPLICABILITY OF CHAPTER. This chapter does not apply to:
(1) a common carrier as defined by and regulated under Chapter 111 of the Natural Resources Code; or
(2) the movement by a person or entity by motor vehicle of salt water, brine, sludge, drilling mud, and other liquid or semiliquid material arising out of or incidental to drilling for or producing oil or gas if:
   (A) the commission has authorized the person or entity to move or transport the material and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume; or
   (B) the person or entity is not moving or transporting the material for hire and the material being moved or transported contains less than seven percent liquid hydrocarbons by volume.
Sec. 114.011. CARGO MANIFEST REQUIRED. A cargo manifest must be carried in each oil tanker vehicle transporting liquid hydrocarbons on a public highway in this state and must be presented on request for inspection as provided by Section 114.011 of this code.

Sec. 114.012. CONTENTS OF CARGO MANIFEST. For each load of liquid hydrocarbons loaded onto and transported by an oil tanker vehicle, the cargo manifest must include:

1. an identification of the lease or facility from which the liquid hydrocarbons were removed which must include:
   (A) the lease or facility name; and
   (B) the name of the operator of the lease or facility;
2. the total quantity of liquid hydrocarbons removed from the lease or facility and loaded onto the oil tanker vehicle;
3. the date and hour when the liquid hydrocarbons were removed from the lease or facility and loaded onto the oil tanker vehicle;
4. the identity of the transporter which must include:
   (A) the company or individual transporter's name and address;
   (B) the oil tanker vehicle driver's name; and
   (C) a unique number for the oil tanker vehicle that for a truck tractor and semitrailer type oil tanker vehicle must include unique vehicle numbers for both truck tractor and semitrailer; and
5. the intended point of destination for the liquid hydrocarbons, including the name of the receiving facility.

Sec. 114.013. COPY OF CARGO MANIFEST LEFT AT LEASE OR FACILITY. (a) A copy of the cargo manifest must be left at the lease or facility from which the liquid hydrocarbons were removed or delivered to the lease or facility operator, his agent, or his representative.

(b) The requirements of this section may be met by leaving a separate document at the lease or facility from which the liquid hydrocarbons were removed or delivering to the lease or facility operator a separate document that includes information required under Subdivisions (1)-(4), Section 114.011, of this code.

(c) If more than one load of liquid hydrocarbons are removed from a single tank or other container of liquid hydrocarbons within a period of 24 consecutive hours, Subdivisions (2) and (3), Section 114.012, of this code may be met for purposes of this section by a separate document that includes:

1. the total quantity of liquid hydrocarbons removed;
2. the date and hour the first load was removed; and
3. the date and hour the last load was removed.

(d) If the operator of a facility requires that a transporter leave a document at the facility or deliver to the operator a document other than the transporter's cargo manifest, a transporter may meet the requirements of this section by leaving those specified documents at an agreed location or delivering the document to the operator.

Sec. 114.014. CARGO MANIFEST RECORDS. After the delivery of all liquid hydrocarbons in an oil tanker vehicle is completed, the cargo manifest must be maintained in the records of the transporter for a period of not less than two years from the date the liquid hydrocarbons are removed from the oil tanker vehicle.

SUBCHAPTER C. ENFORCEMENT

Sec. 114.015. AUTHORITY TO EXAMINE CARGO MANIFESTS. The commission, its designated agents or employees, or a peace officer may examine a cargo manifest, whether it is on an oil tanker vehicle or in the records of the...
Sec. 114.102. CRIMINAL OFFENSES. (a) A person commits an offense if the person knowingly or intentionally:

(1) fails to leave a copy of the cargo manifest or other document as required under Section 114.013 of this code at the lease or facility from which the liquid hydrocarbons were removed or fails to deliver a copy of the cargo manifest or other document as required under Section 114.013 of this code to the operator of the lease or facility, his agent, or his representative;

(2) operates an oil tanker vehicle without a cargo manifest as required by this chapter;

(3) fails to maintain cargo manifest records as required under Section 114.014 of this code; or

(4) forges or falsifies a cargo document or documents required by this chapter or exhibits a cargo document or documents knowing that those documents are forged or falsified.

(b) An offense under this section is a felony of the third degree.

(c) It is an affirmative defense to prosecution under Subdivision (1), (2), or (3), Subsection (a), of this section that the person charged with the offense provides the information required by Section 114.012 of this code.

(d) A penalty imposed for violation of this chapter is in addition to any civil or administrative penalty or sanction authorized by Sections 85.042 and 85.201 of this code or any other provision of law.

The amendment was adopted without objection.

Representative Peveto offered the following amendment to CSHB 593:

Add a new section to read: The Railroad Commission in setting rates may consider as a factor in rate setting the disadvantage to Texas produced products competition from other products because of interstate commerce freight rates.

The amendment was adopted without objection.

Representative Emmett offered the following amendment to CSHB 593:

Amend CSHB 593 by striking words “Railroad Commission” wherever they appear and substitute “Energy and Commerce Commission”.

Representative Messer moved to table the Emmett amendment.

The motion to table prevailed.

CSHB 593, as amended, was passed to engrossment.

RECESS

Representative Watson moved that the house recess until 4 p.m. today.

The motion prevailed without objection.

The house accordingly, at 2:54 p.m., recessed until 4 p.m. today.

AFTERNOON SESSION

The house met at 4 p.m. and was called to order by the speaker.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today and tomorrow because of state business:

Eikenburg on motion of Schoolcraft.
The following member was granted leave of absence for the remainder of today because of important business:
Gavin on motion of Burnett.

HB 1046 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1046.

CSHB 1046

A BILL TO BE ENTITLED
AN ACT
relating to authorized investments for a portion of the veterans land fund, the permanent university fund, the teachers retirement system, the employees retirement system, the Texas county and district statewide retirement system, and the Texas municipal statewide retirement system; and declaring an emergency.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 161.173, Natural Resources Code, is amended to read as follows:
Sec. 161.173. PAYMENT OF PRINCIPAL AND INTEREST; INVESTMENTS. (a) The principal of and interest on bonds issued by the board shall be paid from money in the fund as provided in the constitutional provision authorizing the bonds.
(b) Money in the fund that is not immediately committed to paying principal of and interest on the bonds, to the purchase of land, or to the payment of expenses as provided in this chapter shall [may] be invested in accordance with Article III, Section 49-b-2, Texas Constitution [in bonds or obligations of the United States] until the funds are needed for these purposes.
(c) The Veterans' Land Board shall adopt, and may from time to time amend, rules governing the investment of that portion of the veterans land fund provided for in Subsection (b) of this Section.

SECTION 2. Section 66.01, Texas Education Code, is amended to read as follows:
Sec. 66.01. INVESTMENT OF PERMANENT UNIVERSITY FUND; OTHER FUNDS. (a) The composition, [investment] purposes, and use of the permanent university fund are governed by Article VII, Sections 10, 11, 11a, 15, and 18, of the Texas Constitution. The investment of the permanent university fund and other funds available for investment by the Board of Regents is governed by Article VII, Section 11b, Texas Constitution;
(b) The Board of Regents shall adopt, and may from time to time amend, rules relating to the investments of the permanent university fund and other funds available for investment.

SECTION 3. Section 25.301(b), Title 110B, Revised Statutes, is amended to read as follows:
(b) The [Except for assets of the law enforcement and custodial officer supplemental retirement fund, the] board of trustees shall [may] invest and reinvest any of the retirement system's assets in accordance with Article XVI, Section 67(a)(3), Texas Constitution, the following:
[(1) bonds, notes, or other evidences of indebtedness, whether general or specific obligations, whose principal and interest are guaranteed by the United States, an agency of the United States, the state, or any political subdivision of the state;
[(2) home office facilities, including land, equipment, and office building, used in administering the retirement system;]
(3) corporate bonds, corporate notes, and other evidences of indebtedness of a corporation if the corporation was created or exists under the laws of a state or the United States; and

(4) common and preferred stocks of companies incorporated within the United States that have paid cash dividends for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that are listed on an exchange registered with the Securities and Exchange Commission or its successor.

SECTION 4. Section 35.301, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 35.301. INVESTMENT OF ASSETS. The board of trustees shall invest assets of the retirement system in accordance with Article XVI, Section 67(a)(3), Texas Constitution and without distinction as to their source. [All securities are held collectively for the proportionate benefit of all accounts of the system:]

SECTION 5. Section 55.301, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 55.301. INVESTMENT OF ASSETS. The board of trustees shall invest and reinvest the assets of the retirement system without distinction as to their source in:

(1) interest-bearing bonds or other evidences of indebtedness of this state, a county, school district, city, or other municipal corporation of this state, the United States, or an authority or agency of the United States;

(2) securities for which the United States or any authority or agency of the United States guarantees the payment of principal and interest;

(3) interest-bearing bonds, notes, or other evidences of indebtedness that are issued by a company:

(A) incorporated in the United States and that are rated "A" or better by one or more nationally recognized rating agencies approved by the Board; or

(B) in whose stock the retirement system may invest as provided by Subdivision (4) of this subsection; [or]

(4) common or preferred stocks of a company incorporated in the United States that has paid cash dividends on its common stock for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that is listed on an exchange registered with the Securities and Exchange Commission or its successor; or

(5) any other securities that meet the standard of care prescribed in Article XVI, Section 67(a)(3), Texas Constitution.

SECTION 6. Section 65.301, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 65.301. INVESTMENT OF ASSETS. The board of trustees shall invest and reinvest the assets of the retirement system without distinction as to their source in:

(1) interest-bearing bonds or other evidences of indebtedness of this state, a county, school district, city, or other municipal corporation of this state, the United States, or an authority or agency of the United States;

(2) securities on which the United States or any authority or agency of the United States guarantees the payment of principal and interest;

(3) corporate bonds or debentures that are issued by a company:

(A) incorporated in the United States and that are rated "A" or better by one or more nationally recognized rating agencies approved by the Board; or

(B) in whose stock the retirement system may invest as provided by Subdivision (4) of this subsection; [or]
(4) common or preferred stocks of a company incorporated in the United States that has paid cash dividends on its stock for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that is listed on an exchange registered with the Securities and Exchange Commission or its successor; or

(5) any other securities that meet the standard of care prescribed in Article XVI, Section 67(a)(3), Texas Constitution.

SECTION 7. Sections 25.302, 25.303, 55.302, and 65.302, Title 110B, Revised Statutes, are repealed.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect on the 90th day after the date of adjournment of the 68th Legislature, Regular Session, 1983.

(b) Sections 1 and 2 take effect on the date that the constitutional amendment proposed by ________J.R. No. ________, 68th Legislature, Regular Session, 1983, becomes a part of the Texas Constitution. If that amendment is not adopted, Sections 1 and 2 of this Act have no effect.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1046 was read second time and was passed to engrossment. (C. Smith, G. Thompson, and Hollowell recorded voting no)

HB 872 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 872, A bill to be entitled An Act relating to the requirements for obtaining a certificate of title to a vehicle that has not been previously registered or titled in any state.

The bill was read third time and was passed.

(Stiles in the chair)

HB 1229 ON THIRD READING

The chair laid before the house on its third reading and final passage,

HB 1229, A bill to be entitled An Act relating to the service plan and fare and service changes of a regional transportation authority in a metropolitan area; amending Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 111B, Vernon's Texas Civil Statutes); and declaring an emergency.

A record vote was requested.

The bill was read third time and was passed by (Record 155): 136 Yeas, 1 Nay, 2 Present, not voting.

Yea — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Cerveria; Clark; Clemmons; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; DeLay; Denton; Eckels; Emmett; English; Evans, C.; Evans, L.; Finnell; Fox; Gamez; Gandy; Garcia, A.; Garcia, M.; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Granoff; Green; Grisham; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Hurv; Jackson;Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McWilliams; Madla; Mankins; Martinez, R.;
The chair laid before the house on its third reading and final passage, HB 665, A bill to be entitled An Act relating to a transcript form for distinguishing the academic achievement of a student who has completed an advanced high school program.

The bill was read third time and was passed.

Rep. Agnich moved to table HB 1255.

The vote of the house was taken on the motion to table HB 1255 and the vote was announced yeas 72, nays 70.

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted, as follows (Record 156): 72 Yeas, 70 Nays, 2 Present, not voting.

Yees — Agnich; Armbrister; Barton, E.; Berlanga; Blanton; Buchanan; Burnett; Cain; Cavazos; Ceverha; Connelly; Craddock; Criss; Crockett; DeLay; Eckels; English; Evans, L.; Fox; Gamez; Garcia, M.; Grisham; Hall, L.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hudson, D.; Hury; Jackson; Jones, Khoury; Kuempel; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Mankins; Moreno, A.; Moreno, P.; Parker; Pierce; Polk; Polumbo; Rangel; Robinson; Robnett; Russell; Salinas; Schoolcraft; Shea; Simpson; Smith, A.; Smith, C.; Staniswalis; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nay — Hollowell.

Present, not voting — Mr. Speaker(C); McKenna.

Absent, Excused — Delco; Eikenburg; Gavin; Patrick; Wallace.

Absent — Agnich; Colbert; Edwards; Glossbrenner; Hackney; Moreno, P.
April 13, 1983
HOUSE JOURNAL
961

Nays — Arnold; Barrientos; Barton, B.; Bomer; Bush; Carriker; Cary; Clark; Clemmons; Colbert; Collazo; Coody; Danburg; Davis; Denton; Edwards; Emmett; Evans, C.; Fennell; Garcia, A.; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Green; Hackney; Haley; Hall, T.; Hernandez; Hightower; Hill, G.; Hollowell; Horn; Hudson, S.; Keller; Kubiak; Lane; Luna; Madla; Martinez, R.; Martinez, W.; Messer; Millsap; Oliveira; Oliver; Patronella; Patterson; Pennington; Peto; Pressal; Price; Ragsdale; Rudd; Saunders; Schlueter; Shaw; Short; Smith, T.; Stiles(C); Sutton; Tejeda; Tow; Turner; Uher; Whaley; Willis; Wilson; Word.

Present, not voting — Mr. Speaker; Kemp.

Absent, Excused — Delco; Eikenburg; Gavin; Patrick; Wallace.

Absent — Gibson, J.

By unanimous consent, the house dispensed with the verification of those voting nay.

The chair stated that the motion to table prevailed by the above vote.

HB 2 ON SECOND READING

The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 2.

CSHB 2

A BILL TO BE ENTITLED
AN ACT
relating to the enforcement of court-ordered child support.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Chapter 14, Family Code, is amended by adding Section 14.091 to read as follows:

Sec. 14.091. ASSIGNMENT OF INCOME FOR CHILD SUPPORT. (a) A person ordered by a court to make child support payments may assign a portion of his earnings for the payment of support by filing a signed assignment with the court having jurisdiction of the suit.

(b) An assignment shall state the style, docket number, and court having continuing jurisdiction of the suit, the name, address, and social security number of the assignor, the name and address of the assignor's employer, the amount and duration of the assignment, the name, address, and, if available, the social security number of the child and the person entitled to receive payment for the support of the child, and any other matter deemed necessary to effectuate the assignment.

(c) On motion of any party to a suit in which an assignment has been filed, the court may, after notice to all parties to the suit and a hearing, order any employer named in the assignment to withhold from the assignor's disposable earnings the lesser of either the amount specified in the assignment or up to one-third of assignor's disposable earnings.

(d) Any order for an assignment shall have a copy of the assignment attached to it. The order shall contain the amount and duration of the assignment, the name and address of the person or office to which the assigned amount shall be delivered, the notices required by Subsections (b) and (i) of this section, a requirement that the assignor promptly notify the court of any change affecting the assignment, and any other matter deemed necessary by the court. The court shall require the assigned amount to be paid to the court registry or a child support collection office serving the court, unless the court finds there is good cause to require payments to be made
to another person or office. An order for assignment shall dissolve without court action 30 days after the employee ceases employment with the employer.

(c) The assignment becomes effective 15 days after service of the order upon the employer. Service of the order shall be issued and served as in other civil cases, including by certified or registered mail, return receipt requested. After the effective date, the assigned amount, less any administrative fee, shall be remitted to the person or office named in the order on each regular due date or pay date. The employer may deduct from the assigned amount an administrative fee of not more than $5.00 per month.

(f) At any time after service of the order, the employer may make a motion for hearing on the validity and application of the assignment. The hearing shall be held within 15 days following the filing of the motion. Pending the hearing, the assignment remains binding unless otherwise ordered by the court, but payments of the amount assigned shall be made to the registry of the court.

(g) An assignment made under this section has priority over any garnishment, attachment, execution, or other assignment or order unless otherwise ordered by the court or provided by law.

(h) An employer served with an order under this section who complies with the order is not liable to the assignor for the amount of disposable earnings withheld and paid as provided in the order. An employer who does not comply with the order is liable to the person entitled to receive the support for the amount not paid in compliance with the order and for reasonable attorney’s fees and court costs. Each order must include notice of this provision. An employer served with two or more orders on any named assignor shall comply with all orders. If the total amount in the orders exceeds the maximum amount allowable under this section, the employer shall pay equal amounts on all orders until the orders are individually complied with or until the maximum amount of allowable assignment is reached, whichever occurs first.

(i) An employer may not use an assignment authorized by this section as grounds in whole or part for the termination of employment or for any other disciplinary action against an employee. An employer may not refuse to hire an employee because of an assignment. If an employer intentionally discharges an employee in violation of this subsection, the employer continues to be liable to the employee for current wages and other benefits, and for reasonable attorney’s fees and court costs incurred by the employee in enforcing the employee’s rights under this subsection. An action under this subsection may be brought only by the employee. Each order must include notice of this provision.

(j) A court with continuing jurisdiction over a parent-child relationship shall consider the fact that an assignor is subject to two or more income assignments. Upon motion by any party to the suit, or upon the court’s own motion, the court may, after notice to all parties to the suit and a hearing, modify an assignment under this section for the purpose of making new assignments for the benefit of all of the children whom the assignor is obligated to support, in order to avoid assigning more than the maximum amount permitted under this section. In the event a dispute arises between two or more courts over assignments involving the same assignor, the court which first acquired jurisdiction shall resolve the dispute.

(k) In this section, “earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(l) In this section, “disposable earnings” means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.
(m) In this section, "employer" means any person, including the United States and any governmental entity as defined by Section 11.01 of this code. "Person" shall include, but is not limited to, individuals, partnerships and corporations.

(n) Hearings under this section may be joined with any other hearing in the suit affecting the parent-child relationship; provided, however, a court may not order an assignment in any temporary proceeding affecting the parent-child relationship.

(o) Nothing in this section shall be construed to limit the use of any and all other civil or criminal remedies to enforce child support obligations.

SECTION 2. If the constitutional amendment proposed by H.J.R. 1, 68th Legislature, Regular Session, 1983, is adopted by the voters, on the date the amendment takes effect, Section 14.091, Family Code, is amended by adding Subsections (p) and (q) to read as follows:

(p) On the motion of a person entitled to receive support for the benefit of a child, on the court's own motion, or on the motion of a child by a representative of the child, including the Texas Department of Human Resources if the Department is providing assistance to or services for the child, and after notice to all parties and a hearing, the court of continuing jurisdiction may order an assignment of earnings for child support if the court finds the party has failed to make one or more payments of support during the 12 month period preceding the filing of the motion, and the total amount of child support in arrears is equal to or exceeds the amount due for a two month period. In determining the amount of the assignment, the court may consider past-due, unpaid support and future payments. An assignment issued under this subsection shall conform to all provisions in this section.

(q) If a court orders an assignment it may award reasonable attorney's fees and court costs to the party who requested the assignment.

SECTION 3. Section 14.09, Family Code, is amended by adding Subsection (e) to read as follows:

(e) If a self-employed person, or a person employed by an employer not subject to the jurisdiction of the court, or a person to whom the application of Sec. 14.09 is impracticable fails to make two or more child support payments as required by court order, the court, in addition to other remedies provided by this chapter, may order the person to execute a bond, subject to the approval of the court, or pay security to the court, the bond or security to be conditioned on the payment of past-due and future child-support payments as required by the court order. If the person fails to make a child-support payment as required by the court order after having executed a bond or having paid security to the court, the court may collect on the bond or may forfeit all or a portion of the security. An amount collected from a bond or an amount of forfeited security shall be paid to the person entitled to receive the support payment for the benefit of the child and shall be applied to the outstanding indebtedness of the person. The application of bond or security funds to the person's indebtedness is not a defense in a contempt of court proceeding. In this subsection, "self-employed person" means an individual who received 80 percent or more of his annual income from sources other than wages or salary.

SECTION 4. Sections 1 and 3 of this Act take effect September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

(Speaker in the chair)
CSHB 2 was read second time and was passed to engrossment.

HB 369 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 369, A bill to be entitled An Act relating to the creation of a farm and ranch finance program.

The bill was read second time.

Representative Carriker offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 369 on page 3 by striking Section 162.022 and substituting the following:

"Section 162.022. LOCAL COMMITTEE. The County Judge shall appoint a local committee consisting of three (3) members and designate a chairman of the same. Each local committee shall include two (2) resident agricultural producers and an officer of a financial institution located in the county."

Committee Amendment No. 1 was adopted without objection.

Representative Patterson offered the following amendment to the bill:

Amend HB 369, on page 8, by striking line 9 and substituting the following:

"Sec. 162.037. RULES AND FEES. The Board may promulgate rules and charge fees necessary to carry out the purpose of the program. [Sections 162.038-162.040 reserved for expansion]"

The amendment was adopted without objection.

Representative Patterson offered the following amendment to the bill:

Amend HB 369 on page 9 by striking SECTION 2 and inserting the following:

"SECTION 2. This Act takes effect on the adoption by the voters of the constitutional amendment proposed by S.J.R. No. 24, 68th Legislature, Regular Session, 1983. If that amendment is not approved, this Act has no effect."

The amendment was adopted without objection.

HB 369, as amended, was passed to engrossment. (Polumbo, Fox, C. Smith, Ceverha, Heflin, and Jackson recorded voting no)

HB 555 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 555, A bill to be entitled An Act relating to the location of annexation hearings conducted by a city.

(Carriker in the chair)

The bill was read second time.

Representative Toomey offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend HB 555 as follows:
On page 1, lines 13 and 14, strike "[At least one (1) public hearing shall be held within the area proposed to be annexed:]" and substitute the following: At least one (1) public hearing shall be held within the area proposed to be annexed if more than twenty (20) adult residents who reside in the territory proposed to be annexed, protest in writing to the city secretary of the annexing city, the institution of annexation proceedings. Each written protest shall contain the name, address and age of each protestor signing.

Committee Amendment No. 1 was adopted without objection.

HB 555, as amended, was passed to engrossment. (C. Smith recorded voting no)

HB 741 ON SECOND READING
The chair laid before the house on its second reading and passage to engrossment,

HB 741, A bill to be entitled An Act relating to the deadline for filing an application for a place on a primary election ballot.

The bill was read second time and was passed to engrossment. (Oliver recorded voting no)

HB 1148 ON SECOND READING
The chair laid before the house on its second reading and passage to engrossment,

HB 1148, A bill to be entitled An Act relating to the qualifications of the presiding judge and the clerks serving at a central counting station.

The bill was read second time and was passed to engrossment.

HB 1445 ON SECOND READING
The chair laid before the house on its second reading and passage to engrossment, the complete committee substitute for HB 1445.

CSHB 1445

A BILL TO BE ENTITLED
AN ACT
relating to the assessment of administrative penalties by the Railroad Commission of Texas to enforce certain laws within its jurisdiction.

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

SECTION 1. Chapter 81, Natural Resources Code, is amended by adding Sections 81.0531-81.0534 to read as follows:

Sec. 81.0531. ADMINISTRATIVE PENALTY. (a) If a person violates provisions of this title which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.
Sec. 81.0532. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 81.0531 of this code has been given an opportunity for a public hearing.
(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.
(c) If appropriate, the commission shall consolidate the hearings with other proceedings.
(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.
(e) The commission shall then issue an order requiring that the penalty be paid.
Sec. 81.0533. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the commission shall inform the person charged within 30 days of the amount of the penalty.
(b) Within the 30-day period immediately following the day on which the order is issued, the person charged with the penalty shall pay the penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the commission for placement in an escrow account.
(c) If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.
(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.
Sec. 81.0534. RECOVERY OF PENALTY. Civil penalties owed under Sections 81.0531-81.0533 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.
SECTION 2. Chapter 131, Natural Resources Code, is amended by adding Sections 131.2661-131.2664 to read as follows:
Sec. 131.2661. ADMINISTRATIVE PENALTY. (a) If a person violates a permit of this chapter and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the person may be assessed a civil penalty by the commission.
(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.
(c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.
Sec. 131.2662. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 131.2661 of this code has been given an opportunity for a public hearing.
(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and
the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Sec. 131.2663. PAYMENT OF PENALTY; REFUND. (a) On the issuance of notice or an order charging that a violation has occurred, the commission shall inform the person charged within 30 days of the proposed amount of the penalty.

(b) Within the 30-day period immediately following the day on which the notice or order is issued, the person charged with the penalty shall pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the commission with the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Sec. 131.2664. RECOVERY OF PENALTY. Civil penalties owed under Sections 131.2661-131.2663 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

SECTION 3. Chapter 27, Water Code, is amended by adding Sections 27.1011-27.1014 to read as follows:

Sec. 27.1011. ADMINISTRATIVE PENALTY. (a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under this chapter, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

Sec. 27.1012. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 27.1011 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.
The railroad commission shall then issue an order requiring that the penalty be paid.

Sec. 27.1013. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the order is issued, the person charged with the penalty shall pay the penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the railroad commission for placement in an escrow account.

(c) If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the railroad commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Sec. 27.1014. RECOVERY OF PENALTY. Civil penalties owed under Sections 27.1011-27.1013 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

SECTION 4. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended by adding Section 73A to read as follows:

Sec. 73A. (a) If a public utility or any other person or corporation under the jurisdiction of the railroad commission pursuant to this Act violates this Act and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the public utility or any other person may be assessed a civil penalty by the railroad commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the public utility's, person's, or corporation's history of previous violations of this Act, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or public utility, person, or corporation charged.

(d) A civil penalty may be assessed only after the public utility, person, or corporation charged with a violation described under Subsection (a) of this section has been given an opportunity for a public hearing.

(e) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(f) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this Act.

(g) If the public utility, person, or corporation charged with the violation fails to avail itself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(h) The railroad commission shall then issue an order requiring that the penalty be paid.

(i) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the public utility, person, or corporation charged within 30 days of the amount of the penalty.
(j) Within the 30-day period immediately following the day on which the order is issued, the public utility, person, or corporation charged with the penalty shall pay the penalty in full or, if the public utility, person, or corporation wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the railroad commission for placement in an escrow account.

(k) If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the railroad commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the public utility, person, or corporation with interest at the prevailing United States Department of the Treasury rate.

(l) Failure to forward the money to the railroad commission within the time provided by Subsection (j) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(m) Civil penalties owed under this section may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

SECTION 5. Title 102, Revised Statutes, is amended by adding Article 6062A to read as follows:

Art. 6062A. ADMINISTRATIVE PENALTY. (a) If a public utility as defined by Article 6050, Revised Statutes, violates this subdivision and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the public utility may be assessed a civil penalty by the commission. For purposes of this article, a public utility is considered to have violated this subdivision if it fails to perform a duty imposed by this subdivision, or fails to comply with a valid order of the Railroad Commission of Texas.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the public utility’s history of previous violations of this subdivision, the seriousness of the violation, and any hazard to the health or safety of the public.

(d) A civil penalty may be assessed only after the public utility charged with a violation described under Section (a) of this article has been given an opportunity for a public hearing.

(e) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(f) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(g) If the public utility charged with the violation fails to avail itself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(h) The commission shall then issue an order requiring that the penalty be paid.

(i) On the issuance of an order charging that a violation has occurred, the commission shall inform the public utility charged within 30 days of the amount of the penalty.

(j) Within the 30-day period immediately following the day on which the order is issued, the public utility charged with the penalty shall pay the penalty in full or, if the public utility wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the commission for placement in an escrow account.
If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the public utility, with interest at the prevailing United States Department of the Treasury rate.

(i) Failure to forward the money to the commission within the time provided by Section (j) of this article results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(m) Civil penalties owed under this article may be recovered in a civil action brought by the attorney general at the request of the commission.

SECTION 6. Chapter 141, Natural Resources Code, is amended by adding Sections 141.013-141.016 to read as follows:

Sec. 141.013. ADMINISTRATIVE PENALTY. (a) If a person violates provisions of this title which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the person's history of previous violations of this subchapter or the rules, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person.

Sec. 141.014. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the person charged with a violation described under Section 141.013 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Sec. 141.015. PAYMENT OF PENALTY; REFUND. (a) On the issuance of an order finding that a violation has occurred, the commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the order is issued, the person charged with the penalty shall pay the penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.
(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Sec. 141.016. RECOVERY OF PENALTY. Civil penalties owed under Sections 141.013-141.015 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

SECTION 7. Chapter 29, Water Code, is amended by adding Sections 29.047-29.050 to read as follows:

Sec. 29.047. ADMINISTRATIVE PENALTY. (a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under chapter, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

Sec. 29.048. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty may be assessed only after the permittee or person charged with a violation described under Section 29.047 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the permittee or person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The railroad commission shall then issue an order requiring that the penalty be paid.

Sec. 29.049. PAYMENT OF PENALTY: REFUND. (a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the order is issued, the person charged with the penalty shall pay the penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the amount to the railroad commission for placement in an escrow account.

(c) If through administrative or judicial review of the penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the railroad commission shall, within the 30-day period immediately following that determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Sec. 29.050. RECOVERY OF PENALTY. Civil penalties owed under Sections 29.047-29.049 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.
SECTION 8. This Act takes effect September 1, 1983.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSHB 1445 was read second time.

Representative Craddick offered the following amendment to CSHB 1445:

Amend CSHB 1445 as follows:
(1) Page 4, line 20, by deleting charging and substituting finding.
(2) Page 11, line 8, by deleting charging and substituting finding.

The amendment was adopted without objection.

Representative Craddick offered the following amendment to CSHB 1445:

Amend HB 1445, Committee Report Printing, on line 12, page 14, by inserting the word “this” before the word “chapter” and on page 5, line 9 change the word “with” to “within”.

The amendment was adopted without objection.

Representative Staniswalis offered the following amendment to CSHB 1445:

Amend CSHB 1445 as follows:
Page 5, line 22, after the word “the” and before the word “commission” insert the word “railroad”.
Page 7, line 19, before the word “commission” insert the word “railroad”.
Page 10, line 6, after the word “the” and before the word “commission” insert the word “railroad”.
Page 10, line 14, after the word “the” and before the word “commission” insert the word “railroad”.
Page 10, line 21, after the word “the” and before the word “commission” insert the word “railroad”.
Page 14, line 13, after the word “the” and before the word “commission” insert the word “railroad”.
Page 16, line 10, before the word “commission” insert the word “railroad”.

The amendment was adopted without objection.

CSHB 1445, as amended, was passed to engrossment. (Staniswalis recorded voting no)

HR 242 - ADOPTED

Representative Bush moved that all necessary rules be suspended to take up and consider at this time, HR 242.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Bush:

HR 242, Honoring Gene Day.

The resolution was adopted without objection.

RULES SUSPENDED

Representative Stiles moved to suspend all necessary rules to allow all committees and subcommittees to meet while the house is in session during reading and referral of bills.
The motion prevailed without objection.

HB 2360 AND HB 2361 - PERMISSION TO INTRODUCE

Representative M. Garcia moved to suspend the constitutional rule for permission to introduce and have placed on first reading HB 2360 and HB 2361.

The motion prevailed by (Record 157): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carrickert; Cary; Cavazos; Ceverha; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddock; Criss; Crockett; Danburg; Davis; DeLay; Denton; Edwards; Emmett; English; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, A.; Garcia, M.; Griswoldt; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Helfin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hurty; Jackson; Jones; Keller; Kemp; Khouly; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polombo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schluter; Schoolcraft; Shaw; Shea; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Wilson; Word; Wright.

Present, not voting — Mr. Speaker; Agrich.

Absent, Excused — Delco; Eikenburg; Gavin; Patrick; Wallace.

Absent — Eckels; Fox; Parker; Short; Willis; Wolens.

RULES SUSPENDED

Representative W. Hall moved to suspend the 48-hour subcommittee report rule to allow the Committee on Liquor Regulation to consider HB 686, HB 1310, HB 1618, and HB 1678.

The motion prevailed without objection.

(RSpeaker in the chair)

RULES SUSPENDED

Representative Schluter moved to suspend the 5-day posting rule to allow the Committee on Ways and Means to consider SB 638, SB 614, SB 594, SB 570, and SB 741.

The motion prevailed without objection.

HB 1634 - RULES SUSPENDED

Representative Russell moved to suspend the 48-hour subcommittee report rule to allow the Committee on Financial Institutions to consider HB 1634.

The motion prevailed without objection.
COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Judiciary, on recess today, Old Supreme Court room, to consider HB 2006, HB 1164, SB 79, HB 1683, HB 427.

Local and Consent Calendar, on recess today, back hall.

Agriculture and Livestock, Subcommittee on HB 1029, on recess today, back hall, to consider HB 1029.

Criminal Jurisprudence, Subcommittee on HB 500, on recess today, back hall, to consider HB 500.

Criminal Jurisprudence, Subcommittee on SB 7, on recess today, back hall, to consider SB 7.

Labor and Employment Relations, Subcommittee on HB 340, on recess today, Room C, Reagan Building, to consider HB 340.

Retirement and Aging, Subcommittee on HB 1305 and HB 1092, on recess today, Room 346, to consider HB 1305 and HB 1092.

Business and Commerce, Subcommittee on HB 1217, on recess today, back hall, to consider HB 1217.

Urban Affairs, Subcommittee on HB 977, on recess today, back hall, to consider HB 977.

Financial Institutions, Subcommittee on HB 1634, on recess today, speakers committee room, to consider HB 1634.

Cultural and Historical Resources, Subcommittee on Sunset Legislation, on recess today, back hall, to consider SB 231, SB 134, HB 351, SB 135, HB 352, SB 427, and HB 822.

Urban Affairs, Subcommittee on HB 1124, on recess today, back hall, to consider HB 1124.

Regions, Compacts, and Districts, Subcommittee on SB 137, on recess today, back hall, to consider SB 137.

State Affairs, Subcommittee on Legislative Pay and Per Diem, on recess today, back hall, to consider HJR 22, HJR 40, HJR 48, HJR 50, HJR 54, HJR 12.

State Affairs, Subcommittee on HB 388, on recess today, back hall, to consider HB 388.

Law Enforcement, on recess today, Room G-A, Reagan Building, to consider posted bills.

Appropriations, 7:15 p.m. today, Room 309, to consider HB 409.

Natural Resources, Subcommittee on HB 1023, on recess today, speakers committee room, to consider HB 1023.

Financial Institutions, 6 p.m. today, Room G-B, Reagan Building, to consider posted bills.

Liquor Regulation, 6 p.m. today, Room 410.
PROVIDING FOR RECESS

Representative Ragsdale moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 9 a.m. tomorrow.

The motion prevailed without objection.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By G. Hill:
HR 227, Recognizing the week of April 11 through 15, 1983, as "Exceptional Children's Week."
To Committee on Rules and Resolutions.

By Willis:
HR 234, Creating an interim committee to study county government.
To Committee on County Affairs.

By Peveto, et al.:
HR 247, Establishing a special interim committee to study flooding, erosion, and associated natural hazards in the lower Sabine River Basin.
To Committee on Natural Resources.

By Edwards:
HR 249, continuing the House Joint Committee to Study Rail Passenger Service in Texas.
To Committee on Transportation.

By Jones:
HR 251, Congratulating Miss Tina Marie Moore.
To Committee on Rules and Resolutions.

By S. Hudson:
HR 252, Congratulating Michael Carter.
To Committee on Rules and Resolutions.

By S. Hudson:
HR 253, Commending Johnnye T. Hughes.
To Committee on Rules and Resolutions.

By Willis:
HR 260, In memory of Sam Kimmell.
To Committee on Rules and Resolutions.

By Barrientos:
HCR 149, Granting Mabel Ann Brownlow permission to sue the state.
To Committee on Judicial Affairs.

By Granoff:
HCR 152, Inviting the Right Honorable George C. Price, Prime Minister of Belize, to address a joint session of the Legislature.
To Committee on House Administration.

By D. Lee:
HCR 154, Naming the headquarters of the Texas Cosmetology Commission, the Frank Joseph Cosmetology Building.
To Committee on Business and Commerce.
By Oliveira:

HCR 156, Declaring the month of August, 1983, to be “Texas Child Support Enforcement Month.”
To Committee on Human Services.

By Mankins:

HCR 157, Designating the week of November 7 through 13, 1983, as “Texas Reye’s Syndrome Week.”
To Committee on Public Health.

By Berlanga:

HCR 159, Granting Speedman Oil Company permission to sue the state.
To Committee on Judicial Affairs.

By D. Hudson:

HCR 160, Creating a special interim committee to study areas served by the community junior college districts.
To Committee on Higher Education.

By Price, et al.:

HCR 161, Establishing an interim study committee to investigate hunger in Texas.
To Committee on Human Services.

By Price, et al.:

HCR 162, Declaring that federal and state nutrition programs should be protected from further budget cuts.
To Committee on Human Services.

By A. Hill:

HCR 163, Memorializing Congress to enact a national public safety telecommunications policy.
To Committee on State Affairs.

By Simpson:

HCR 165, Granting Mark Homes, Inc. permission to sue the state.
To Committee on Judicial Affairs.

By Robnett:

HCR 166, Granting Lubbock Poster Company permission to sue the state.
To Committee on Judicial Affairs.

By Arnold:

HCR 167, Congratulating the Ennis High School girls’ basketball team.
To Committee on Rules and Resolutions.

By Arnold:

HCR 168, Congratulating the Waxahachie High School basketball team.
To Committee on Rules and Resolutions.

By Arnold:

HCR 169, Congratulating the Maypearl High School boys’ basketball team.
To Committee on Rules and Resolutions.

By Ceverha:

HCR 170, Memorializing Congress to amend the Communications Act of 1934 for the purpose of creating a national public safety telecommunications policy.
To Committee on State Affairs.
SCR 35, Granting Marguerite Hamric permission to sue the state.
To Committee on Judicial Affairs.

SCR 60, Congratulating The Kroger Company.
To Committee on Rules and Resolutions.

HOUSE BILLS ON FIRST READING

The following house bills were today laid before the house, read first time and referred to committees:

By R. Martinez, et al.:
HB 1660, A bill to be entitled An Act relating to suits by individuals to enforce pesticide regulations and prohibiting retaliation against the individuals.
To Committee on Labor and Employment Relations.

By Robnett:
HB 1868, A bill to be entitled An Act relating to the prevailing wage paid on public works construction.
To Committee on Business and Commerce.

By Pierce:
HB 1989, A bill to be entitled An Act relating to regulation of wrecker operators.
To Committee on Urban Affairs.

By Pierce:
HB 1990, A bill to be entitled An Act relating to the regulation and the placement of motor vehicles in motor vehicle storage facilities; providing penalties.
To Committee on Urban Affairs.

By Watson:
HB 2117, A bill to be entitled An Act relating to public health requirements that provide information to certain persons affected by toxic substances; providing penalties.
To Committee on Environmental Affairs.

By Shea:
HB 2321, A bill to be entitled An Act relating to the compensation of the directors of juvenile services and court services, and to the salaries and expenses of employees of the juvenile probation department or under the control of the juvenile board in Dallas County.
To Committee on County Affairs.

(Glossbrenner in the chair)

By McWilliams:
HB 2322, A bill to be entitled An Act relating to creation of a municipal court of record for the city of Marshall.
To Committee on Judicial Affairs.

By Horn:
HB 2323, A bill to be entitled An Act relating to findings concerning the Clear Creek Watershed Authority, to its authority to levy taxes, and to certain of its water rights.
To Committee on Natural Resources.
By Coody:
HB 2324, A bill to be entitled An Act relating to establishment of a juvenile board in Parker County.
To Committee on County Affairs.

By Coody:
HB 2325, A bill to be entitled An Act relating to establishment of a juvenile board in Cooke County.
To Committee on County Affairs.

By Coody:
HB 2326, A bill to be entitled An Act relating to establishment of a juvenile board in Jack and Wise counties.
To Committee on County Affairs.

By C. Evans:
HB 2327, A bill to be entitled An Act relating to the creation of two county criminal courts in Tarrant County.
To Committee on Judicial Affairs.

By J. Gibson:
HB 2328, A bill to be entitled An Act relating to the jurisdiction and procedures of the County Court at Law of Ector County.
To Committee on Judicial Affairs.

By J. Gibson:
HB 2329, A bill to be entitled An Act relating to the creation of the County Court at Law No. 2 of Ector County.
To Committee on Judicial Affairs.

By Gilley:
HB 2330, A bill to be entitled An Act relating to the creation of the constitutional office of criminal district attorney of Hunt County.
To Committee on Judicial Affairs.

By Presnal:
HB 2331, A bill to be entitled An Act relating to authority of the Board of Regents of The Texas A&M University System to accept and administer gifts, donations, grants and endowments, for the use of The Texas A&M University System or any of its component parts.
To Committee on Higher Education.

By Schoolcraft:
HB 2332, A bill to be entitled An Act relating to certification requirements for elected city marshalls who serve without compensation.
To Committee on Law Enforcement.

By Berlanga, et al.:
HB 2333, A bill to be entitled An Act relating to missing children investigations by law enforcement agencies.
To Committee on Law Enforcement.

By Berlanga, et al.:
HB 2334, A bill to be entitled An Act relating to voluntary fingerprinting for the purpose of maintaining a record for future identification.
To Committee on Law Enforcement.
By Armbrister:
HB 2335, A bill to be entitled An Act relating to the directors of the Port O'Connor Municipal Utility District.
To Committee on County Affairs.

By L. Evans:
HB 2336, A bill to be entitled An Act relating to the election of county school trustees and members of county boards of education.
To Committee on Public Education.

By Geistweidt:
HB 2337, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Mason County Hospital District.
To Committee on County Affairs.

By Geistweidt:
HB 2338, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Sutton County Hospital District.
To Committee on County Affairs.

By W. Harrison:
HB 2339, A bill to be entitled An Act relating to the regulation of cable television; providing penalties.
To Committee on Urban Affairs.

By B. Gibson:
HB 2340, A bill to be entitled An Act relating to fees for support collections and payments to be charged by the clerk of the district courts of Johnson County.
To Committee on Judicial Affairs.

By Vowell:
HB 2341, A bill to be entitled An Act relating to municipal courts of record in El Paso and creation of the El Paso Municipal Court of Appeals.
To Committee on Judicial Affairs.

By G. Thompson:
HB 2342, A bill to be entitled An Act relating to the composition, compensation, and powers of the Taylor County Juvenile Board, and to the juvenile court of Taylor County.
To Committee on County Affairs.

By Hury:
HB 2343, A bill to be entitled An Act relating to the appointment of directors of the Galveston County Water Authority; and declaring an emergency.
To Committee on Natural Resources.

By E. Barton:
HB 2344, A bill to be entitled An Act relating to composition and appointment of the port commission and navigation board of the Port of Houston Authority of Harris County.
To Committee on Urban Affairs.

By Messer:
HB 2345, A bill to be entitled An Act relating to the election and terms of office of directors of the Comanche Hills Utility District.
To Committee on County Affairs.
By Messer:

**HB 2346**
A bill to be entitled An Act relating to the election and terms of office of directors of the Bell County Water Control and Improvement District No. 3.
To Committee on Natural Resources.

By Messer:

**HB 2347**
A bill to be entitled An Act relating to the election and terms of office of directors of the Bell County Water Control and Improvement District No. 1.
To Committee on Natural Resources.

By Davis:

**HB 2348**
A bill to be entitled An Act relating to the jurisdiction and authority of the county courts at law in Brazoria County.
To Committee on Judicial Affairs.

By P. Moreno, et al.:

**HB 2349**
A bill to be entitled An Act relating to the composition and election of members of the public utility commission.
To Committee on State Affairs.

By Davis:

**HB 2350**
A bill to be entitled An Act relating to the election of directors of the Community Hospital District of Brazoria County.
To Committee on County Affairs.

**HB 2351** was not read today.

By Peveto:

**HB 2352**
A bill to be entitled An Act relating to the elements of and punishment for the offense of commercial bribery.
To Committee on Criminal Jurisprudence.

By Berlanga:

**HB 2353**
A bill to be entitled An Act relating to funding family practice-related support programs.
To Committee on Higher Education.

By Bomer:

**HB 2354**
A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Teague Hospital District.
To Committee on County Affairs.

By Leonard:

**HB 2355**
A bill to be entitled An Act relating to calculation of an ad valorem tax rate when an error in the preceding year caused the loss of a substantial amount of tax revenue.
To Committee on Ways and Means.

By Price:

**HB 2356**
A bill to be entitled An Act relating to electing the trustees of certain school districts from single-member trustee districts.
To Committee on Elections.
By Cavazos:
HB 2357, A bill to be entitled An Act relating to restricting the sale of
computer time on a computer owned or operated by a public institution of higher
education.
To Committee on Higher Education.

By A. Moreno:
HB 2358, A bill to be entitled An Act relating to credit in the Teacher
Retirement System of Texas for developmental leave.
To Committee on Retirement and Aging.

By Messer:
HB 2359, A bill to be entitled An Act relating to the election and terms of
office of directors of the Bell County Water Control and Improvement District
No. 6.
To Committee on Natural Resources.

By M. Garcia:
HB 2360, A bill to be entitled An Act relating to notice of status as beneficiary
under a will.
To Committee on Judicial Affairs.

By M. Garcia:
HB 2361, A bill to be entitled An Act relating to warnings required on oral
contraceptive packages; providing penalties.
To Committee on Public Health.

SENATE JOINT RESOLUTION ON FIRST READING
The following senate joint resolution was today laid before the house, read first
time and referred to committee:
SJR 22 to Committee on State Affairs.

SENATE BILLS ON FIRST READING
The following senate bills were today laid before the house, read first time and
referred to committees:
SB 36 to Committee on Financial Institutions.
SB 59 to Committee on Public Health.
SB 91 to Committee on Higher Education.
SB 97 to Committee on Judicial Affairs.
SB 112 to Committee on Public Education.
SB 129 to Committee on Retirement and Aging.
SB 221 to Committee on Ways and Means.
SB 232 to Committee on State Affairs.
SB 246 to Committee on County Affairs.
SB 316 to Committee on Agriculture and Livestock.
SB 358 to Committee on Urban Affairs.
SB 360 to Committee on Energy.
SB 370 to Committee on State Affairs.
SB 377 to Committee on Public Health.
SB 389 to Committee on Law Enforcement.
SB 409 to Committee on Higher Education.
SB 446 to Committee on Business and Commerce.
SB 447 to Committee on Labor and Employment Relations.
SB 448 to Committee on Labor and Employment Relations.
SB 458 to Committee on Judiciary.
SB 465 to Committee on State Affairs.
SB 500 to Committee on Ways and Means.
SB 501 to Committee on Appropriations.
SB 558 to Committee on Agriculture and Livestock.
SB 565 to Committee on Judicial Affairs.
SB 570 to Committee on Ways and Means.
SB 578 to Committee on Higher Education.
SB 579 to Committee on Public Health.
SB 588 to Committee on Natural Resources.
SB 594 to Committee on Ways and Means.
SB 596 to Committee on Financial Institutions.
SB 606 to Committee on Urban Affairs.
SB 614 to Committee on Ways and Means.
SB 619 to Committee on Ways and Means.
SB 634 to Committee on Criminal Jurisprudence.
SB 638 to Committee on Ways and Means.
SB 643 to Committee on Urban Affairs.
SB 644 to Committee on County Affairs.
SB 659 to Committee on State Affairs.
SB 652 to Committee on Higher Education.
SB 655 to Committee on Urban Affairs.
SB 660 to Committee on County Affairs.
SB 662 to Committee on County Affairs.
SB 663 to Committee on Judiciary.
SB 701 to Committee on Judicial Affairs.
SB 703 to Committee on Public Education.
SB 713 to Committee on Ways and Means.
SB 714 to Committee on State Affairs.
SB 741 to Committee on Ways and Means.
SB 749 to Committee on Transportation.
SB 762 to Committee on State Affairs.
SB 763 to Committee on Transportation.
SB 766 to Committee on Transportation.
SB 768 to Committee on Retirement and Aging.
SB 778 to Committee on County Affairs.
SB 779 to Committee on Law Enforcement.
SB 815 to Committee on Financial Institutions.
SB 817 to Committee on Appropriations.
SB 826 to Committee on County Affairs.
SB 843 to Committee on Transportation.
SB 845 to Committee on Public Health.
SB 861 to Committee on Human Services.
SB 873 to Committee on Agriculture and Livestock.
SB 878 to Committee on Judiciary.
SB 882 to Committee on Judiciary.
SB 928 to Committee on Insurance.
SB 967 to Committee on Insurance.
SB 985 to Committee on Ways and Means.
SB 988 to Committee on Ways and Means.
SB 1004 to Committee on Judicial Affairs.
SB 1018 to Committee on Natural Resources.
SB 1025 to Committee on Business and Commerce.
SB 1027 to Committee on Financial Institutions.
SB 1034 to Committee on Urban Affairs.
SB 1050 to Committee on Appropriations.
SB 1095 to Committee on Transportation.
SB 1100 to Committee on Public Health.
SB 1112 to Committee on State, Federal, and International Relations.
SB 1130 to Committee on Public Health.
SB 1131 to Committee on Insurance.
SB 1180 to Committee on Urban Affairs.
SB 1190 to Committee on Judiciary.
SB 1198 to Committee on Retirement and Aging.
SB 1210 to Committee on County Affairs.
SB 1227 to Committee on Higher Education.
RECESS

In accordance with a previous motion, the house, at 6:12 p.m. recessed until 9 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

- Agriculture and Livestock - HB 1510
- Appropriations - SB 281, SB 288
- Cultural and Historical Resources - HB 720, HB 1338, HB 2119, SB 176
- Energy - HB 1775, HB 2194
- Environmental Affairs - HB 485, HB 930
- Higher Education - HB 1173, HB 1958
- Insurance - HB 844, HB 1232, HB 1422, HB 1427, HB 1487, HB 1488, HB 1642, HJR 73, SB 275, SB 332, SB 453
- Law Enforcement - HB 729
- Public Health - HB 468, HB 1128, HB 1935, HB 1999, HB 2271, SCR 14, SCR 16, SCR 17, SCR 18
- Retirement and Aging - HB 103, HB 1369, SB 376

ENGROSSED

April 12 - HB 155, HB 599, HB 877, HB 1345, HB 1389, HJR 30

SENT TO THE GOVERNOR

April 12 - HCR 36, HCR 37, HCR 42, HCR 132, HCR 140, HCR 143

COAUTHORS AUTHORIZED

The following members were granted permission by the authors to sign bills and resolutions as coauthors:

- HB 2 - Colbert
- HB 13 - Colbert
- HB 28 - Colbert
- HB 67 - Colbert
- HB 92 - Colbert
- HB 136 - Colbert
- HB 193 - Toomey
- HB 223 - Colbert
- HB 329 - Colbert
- HB 368 - Colbert
The following house bill was transmitted by the chief clerk to the governor:

April 13 - **HB 2359**