The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 392).

Present — Mr. Speaker; Agnich; Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Bush; Cain; Carriker; Cary; Cavazos; Cervera; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Cuddick; Criss; Crockett; Danburg; Davis; DeLa; 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.; 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; Khouy; Kubiak; Kuempel; Laneb; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Madia; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Rohrner; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, C.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Toomey; Tow; Turner; Uher; Valles; Waldrop; Wallace; Watson; Whaley; Wieiting; Willis; Wilson; Wolens; Word; Wright.

Absent, Excused — Salinas; Vowell.

Absent — Hall, W.; Shaw; Thompson, S.

The invocation was offered by Reverend Virgil F. Meyer, pastor, Messiah Lutheran Church, Richardson, Texas.

LEAVES OF ABSENCE GRANTED

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

Salinas on motion of T. Hall.

Vowell on motion of Arnold.

INTRODUCTION OF MISS CHARLOTTE WEISS

Speaker Lewis introduced Miss Charlotte Weiss, Miss Deutschen Pfest of Pflugerville, Texas, and her parents to the house.

HR 380 - ADOPTED

Representative Barrientos moved that all necessary rules be suspended to take up and consider at this time, HR 380.

The motion prevailed without objection.

The speaker laid before the house the following resolution:
By Barrientos:

**HR 380**, Commending the Familia Gonzales, Mariachi Infantil Guadalupano.

The resolution was adopted without objection.

**SCR 103 - ADOPTED**

(Finnell - House Sponsor)

Representative Finnell moved that all necessary rules be suspended to take up and consider at this time, **SCR 103**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**SCR 103**, Congratulating the participants of the Texas Senior Games for Fun and Fitness.

The resolution was adopted without objection.

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

**SCR 111, SCR 112, SB 98, SB 355, SB 623, SB 682, SB 1112, SB 384**

**HR 354 - ADOPTED**

Representative Granoff moved that all necessary rules be suspended to take up and consider at this time, **HR 354**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Granoff:

**HR 354**

WHEREAS, The Right Honorable George C. Price, Prime Minister of Belize, has accepted an invitation to come to this country for talks with President Ronald Reagan; and

WHEREAS, The purpose of the prime minister's trip is to promote Belize's potential for light industrial investment and to seek assistance towards specific transfers of technology; and

WHEREAS, The talks, which will represent the first meeting ever between the heads of the governments of Belize and the United States, underscore the increased economic and geopolitical importance of this valued western Caribbean neighbor; and

WHEREAS, Because of this state's relative proximity to that region, it would be highly appropriate for the prime minister to speak to members of the House of Representatives of the State of Texas; now, therefore, be it

RESOLVED, That the House of Representatives of the 68th Legislature of the State of Texas hereby invite the Right Honorable George C. Price, Prime Minister of Belize, to address members of the house at a time of mutual convenience to Prime Minister Price and the speaker; and, be it further

RESOLVED, That a copy of this resolution be prepared for the Prime Minister of Belize as an official invitation from the House of Representatives of the State of Texas.

The resolution was adopted without objection.
RESOLUTIONS REFERRED TO COMMITTEES

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

By Armbrister:
HCR 253, Granting Mitchell Development Corporation of the Southwest permission to sue the state.
To Committee on Judicial Affairs.

By L. Hall:
HR 398, Congratulating Dr. J. Ardis Bell.
To Committee on Rules and Resolutions.

By A. Smith:
HR 400, Congratulating Patricia C. Taylor.
To Committee on Rules and Resolutions.

By Saunders:
HR 401, Congratulating the Columbus High School girls' golf team.
To Committee on Rules and Resolutions.

By Luna:
HR 402, Welcoming the Heritage Hall Senior Citizens of Jacinto City.
To Committee on Rules and Resolutions.

By Armbrister:
HR 403, Congratulating Kenneth and Sylvia Martin.
To Committee on Rules and Resolutions.

By English:
HR 404, Congratulating the Honorable S. J. Stovall.
To Committee on Rules and Resolutions.

HOUSE BILL ON FIRST READING

The following house bill was today laid before the house, read first time and referred to committee:

By Hanna:
HB 2447, A bill to be entitled An Act relating to establishment of a juvenile board in Haskell County.
To Committee on County Affairs.

SENATE BILLS ON FIRST READING

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

SB 78 to Committee on Public Health.
SB 429 to Committee on Financial Institutions.
SB 456 to Committee on Appropriations.
SB 551 to Committee on Urban Affairs.
SB 722 to Committee on Transportation.
SB 757 to Committee on Judiciary.
SB 773 to Committee on State Affairs.
SB 793 to Committee on Retirement and Aging.
SB 840 to Committee on Criminal Jurisprudence.
SB 853 to Committee on County Affairs.
SB 862 to Committee on Law Enforcement.
SB 876 to Committee on Public Health.
SB 898 to Committee on Judiciary.
SB 908 to Committee on Retirement and Aging.
SB 1078 to Committee on Energy.
SB 1086 to Committee on Judicial Affairs.
SB 1098 to Committee on State Affairs.
SB 1156 to Committee on Financial Institutions.
SB 1168 to Committee on Insurance.
SB 1213 to Committee on State Affairs.
SB 1242 to Committee on County Affairs.
SB 1256 to Committee on Appropriations.
SB 1304 to Committee on Public Education.
SB 1307 to Committee on Judicial Affairs.
SB 1308 to Committee on State Affairs.
SB 1322 to Committee on Transportation.
SB 1323 to Committee on Higher Education.
SB 1329 to Committee on Ways and Means.
SB 1332 to Committee on Higher Education.
SB 1333 to Committee on Higher Education.
SB 1345 to Committee on Ways and Means.
SB 1352 to Committee on Judicial Affairs.
SB 1385 to Committee on Natural Resources.
SB 1387 to Committee on Natural Resources.

HB 1726 ON THIRD READING

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

HB 1726, A bill to be entitled An Act relating to rights of the elderly.

The bill was read second time and passed to engrossment on May 13 and was postponed until 10 a.m. today.

The bill was read third time.
Representative Danburg offered the following amendment to the bill:

Amend HB 1726 as follows:
On page 3, line 7, strike “sexual orientation”.

The amendment was adopted without objection.
Representative Clark offered the following amendment to the bill:

Amend HB 1726 on page 4, line 8, by inserting the following after "receipt":

"...provided, however, if federal regulations prescribe a different procedure federal regulations prevail".

The amendment was adopted without objection.

Representative Clark offered the following amendment to the bill:

Amend HB 1726 as follows:

(1) On page 4, line 24, delete "A" and insert in its place "if an area is available, a".

(2) On page 4, line 24, insert "on request" between "shall" and "provide".

The amendment was adopted without objection.

Representative Clark offered the following amendment to the bill:

Amend HB 1726 on page 5, line 5, by inserting after the sentence the following:

The number of personal possessions may be limited for health and safety reasons which are documented in the patient's medical record. The number of personal possessions may be limited for the health and safety of other patients.

The amendment was adopted without objection.

(S. Thompson now present)

Representative Clark offered the following amendment to the bill:

Amend HB 1726 on page 5, line 16, by deleting "welfare or the welfare" and inserting in its place "health and safety or the health and safety".

The amendment was adopted without objection.

Representative Clark offered the following amendment to the bill:

Amend HB 1726 on page 5 as follows:

(1) On lines 22 and 23 by deleting "the individual's next of kin," and inserting in its place "the responsible party of the patient, and".

(2) On lines 23 and 24 by deleting ", and legal representative or guardian".

The amendment was adopted without objection.

HB 1726, as amended, was passed.

SB 969 ON SECOND READING
(E. F. Lee - House Sponsor)

The speaker laid before the house, in lieu of HB 1653, on its second reading and passage to third reading.

SB 969, A bill to be entitled An Act relating to the authority of certain counties to contract for the improvement of highways in the counties and to assess the cost of the improvements to the owners of property benefited by the improvements, to other powers and duties of the governing body, and to hearing and appeal procedures.

(Shaw now present)

The bill was read second time and was passed to third reading.
HB 1653 - LAID ON THE TABLE SUBJECT TO CALL

Representative E. F. Lee moved that HB 1653 be laid on the table subject to call.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 16, 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 refused to concur in House Amendments to SB 151 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Glasgow, Chairman, Jones, Harris, McFarland, Henderson.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on HB 1121.

The following have been appointed on the part of the Senate: Senators Brown, Farabee, Harris, Howard, Sims.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to SB 973 by viva voce vote; SB 1018 by 22 yea, 1 nay.

Respectfully,
Betty King
Secretary of the Senate

HB 150 - POSTPONED

Representative G. Thompson moved that consideration of HB 150 be postponed until Wednesday, May 18, at 2 p.m.

The motion prevailed without objection.

HB 306 ON THIRD READING

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

HB 306, A bill to be entitled An Act relating to establishment of and funding for a motorcycle operator training and safety program.

The bill was read second time and passed to engrossment on May 16 and was postponed until 2 p.m. today.

The bill was read third time.

Representative Fox offered the following amendment to the bill:

Amend HB 306 as follows:
(1) On page 3, line 15, strike the words "Seven Dollars" and substitute: "Five Dollars and Seventy-five cents ($5.75)".
(2) On page 4, line 7, strike the words "Two Dollars ($2)" and substitute: "Seventy-five cents ($0.75)".
(3) On page 5, line 22, strike the words “Seven Dollars ($7)” and substitute: “Five Dollars and Seventy-five cents ($5.75”).

The amendment was adopted without objection.

HB 306, as amended, was passed.

HB 980 - POSTPONED

Representative Price moved that consideration of HB 980 be postponed until Thursday, May 19, at 2:30 p.m.

The motion prevailed without objection.

HB 1186 ON THIRD READING

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

HB 1186, A bill to be entitled An Act relating to adoption of a nonsubstantive revision of the statutes relating to civil procedure and civil remedies and liabilities.

The bill was on the calendar on May 13 and was postponed until 3 p.m. today.

The bill was read third time.

Representative Messer offered the following amendment to the bill:

Amend HB 1186, second reading engrossment, as follows:

(1) In Section 16.003(a) of the code, strike “detinue” and substitute “taking or detaining the personal property of another.”

(2) Insert a new Section 11 of the bill to read as follows and renumber the following sections accordingly:

SECTION 11. CONFORMING AMENDMENT. If S.B. 898, Acts of the 68th Legislature, Regular Session, becomes law:

(1) it is the intent of the legislature that S.B. 898 have full effect according to its terms;

(2) the following sections of the code are repealed and do not take effect: 15.001, 15.002, 15.003, 15.004, 15.005, 15.006, 15.007, 15.008, 15.009, 15.010, 15.011, 15.012, 15.013, 15.021, 15.022, 15.023, 15.024, 15.025, 15.026, 15.027, 15.028, 15.029, 15.030, 15.031, 15.032, 15.033, 15.034, 15.035, 15.036, 15.037, 15.038, 15.039, 15.040, 15.041, 15.042, 15.043, 15.081, 15.082;

(3) Section 7 of this Act does not take effect; and

(4) notwithstanding Section 13 of this Act, V.A.C.S. Article 1995 is not repealed.

The amendment was adopted without objection.

HB 1186, as amended, was passed.

BILLS AND A RESOLUTION SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and a resolution:

CSSB 232

A BILL TO BE ENTITLED
AN ACT

relating to the continuation of the Public Utility Commission of Texas and the regulation of utilities.

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

SECTION 1. The Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) is amended to read as follows:

"ARTICLE I. SHORT TITLE, LEGISLATIVE POLICY, AND DEFINITIONS

"Section 1. This Act may be referred to as the 'Public Utility Regulatory Act.'

"Section 2. This Act is enacted to protect the public interest inherent in the rates and services of public utilities. The legislature finds that public utilities are by definition monopolies in the areas they serve; that therefore the normal forces of competition which operate to regulate prices in a free enterprise society do not operate; and that therefore utility rates, operations and services are regulated by public agencies, with the objective that such regulation shall operate as a substitute for such competition. The purpose of this Act is to establish a comprehensive regulatory system which is adequate to the task of regulating public utilities as defined by this Act, to assure rates, operations, and services which are just and reasonable to the consumers and to the utilities.

"Section 3. (a) The term 'person,' when used in this Act, includes natural persons, partnerships of two or more persons having a joint or common interest, mutual or cooperative associations, water supply or sewer service corporations, and corporations, as herein defined.

"(b) The term 'municipality,' when used in this Act, includes cities and incorporated villages or towns existing, created, or organized under the general, home-rule, or special laws of the state.

"(c) The term 'public utility' or 'utility,' when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

"(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ('electric utilities' hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

"(2) (A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ('telecommunications utilities' hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation, or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, [services of specialized communications common carriers not providing local exchange telephone service,] television stations, radio stations, community antenna television services, or
radio-telephone services that may be authorized under the Public Mobile Radio Services [Domestic Public Land Mobile Radio Service or Rural Radio Service] rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that specialized communications common carriers, resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system who are not dominant carriers are also telecommunications utilities, but the commission’s regulatory authority as to them is only as hereinafter defined;

"(B) 'dominant carrier' when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market; and (ii) any provider of local exchange telephone service within a certificated exchange area as to such service. A telecommunications market shall be statewide until January 1, 1985. After this date the commission may, if it determines that the public interest will be served, establish separate markets within the state. Prior to January 1, 1985, the commission shall hold such hearings and require such evidence as is necessary to carry out the public purpose of this Act and to determine the need and effect of establishing separate markets. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

"(3) [transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale in a manner which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C.A., Section 717, et seq.)] ('gas utilities' hereinafter) provided that the production, gathering, transportation, or sale of natural gas or synthetic gas under Section 4, Article 6858, Revised Civil Statutes of Texas, 1925, as amended; the distribution or sale of liquefied petroleum gas; and the transportation, delivery, or sale of natural gas for fuel for irrigation wells or any other direct use in agricultural activities is not included:

"[4] the transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use, or the collection, transportation, treatment, or disposal of sewage, or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a city, town or other political subdivision of this state or a water supply or sewer service corporation. The term 'public utility' or 'utility' shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term 'electric utility' shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation.

"(d) The term 'rate,' when used in this Act, means and includes every compensation, tariff, charge, fare, toll, rental, and classification, or any of them demanded, observed, charged, or collected whether directly or indirectly by any
public utility for any service, product, or commodity described in Subdivision (c) of this section, and any rules, regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification.

“(e) The word ‘commission,’ when used in this Act, means the Public Utility Commission of Texas, as hereinafter constituted.

“(f) The term ‘railroad commission,’ when used in this Act, means the Railroad Commission of Texas.

“(g) The term ‘regulatory authority,’ when used in this Act, means, in accordance with the context where it is found, either the commission; the railroad commission; or the governing body of any municipality.

“(h) ‘Affected person’ means any public utility affected by any action of the regulatory authority, any person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority, or any person or corporation that is a competitor of a public utility with respect to any service performed by the utility or that desires to enter into competition.

“(i) ‘Affiliated interest’ or ‘affiliate’ means:

“(1) any person or corporation owning or holding, directly or indirectly, five percent or more of the voting securities of a public utility;

“(2) any person or corporation in any chain of successive ownership of five percent or more of the voting securities of a public utility;

“(3) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by a public utility;

“(4) any corporation five percent or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, five percent or more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of five percent of such securities;

“(5) any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of a public utility;

“(6) any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another, whether such power is established through ownership or voting of securities or by any other direct or indirect means; or

“(7) any person or corporation that the commission, after notice and hearing determines is actually exercising such substantial influence over the policies and action of the public utility in conjunction with one or more persons or corporations with which they are related by ownership or blood relationship, or by action in concert, that together they are affiliated with such public utility within the meaning of this section, even though no one of them alone is so affiliated.

“(j) ‘Allocations’ means, for all utilities, the division of plant, revenues, expenses, taxes, and reserves between municipalities or between municipalities and unincorporated areas, where such items are used for providing public utility service in a municipality, or for a municipality and unincorporated areas.

“(k) ‘Commissioner’ means a member of the Public Utility Commission of Texas.

“(l) ‘Cooperative corporation’ means any telephone or electric cooperative corporation organized and operating under the Telephone Cooperative Act (Article
1528c, Vernon’s Texas Civil Statutes) or the Electric Cooperative Corporation Act (Article 1528b, Vernon’s Texas Civil Statutes).

“(m) ‘Corporation’ means any corporation, joint-stock company, or association, domestic or foreign, and its lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but shall not include municipal corporations unless expressly provided otherwise in this Act.

“(n) ‘Facilities’ means all the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any public utility.

“(o) ‘Municipally-owned utility’ means any utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

“(p) ‘Order’ means the whole or a part of the final disposition, whether affirmative, negative, injunctive, or declaratory in form, of the regulatory authority in a matter other than rulemaking, but including issuance of certificates of convenience and necessity and ratemaking.

“(q) ‘Proceeding’ means any hearing, investigation, inquiry, or other fact-finding or decision-making procedure under this Act and includes the denial of relief or the dismissal of a complaint.

“(r) ‘Separation’ means, for communications utilities only, the division of plant, revenues, expenses, taxes, and reserves, applicable to exchange or local service where such items are used in common for providing public utility service to both local exchange service and other service, such as interstate or intrastate toll service.

“(s) ‘Service’ is used in this Act in its broadest and most inclusive sense, and includes any and all acts done, rendered, or performed and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities in the performance of their duties under this Act to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them. Service shall not include the printing, distribution, or sale of advertising in telephone directories.

“(t) ‘Test year’ means the most recent 12 months for which operating data for a public utility are available and shall commence with a calendar quarter or a fiscal year quarter.

“(u) ‘Water supply or sewer service corporation’ means a nonprofit, member-owned corporation organized and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 1434a, Vernon’s Texas Civil Statutes).

“(v) ‘Lifeline rates’ means residential rates that favor persons who have been determined to be financially needy and who are 65 years of age or older or have been determined by the Texas Department of Human Resources or the Texas Rehabilitation Commission to be permanently and totally disabled. The determination of financial need shall be made jointly by the Texas Department of Human Resources and the Texas Rehabilitation Commission.

“Section 4. The Administrative Procedure and Texas Register Act applies to all proceedings under this Act except to the extent inconsistent with this Act.

“ARTICLE II. ORGANIZATION OF COMMISSION; OFFICE OF PUBLIC UTILITY COUNSEL

“Section 5. A commission, to be known as the ‘Public Utility Commission of Texas’ is hereby created.

It shall consist of three commissioners, who shall be appointed to staggered, six-year terms by the governor, with the advice and consent of two-thirds of the members.
of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. [Immediately after this Act takes effect, the
governor shall, with the advice and consent of the senate, appoint one commissioner
whose term shall expire two years after appointment; one commissioner whose term
shall expire four years after appointment; and one commissioner whose term shall
expire six years after appointment. At the expiration of each of the above named
terms, there shall be appointed, in the same manner, one commissioner to hold
office for a term of six years.] Each commissioner shall hold office until his successor
is appointed and qualified. At its first meeting following the biennial appointment
and qualification of a commissioner, the commission shall elect one of the
commissioners chairman. Appointments to the commission shall be made
without regard to the race, creed, sex, religion, or national origin of the appointees.

"Section 5a. The Public Utility Commission of Texas and the Office of
Public Utility Counsel are [is] subject to the Texas Sunset Act, as amended (Article
5429k, Vernon's Texas Civil Statutes); and unless continued in existence as
provided by that Act the commission and the Office of Public Utility Counsel are
[is] abolished, and this Act expires effective September 1, 1995 (1983).

"Section 6. (a) To be eligible for appointment as a commissioner, a person
must be a qualified voter, not less than 30 years of age, a citizen of the United States,
and a resident of the State of Texas. No person is eligible for appointment as a
commissioner if at any time during the two-year period immediately preceding his
appointment he personally served as an officer, director, owner, employee, partner,
or legal representative of any public utility or any affiliated interest, or he owned
or controlled, directly or indirectly, stocks or bonds of any class with a value of
$10,000, or more in a public utility or any affiliated interest. Each commissioner
shall qualify for office by taking the oath prescribed for other state officers and shall
execute a bond for $5,000 payable to the state and conditioned on the faithful
performance of his duties. A person who is required to register as a lobbyist under
Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended
(Article 6255-9c, Vernon's Texas Civil Statutes), may not serve as a member of the
commission or public utility counsel or act as the general counsel to the
commission.

"(b) No commissioner or employee of the commission may do any of the
following during his period of service with the commission and for two years
thereafter:

"(1) have any pecuniary interest, either as an officer, director, partner, owner,
employee, attorney, consultant, or otherwise, in any public utility or affiliated
interest, or in any person or corporation or other business entity a significant
portion of whose business consists of furnishing goods or services to public utilities
or affiliated interests, but not including a nonprofit group or association solely
supported by gratuitous contributions of money, property or services;

"(2) own or control any securities in a public utility or affiliated interest, either
directly or indirectly;

"(3) accept any gift, gratuity, or entertainment whatsoever from any public
utility or affiliated interest, or from any person, corporation, agent, representative,
employee, or other business entity a significant portion of whose business consists
of furnishing goods or services to public utilities or affiliated interests, or from any
agent, representative, attorney, employee, owner, director, or partner of any
such business entity or of any public utility or affiliated interest; provided, however,
that the receipt and acceptance of any gifts, gratuities, or entertainment after
termination of service with the commission whose cumulative value in any one-year
period is less than $100 shall not constitute a violation of this Act.

"(e) The prohibited activities of this section do not include contracts for
public utility products or services or equipment for use of public utility products
when a member or employee of the commission is acting as a consumer.
“(d) No commissioner or employee of the commission may directly or indirectly solicit or request from or suggest or recommend to, any public utility, or to any agent, representative, attorney, employee, officer, owner, director, or partner thereof, the appointment to any position or the employment in any capacity of any person by such public utility or affiliated interest.

“(e) No public utility or affiliated interest or any person, corporation, firm, association, or business that furnishes goods or services to any public utility or affiliated interest, nor any agent, representative, attorney, employee, officer, owner, director, or partner of any public utility or affiliated interest, or any person, corporation, firm, association, or business furnishing goods or services to any public utility or affiliated interest may give, or offer to give, any gift, gratuity, employment, or entertainment whatsoever to any member or employee of the commission except as allowed by Subdivision (3) of Subsection (b) of this section, nor may any such public utility or affiliated interest or any such person, corporation, firm, association, or business aid, abet, or participate with any member, employee, or former employee of the commission in any activity or conduct that would constitute a violation of this subsection or Subdivision (3) of Subsection (b) of this section.

“(f) It shall not be a violation of this section if a member of the commission or a person employed by the commission, upon becoming the owner of any stocks or bonds or other pecuniary interest in a public utility or affiliated interest under the jurisdiction of the commission otherwise than voluntarily, informs the commission and the attorney general of such ownership and divests himself of the ownership or interest within a reasonable time. In this section, a 'pecuniary interest' includes income, compensation and payment of any kind, in addition to ownership interests. It is not a violation of this section if such a pecuniary interest is held indirectly by ownership of an interest in a retirement system, institution, or fund which in the normal course of business invests in diverse securities independently of the control of the commissioner or employee.

“(g) Unless specifically authorized by this Act for disposition of ex parte matters, no member or employee of the commission assigned to render a decision or to make findings of fact and conclusions of law in a proceeding may communicate, directly or indirectly, in connection with any issue of fact or law with any party or his representative, except on notice and opportunity for all parties to participate.

“(h) No member of the commission may seek nomination or election to any other civil office of the State of Texas or of the United States while he is a commissioner. If any member of the commission files for nomination for or election to any civil office of the State of Texas or of the United States, his office as commissioner immediately becomes vacant, and the governor shall appoint a successor.

“(i) No commissioner may accept employment with a public utility or affiliated interest within the commission’s jurisdiction for a period of two years after his termination of service with the commission. If a commissioner accepts employment with a firm or business entity providing products or services to a public utility or affiliated interest within the commission’s jurisdiction, the commissioner may not be involved directly or indirectly with such transactions for a period of two years after his termination of service with the commission.

“(j) During the time a commissioner or employee of the commission is associated with the commission or at any time after, the commissioner or employee may not represent a person, corporation, or other business entity before the commission or a court in a matter in which the commissioner or employee was personally involved while associated with the commission or a matter that was within the commissioner’s or employee’s official responsibility while the commissioner or employee was associated with the commission.
"(k) The commission shall require its members and employees to read this section and as often as necessary shall provide information regarding their responsibilities under applicable laws relating to standards of conduct for state officers and employees.

Section 6A. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 6 of this Act for appointment to the commission; or

(2) does not maintain during the service on the commission the qualifications required by Section 6 of this Act for appointment to the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

Section 7. Whenever a vacancy in the office of commissioner occurs, it shall be filled in the manner provided herein with respect to the original appointment, except that the governor may make interim appointments to continue until the vacancy can be filled in the manner provided. Any person appointed with the advice and consent of the senate to fill a vacancy shall hold office during the unexpired portion of the term.

Section 8. (a) The commission shall employ such officers, administrative law judges, hearing examiners, investigators, lawyers, engineers, economists, consultants, statisticians, accountants, administrative assistants, inspectors, clerical staff, and other employees as it deems necessary to carry out the provisions of this Act. All employees receive such compensation as is fixed by the legislature. [Ppbling legislative determination, commission employees shall be paid the same salary as employees of the Railroad Commission holding comparable positions.]

(b) The commission shall employ the following:

(1) an executive director;

(2) a director of hearings [public utilities] who has wide experience in utility regulation and rate determination;

(3) a chief engineer who is a registered engineer and an expert in public utility engineering and rate matters;

(4) a chief accountant who is a certified public accountant, experienced in public utility accounting;

(5) a director of research who is experienced in the conduct of analyses of industry, economics, energy, fuel, and other related matters that the commission may want to undertake; [and]

(6) a director of consumer affairs and public information;

(7) a director of utility evaluation;

(8) a director of energy conservation; and

(9) a general counsel.

(c) The general counsel and his staff are responsible for the gathering of information relating to all matters within the authority of the commission.

The duties of the general counsel include:

(1) accumulation of evidence and other information from public utilities and from the accounting and technical and other staffs of the commission and from other sources for the purposes specified herein;

(2) preparation and presentation of such evidence before the commission or its appointed examiner in proceedings;

(3) conduct of investigations of public utilities under the jurisdiction of the commission;

(4) preparation of proposed changes in the rules of the commission;

(5) preparation of recommendations that the commission undertake investigation of any matter within its authority:
(6) preparation of recommendations and a report of such staff for inclusion in the annual report of the commission;

(7) protection and representation of the public interest and coordination and direction of the preparation and presentation of evidence from the commission staff in all cases before the commission as necessary to effect the objectives and purposes stated in this Act and ensure protection of the public interest; and

(8) such other activities as are reasonably necessary to enable him to perform his duties.

(d) The commission shall employ administrative law judges to preside at hearings before the commission. An administrative law judge must be a licensed attorney with not less than five years' experience. The administrative law judge shall perform his duties independently from the commission. The commission and parties who may appear before the commission may not communicate with an administrative law judge concerning any issue of fact or law in a contested case that has not been finally decided by the commission, except on notice and opportunity for all parties to participate.

(e) The executive director or his 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. The executive director or his 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 section.

Section 9. The annual salary of the commissioners shall be determined by the legislature. [Pending legislative determination, the commissioners shall be paid the same salary as members of the Railroad Commission.]

Section 10. The principal office of the commission shall be located in the City of Austin, Texas, and shall be open daily during the usual business hours, Saturdays, Sundays, and legal holidays excepted. The commission shall hold meetings at its office and at such other convenient places in the state as shall be expedient and necessary for the proper performance of its duties.

Section 11. The commission shall have a seal bearing the following inscription: 'Public Utility Commission of Texas.' The seal shall be affixed to all records and authentications of copies of records and to such other instruments as the commission shall direct. All courts of this state shall take judicial notice of said seal.

Section 12. A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. No vacancy or disqualification shall prevent the remaining commissioner or commissioners from exercising all the powers of the commission.

Section 13. All orders of the commission shall be in writing and shall contain detailed findings of the facts upon which they are passed. The commission shall retain a copy of the transcript and the exhibits in any matter in which the commission issues an order. All files pertaining to matters which were at any time pending before the commission and to records, reports, and inspections required by Article V hereof shall be public records, subject to the terms of the Texas Open Records Act, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes).

Section 14. (a) The commission shall publish an annual report to the governor, summarizing its proceedings, listing its receipts and the sources of its receipts, listing its expenditures and the nature of such expenditures, and setting forth such other information concerning the operations of the commission and the public utility industry as it considers of general interest.
"(b) In the annual report issued in the year preceding the convening of each regular session of the legislature, the commission shall make such suggestions regarding modification and improvement of the commission's statutory authority and for the improvement of utility regulation in general as it may deem appropriate for protecting and furthering the interest of the public.

"Section 14A. 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.

"Section 15. The Attorney General of the State of Texas shall represent the commission in all matters before the state courts, and any court of the United States, and before any federal public utility regulatory commission.

"Section 15A. (a) The independent Office of Public Utility Counsel is hereby established to represent the interests of residential and small commercial consumers. The office shall be organizationally located in the Texas Department of Community Affairs. The Texas Department of Community Affairs shall provide administrative and support services to the office. The office is not subject to the control of the Texas Department of Community Affairs.

(b) The chief executive of the Office of Public Utility Counsel is the public utility counsel, hereinafter referred to as counsellor. The counsellor is appointed by the governor with the advice and consent of the senate to a ten-year term that expires on February 1 of the final year of the term.

(c) The counsellor may employ such lawyers, economists, engineers, consultants, statisticians, accountants, clerical staff, and other employees as he deems necessary to carry out the provisions of this section. Salaries and necessary expenses shall be fixed by the legislature in the general appropriation act and funded from the assessment imposed by Section 78 of this Act.

(d) The counsellor shall be a resident of Texas and admitted to the practice of law in this state who possesses the knowledge and experience necessary to practice effectively in utility proceedings.

(e) During the period of the counsellor's employment and for a period of two years following the termination of employment, it shall be unlawful for any person employed as counsellor to have a direct or indirect interest in any utility company regulated under the Public Utility Regulatory Act to provide legal services directly or indirectly to or be employed in any capacity by a utility company regulated under the Public Utility Regulatory Act, its parent, or its subsidiary companies, corporations, or cooperatives, but such person may otherwise engage in the private practice of law after the termination of employment as the counsellor.

(f) The Office of Public Utility Counsel:

(1) shall assess the impact of utility rate changes and other regulatory actions on residential consumers in the State of Texas and shall be an advocate in its own name of positions most advantageous to a substantial number of such consumers as determined by the counsellor;

(2) may appear or intervene as a matter of right as a party or otherwise on behalf of residential consumers, as a class, in all proceedings before the commission;

(3) may appear or intervene as a matter of right as a party or otherwise on behalf of small commercial consumers, as a class, in all proceedings where it is deemed by the counsel that small commercial consumers are in need of representation;

(4) may initiate or intervene as a matter of right or otherwise appear in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear;
“(5) may have access as any party, other than staff, to all records gathered by the commission under the authority of Subsection (a) of Section 29 of this Act;

“(6) may obtain discovery of any nonprivileged matter which is relevant to the subject matter involved in any proceeding or petition before the commission;

“(7) may represent individual residential and small commercial consumers with respect to their disputed complaints concerning utility services unresolved before the commission; and

“(8) may recommend legislation to the legislature which in its judgment would positively affect the interests of residential and small commercial consumers.

“(a) Nothing in this section shall be construed as in any way limiting the authority of the commission to represent residential or small commercial consumers.

“(b) The appearance of the Public Counsel in any proceeding in no way precludes the appearance of other parties on behalf of residential ratepayers or small commercial consumers. The Public Counsel shall not be grouped with any other parties.

“ARTICLE III. JURISDICTION

“Section 16. (a) The commission has the general power to regulate and supervise the business of every public utility within its jurisdiction and to do all things, whether specifically designated in this Act or implied herein, necessary and convenient to the exercise of this power and jurisdiction. The commission shall make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules governing practice and procedure before the commission. The commission may call and hold hearings, administer oaths, receive evidence at hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, or other actions of the commission.

“(b) The commission shall develop a 10-year statewide electrical energy plan forecasting the need for electric service in the state and determining how this need can best be met. In this plan the commission shall emphasize load management, conservation, and development of alternative energy sources. The commission may require all generating electric utilities to prepare and submit any necessary information in the format required for the development of the plan.

“(c) In the preparation or revision of the plan, the commission shall:

“(1) prepare and distribute a preliminary draft of the plan;

“(2) hold public hearings and consider testimony relating to the preliminary plan and

“(3) issue a final plan on September 1 of each even-numbered year, to cover the 10-year period beginning on September 1 of that year.

“(d) [Sec. 16A] The commission shall make and enforce rules to encourage the production of electricity reasonably required to implement the rules and regulations of the Federal Energy Regulatory Commission pertaining to the production of electric energy by qualifying cogenerators and qualifying small power producers.

“(e) The commission shall inquire into the management of the business of all public utilities under its jurisdiction, shall keep itself informed as to the manner and method in which the management and business is conducted, and shall obtain from any public utility all necessary information to enable the commission to perform management audits. The commission may audit each utility under the jurisdiction of the commission as frequently as needed, but shall audit each utility at least once every seven years. Six months after any audit, the utility shall report to the commission on the status of the implementation of the recommendations of the
audit and shall file subsequent reports at such times as the commission deems appropriate.

"Section 17. (a) Subject to the limitations imposed in this Act, and for the purpose of regulating rates and services so that such rates may be fair, just, and reasonable, and the services adequate and efficient, the governing body of each municipality shall have exclusive original jurisdiction over all electric, water, and sewer utility rates, operations, and services provided by an electric, water, and sewer utility within its city or town limits.

(b) At any time after two years have passed from the date this Act becomes effective, a municipality may elect to have the commission exercise exclusive original jurisdiction over electric, water, or sewer utility rates, operations, and services within the incorporated limits of the municipality. The governing body of a municipality may by ordinance elect to surrender its original jurisdiction to the commission, or the governing body may submit the question of the surrender to the qualified voters at a municipal election. Upon receipt of a petition signed by the lesser of 20,000 or ten percent of the number of qualified voters voting in the last preceding general election in that municipality, the governing body shall submit the question of the surrender of the municipality's original jurisdiction to the commission at a municipal election.

c) A municipality that surrenders its jurisdiction to the commission may at any time, by vote of the electorate, reinstate the jurisdiction of the governing body; provided, however, that any municipality which reinstates its jurisdiction shall be unable to surrender that jurisdiction for five years after the date of the election at which the municipality elected to reinstate its jurisdiction. No municipality may, by vote of the electorate, reinstate the jurisdiction of the governing body during the pendency of any case before the commission involving the municipality.

d) The commission shall have exclusive appellate jurisdiction to review orders or ordinances of such municipalities as provided in this Act.

c) The commission shall have exclusive original jurisdiction over electric, water, and sewer utility rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction over those rates, operations, and services as provided in this Act.

"Section 18. (a) It is the policy of this state to protect the public interest in having adequate and efficient telecommunications service available to all citizens of the state at just, fair, and reasonable rates. The legislature finds that the telecommunications industry through technical advancements, federal judicial and administrative actions, and the formulation of new telecommunications enterprises has become and will continue to be in many and growing areas a competitive industry which does not lend itself to traditional public utility regulatory rules, policies, and principles, and that therefore, the public interest requires that new rules, policies, and principles be formulated and applied to protect the public interest and to provide equal opportunity to all telecommunications utilities in a competitive marketplace. It is the purpose of this section to grant to the commission the authority and the power under this Act to carry out the public policy herein stated.

(b) Subject to the limitations imposed in this Act, and for the purpose of carrying out the public policy above stated and of regulating rates, operations, and services so that such rates may be just, fair, and reasonable, and the services adequate and efficient, the commission shall have exclusive original jurisdiction over the business and property of all telecommunications utilities in this state. In the exercise of its jurisdiction to regulate the rates, operations, and services of a telecommunications utility providing service in a municipality on the state line adjacent to a municipality in an adjoining state, the commission may cooperate with the utility regulatory commission of the adjoining state or the federal
government and may hold joint hearings and make joint investigations with any of those commissions.

"(c) The commission shall only have the following jurisdiction over all specialized communications common carriers, resellers of communications, and other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system who are not dominant carriers:

"(1) to require registration as provided in Subsection (d) of this section;

"(2) to conduct such investigations as are necessary to determine the existence, impact, and scope of competition in the telecommunications industry, including identifying dominant carriers and defining the telecommunications market or markets, and in connection therewith may call and hold hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering the provisions of this Act or the rules, orders, and other actions of the commission; and

"(3) to require the filing of such reports as the commission may direct from time to time.

"(d) All providers of communications service described in Subsection (c) of this section who are providing such service to the public on the effective date of this Act shall register with the commission within 90 days of the effective date of this Act. All providers of communications service described in Subsection (c) of this section who commence such service to the public thereafter shall register with the commission within 30 days of commencing service. Such registration shall be accomplished by filing with the commission a description of the location and type of service provided, the cost to the public of such service, and such other registration information as the commission may direct.

"(Section 19.—(a) Subject to the limitations imposed in this Act, and for the purpose of regulating rates and services so that such rates may be fair, just, and reasonable, and the services adequate and efficient, the governing body of each municipality shall have exclusive original jurisdiction over all gas utility rates, operations, and services provided by any gas utility within its city or town limits:

"(b) The railroad commission shall have exclusive appellate jurisdiction to review all orders or ordinances of municipalities as provided in this Act. The railroad commission shall have exclusive original jurisdiction over the rates and services of gas utilities distributing natural gas or synthetic natural gas in areas outside the limits of municipalities, and it shall also have exclusive original jurisdiction over the rates and services of gas utilities transmitting, transporting, delivering, or selling natural gas or synthetic natural gas to gas utilities engaged in distributing such gas to the public.

"(c) The provisions of this Act shall be deemed to be in addition to all existing laws relating to the jurisdiction, power, or authority of the railroad commission over gas utilities and, except as specifically in conflict with this Act, such laws shall not be deemed to be limited hereby. Provisions of this Act applicable to gas utilities within the jurisdiction of the railroad commission shall apply to all such gas utilities, including those that are within the jurisdiction, power, or authority of the railroad commission by virtue of laws other than this Act.

"Section 20. Nothing in this article shall be construed to confer on the commission [or railroad commission] power or jurisdiction to regulate or supervise the rates or service of any utility owned and operated by any municipality within its boundaries either directly or through a municipally owned corporation, or to affect or limit the power, jurisdiction, or duties of the municipalities that have elected to regulate and supervise public utilities within their boundaries, except as provided in this Act.
“ARTICLE IV. MUNICIPALITIES

“Section 21. Nothing in this Act shall be construed as in any way limiting the rights and powers of a municipality to grant or refuse franchises to use the streets and alleys within its limits and to make the statutory charges for the use thereof, but no provision of any franchise agreement shall limit or interfere with any power conferred on the commission [or railroad commission] by this Act. If a municipality performs regulatory functions under this Act, it may make such other charges as may be provided in the applicable franchise agreement, together with any other charges permitted by this Act.

“Section 22. Notwithstanding any other provision of this section, municipalities shall continue to regulate each kind of local utility service inside their boundaries until the commission has assumed jurisdiction over the respective utility pursuant to this Act. If a municipality does not surrender its jurisdiction, local utility service within the boundaries of the municipality shall be exempt from regulation by the commission under the provisions of this Act to the extent that this Act applies to local service, and the municipality shall have, regarding service within its boundaries, the right to exercise the same regulatory powers under the same standards and rules as the commission, or other standards and rules not inconsistent therewith. Notwithstanding any such election, the commission may consider a public utility's revenues and return on investment in exempt areas in fixing rates and charges in nonexempt areas, and may also exercise the powers conferred necessary to give effect to orders under this Act, for the benefit of nonexempt areas. Likewise, in fixing rates and charges in the exempt area, the governing body may consider a public utility's revenues and return on investment in nonexempt areas. Utilities serving exempt areas shall be subject to the reporting requirements of this Act. Such reports shall be filed with the governing body of the municipality as well as with the commission. Nothing in this section shall limit the duty and power of the commission to regulate service and rates of municipally regulated utilities for service provided to other areas in Texas.

“Section 23. Any municipality regulating its public utilities pursuant to this Act shall require from those utilities all necessary data to make a reasonable determination of rate base, expenses, investment, and rate of return within the municipal boundaries. The standards for such determination shall be based on the procedures and requirements of this Act and said municipality shall retain any and all personnel necessary to make the determination of reasonable rates required under this Act.

“Section 24. (a) The governing body of any municipality participating in or conducting ratemaking proceedings shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination thereof, to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation in [on] public utility ratemaking proceedings before the governing body, any regulatory authority, or in court. The [and the] public utility engaged in such proceedings shall be required to reimburse the governing body for the reasonable costs of such services to the extent found reasonable by the applicable regulatory authority.

(b) Municipalities shall have standing in all rate and other cases before the commission in which the municipalities have a justiciable interest, subject to the right of the commission to consolidate such municipalities on issues of common interest regarding utilities serving within their corporate limits and shall be entitled to judicial review of orders regarding said proceedings in accordance with Section 69 of this Act.

“Section 25. The commission [or the railroad commission] may advise and assist municipalities upon request in connection with questions and proceedings arising under this Act. Such assistance may include aid to municipalities in
connection with matters pending before the commission—or the railroad commission—or the courts, or before the governing body of any municipality, including making members of the staff available as witnesses and otherwise providing evidence to them.

"Section 26. (a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission or railroad commission.

(b) Citizens of a municipality may appeal the decision of the governing body in any rate proceeding before the commission through the filing of a petition for review signed by the lesser of 20,000 or 10 percent of the number of qualified voters of such municipality.

(c) Ratepayers of a municipally owned electric utility outside the municipal limits may appeal any action of the governing body affecting the rates of the municipally owned electric utility through filing with the commission petition for review signed by the lesser of 10,000 or 5 percent of the ratepayers served by such utility outside the municipal limits. For purposes of this subsection each person receiving a separate bill shall be considered as a ratepayer. But no person shall be considered as being more than one ratepayer notwithstanding the number of bills received. Such petition for review shall be considered properly signed if signed by any person, or spouse of any such person, in whose name residential utility service is carried.

(d) The appeal process shall be instituted within 30 days of the final decision by the governing body with the filing of a petition for review with the commission and copies served on all parties to the original rate proceeding.

(e) The commission shall hear such appeal de novo based on the test case presented to the municipality and by its final order shall fix such rates as the municipality should have fixed in the ordinance from which the appeal was taken. In the event that the commission fails to enter its final order: (1) for proceedings in which similar relief has also been concurrently sought from the commission under its original jurisdiction, within 120 days from the date such appeal is perfected or the date upon which final action must be taken in the similar proceedings so filed with the commission whichever shall last occur, or (2) in all other proceedings, within 215 days from the date such appeal is perfected. The schedule of rates proposed by the utility shall be deemed to have been approved by the commission and effective upon the expiration of said applicable period. Any rates, whether temporary or permanent, set by the commission shall be prospective and observed from and after the applicable order of the commission, except interim rate orders necessary to effect uniform system-wide rates.

"ARTICLE V. RECORDS, REPORTS, INSPECTIONS, RATES AND SERVICES

"Section 27. (a) Every public utility shall keep and render to the regulatory authority in the manner and form prescribed by the commission or railroad commission uniform accounts of all business transacted. The commission may also prescribe forms of books, accounts, records, and memoranda to be kept by such public utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of moneys, and any other forms, records, and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this Act. In the case of any public utility subject to regulations by a federal regulatory agency, compliance with the system of accounts prescribed for the particular class of utilities by such agency may be deemed a sufficient compliance with the system prescribed by the commission; provided, however, that the commission or railroad commission.
commission] may prescribe forms of books, accounts, records, and memoranda covering information in addition to that required by the federal agency. The system of accounts and the forms of books, accounts, records, and memoranda prescribed by the commission [or railroad commission] for a public utility or class of utilities shall not conflict nor be inconsistent with the systems and forms established by a federal agency for that public utility or class of utilities.

"(b) The commission [or railroad commission] shall fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each public utility, and shall require every public utility to carry a proper and adequate depreciation account in accordance with such rates and methods and with such other rules and regulations as the commission [or railroad commission] prescribes. Such rates, methods, and accounts shall be utilized uniformly and consistently throughout the ratemaking and appeal proceedings.

"(c) Every public utility shall keep separate accounts to show all profits or losses resulting from the sale or lease of appliances, fixtures, equipment, or other merchandise. No such profit or loss shall be taken into consideration by the regulatory authority in arriving at any rate to be charged for service by any such public utility, to the extent that such merchandise is not integral to the provision of utility service.

"(d) Every public utility is required to keep and render its books, accounts, records, and memoranda accurately and faithfully in the manner and form prescribed by the commission [or railroad commission], and to comply with all directions of the regulatory authority relating to such books, accounts, records, and memoranda. The regulatory authority may require the examination and audit of all accounts.

"(e) In determining the allocation of tax savings derived from application of such methods as liberalized depreciation and amortization and the investment tax credit, the regulatory authority shall equitably balance the interests of present and future customers and shall apportion such benefits between consumers and the public utilities accordingly. Where any portion of the investment tax credit has been retained by a public utility, that same amount shall be deducted from the original cost of the facilities or other addition to the rate base to which the credit applied, to the extent allowed by the Internal Revenue Code.

"(f) For the purposes of this section, ‘public utility’ includes ‘municipally owned utility.’

"Section 28. (a) The commission [and the railroad commission] shall have the power to:

"(1) require that public utilities report to it such information relating to themselves and affiliated interests both within and without the State of Texas as it may consider useful in the administration of this Act:

"(2) establish forms for all reports;

"(3) determine the time for reports and the frequency with which any reports are to be made;

"(4) require that any reports be made under oath;

"(5) require that a copy of any contract or arrangement between any public utility and any affiliated interest be filed with it. It may require any such contract or arrangement not in writing to be reduced to writing and filed with it;

"(6) require that a copy of annual reports showing all payments of compensation (other than salary or wages subject to the withholding of federal income tax) to residents of Texas, or with respect to legal, administrative, or legislative matters in Texas, or for representation before the Texas Legislature or any governmental agency or body.
"(b) On the request of the governing body of any municipality, the commission [or railroad commission] may provide sufficient staff members to advise and consult with such municipality on any pending matter.

"Section 29. (a) Any regulatory authority, and when authorized by the regulatory authority, its counsel, agents, and employees, shall have the right, at reasonable times and for reasonable purposes, to inspect and obtain copies of the papers, books, accounts, documents, and other business records, and to inspect the plant, equipment, and other property of any public utility within its jurisdiction. The regulatory authority may examine under oath, or it may authorize the person conducting such investigation to examine under oath, any officer, agent, or employee of any public utility in connection with such investigation. The regulatory authority may require, by order or subpoena served on any public utility, the production within this state at the time and place it may designate, of any books, accounts, papers, or records kept by that public utility outside the state, or verified copies in lieu thereof if the commission [or railroad commission] so orders. Any public utility failing or refusing to comply with any such order or subpoena is in violation of this Act.

"(b)(1) A member, agent, or employee of the regulatory authority may enter the premises occupied by a public utility to make inspections, examinations, and tests and to exercise any authority provided by this Act.

"(2) A member, agent, or employee of the regulatory authority may act under this section only during reasonable hours and after giving reasonable notice to the utility.

"(3) The public utility is entitled to be represented when inspections, examinations, and tests are made on its premises. Reasonable time for the utility to secure a representative shall be allowed before commencing an inspection, examination, or test.

"(c) The regulatory authority may inquire into the management and affairs of all public utilities, and shall keep itself informed as to the manner and method in which the same are conducted.

"Section 30. The regulatory authority may require an annual reporting from each utility company of all its expenditures for business gifts and entertainment, and institutional, consumption-inducing and other advertising or public relations expenses. The regulatory authority shall not allow as costs or expenses for rate-making purposes any of these expenditures which the regulatory authority determines not to be in the public interest. The cost of legislative-advocacy expenses shall not in any case be allowed as costs or expenses for rate-making purposes. Reasonable charitable or civic contributions may be allowed not to exceed the amount approved by the regulatory authority.

"Section 31. It shall be unlawful for any utility to charge, collect, or receive any rate for public utility service or to impose any rule or regulation other than as herein provided.

"Section 32. Every public utility shall file with each regulatory authority schedules showing all rates which are subject to the original or appellate jurisdiction of the regulatory authority and which are in force at the time for any public utility service, product, or commodity offered by the utility. Every public utility shall file with, and as a part of such schedules, all rules and regulations relating to or affecting the rates, public utility service, product, or commodity furnished by such utility.

"Section 33. Every public utility shall have an office in a county of this state in which its property or some part thereof is located in which it shall keep all books, accounts, records, and memoranda required by the commission [or railroad commission] to be kept in the state. No books, accounts, records, or memoranda required by the regulatory authority to be kept in the state shall be removed from
the state, except on conditions prescribed by the commission [or—railroad commission].

"Section 34. (a) The regulatory authority shall prescribe regulations governing communications by public utilities, their affiliates and their representatives, with the regulatory authority or any member or employee of the regulatory authority.

"(b) Such records shall contain the name of the person contacting the regulatory authority or member or employee of the regulatory authority, the name of the business entity represented, a brief description of the subject matter of the communication, and the action, if any, requested by the public utility, affiliate, or representative. These records shall be available to the public on a monthly basis.

"Section 35. (a) Every public utility shall furnish such service, instrumentalities, and facilities as shall be safe, adequate, efficient, and reasonable.

"(b) The regulatory authority after reasonable notice and hearing had on its own motion or on complaint, may ascertain and fix just and reasonable standards, classifications, regulations, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished; ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the service; prescribe reasonable regulations for the examination and testing of the service and for the measurement thereof; and establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments, and equipment used for the measurement of any service of any public utility. Any standards, classifications, regulations, or practices now or hereafter observed or followed by any public utility may be filed by it with the regulatory authority, and the same shall continue in force until amended by the public utility or until changed by the regulatory authority as herein provided.

"Section 36. (a) The regulatory authority may examine and test any meter, instrument, or equipment used for the measurement of any service of any public utility and may enter any premises occupied by any public utility for the purpose of making such examinations and tests and exercising any power provided for in this Act and may set up and use on such premises any apparatus and appliances necessary therefor. The public utility shall have the right to be represented at the making of the examinations, tests, and inspections. The public utility and its officers and employees shall facilitate the examinations, tests, and inspections by giving every reasonable aid to the regulatory authority and any person or persons designated by the regulatory authority for the duties aforesaid.

"(b) Any consumer or user may have any meter or measuring device tested by the utility once without charge, after a reasonable period to be fixed by the regulatory authority by rule, and at shorter intervals on payment of reasonable fees fixed by the regulatory authority. The regulatory authority shall declare and establish reasonable fees to be paid for other examining and testing such meters and other measuring devices on the request of the consumer. If the test is requested to be made within the period of presumed accuracy as fixed by the regulatory authority since the last such test of the same meter or other measuring device, the fee to be paid by the consumer or user at the time of his request shall be refunded to the consumer or user if the meter or measuring device is found unreasonably defective or incorrect to the substantial disadvantage of the consumer or user. If the consumer's request is made at a time beyond the period of presumed accuracy fixed by the regulatory authority since the last such test of the same meter or measuring device, the utility shall make the test without charge to the consumer or user.
“ARTICLE VI. PROCEEDINGS BEFORE THE REGULATORY AUTHORITY

“Section 37. Subject to the provisions of this Act, the commission (or railroad commission) is hereby vested with all authority and power of the State of Texas to insure compliance with the obligations of public utilities in this Act. For this purpose the regulatory authority is empowered to fix and regulate rates of public utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. No rule or order of the regulatory authority shall be in conflict with the rulings of any federal regulatory body.

“Section 38. [(a)] It shall be the duty of the regulatory authority to insure that every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to each class of consumers. The commission may approve a schedule of lifeline rates for residential users of an electric utility. Any underrecovery of costs from lifeline customers shall be allocated to other residential customers. For ratemaking purposes, the commission (or railroad commission) may treat two or more municipalities served by a public utility as a single class wherever it (the commission or railroad commission) deems such treatment to be appropriate.

“(b) Rates charged or offered to be charged by a gas utility for pipeline-to-pipeline transactions and to transportation, industrial and other similar large-volume contract customers, but excluding city-gate sales-for-resale to gas distribution utilities, are deemed to be just and reasonable and otherwise to comply with this section and shall be approved by the regulatory authority if:

“(1) neither the gas utility nor the customer had an unfair advantage during the negotiations; or

“(2) the rates are substantially the same as rates between the gas utility and two or more such customers under the same or similar conditions of service; or

“(3) competition does or did exist either with another gas utility, another supplier of natural gas, or with a supplier of an alternative form of energy.

“(c) If a complaint is filed with the railroad commission by a transmission pipeline purchaser of gas sold or transported under any such pipeline-to-pipeline or transportation rate, then the provisions of Subsection (b) shall not apply.

“Section 39. (a) In fixing the rates of a public utility the regulatory authority shall fix its overall revenues at a level which will permit such utility a reasonable opportunity to earn [recover its operating expenses together with] a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses.

“(b) In fixing a reasonable return on invested capital, the regulatory authority shall consider, in addition to other applicable factors, efforts to comply with the statewide energy plan, the efforts and achievements of such utility in the conservation of resources, the quality of the utility's services, the efficiency of the utility's operations, and the quality of the utility's management.

“Section 40. [(a)] The regulatory authority shall not prescribe any rate which will yield more than a fair return upon the adjusted value of the invested capital used and useful in rendering service to the public.

“(b) In any proceeding involving any proposed change of rates, the burden of proof to show that the proposed change, if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable shall be on the public utility.

“Section 41. The components of adjusted value of invested capital and net income shall be determined according to the following rules:
"(a) [Adjusted Value of] Invested Capital. Utility rates shall be based upon the original cost [adjusted value] of property used by and useful to the public utility in providing service including [where necessary to the financial integrity of the utility] construction work in progress at cost as recorded on the books of the utility. The inclusion of construction work in progress is an exceptional form of rate relief to be granted only upon the demonstration by the utility that such inclusion is in the ratepayers' best interest and is necessary to the financial integrity of the utility. Construction work in progress shall not be included in the rate base for major projects under construction to the extent that such projects have been inefficiently or imprudently planned or managed. Invested capital is [the adjusted value of such property shall be a reasonable balance between original cost less depreciation and current cost less an adjustment for both present age and condition. The regulatory authority shall have the discretion to determine a reasonable balance that reflects not less than 60% nor more than 75% original cost, that is, the actual money cost, or the actual money value of any consideration paid other than money, of the property at the time it shall have been dedicated to public use, whether by the utility which is the present owner or by a predecessor, less depreciation; and not less than 25% nor more than 40% current cost less an adjustment for both present age and condition. The regulatory authority may consider inflation, deflation, quality of service being provided, the growth rate of the service area, and the need for the public utility to attract new capital in determining a reasonable balance].

(b) Separations and Allocations. Costs of facilities, revenues, expenses, taxes, and reserves shall be separated or allocated as prescribed by the regulatory authority.

(c) Net Income. By 'net income' is meant the total revenues of the public utility less all reasonable and necessary expenses as determined by the regulatory authority. The regulatory authority shall determine expenses and revenues in a manner consistent with the following:

(1) Transactions with Affiliated Interests. Payment to affiliated interests for costs of any services, or any property, right or thing, or for interest expense shall not be allowed either as capital cost or as expense except to the extent that the regulatory authority shall find such payment to be reasonable and necessary for each item or class of items as determined by the commission. Any such finding of reasonableness shall include specific findings of the reasonableness and necessity [statements setting forth the cost to the affiliate] of each item or class of items allowed [in question] and a finding that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or class of items, or to unaffiliated persons or corporations.

(2) Income Taxes. If the public utility is a member of an affiliated group that is eligible to file a consolidated income tax return, and if it is advantageous to the public utility to do so, income taxes shall be computed as though a consolidated return had been so filed and the utility had realized its fair share of the savings resulting from the consolidated return, unless it is shown to the satisfaction of the regulatory authority that it was reasonable to choose not to consolidate returns. The amounts of income taxes saved by a consolidated group of which a public utility is a member by reason of the elimination in the consolidated return of the intercompany profit on purchases by the public utility from an affiliate shall be applied to reduce the cost of the property or services so purchased. The investment tax credit allowed against federal income taxes, to the extent retained by the utility, shall be applied as a reduction in the rate base contribution of the assets to which such credit applies, to the extent and at such rate as allowed by the Internal Revenue Code.

(3) Expenses Disallowed. The regulatory authority shall not consider for ratemaking purposes the following expenses:
"(A) legislative advocacy expenses, whether made directly or indirectly,
including but not limited to legislative advocacy expenses included in trade
association dues;

"(B) payments, except those made under an insurance or risk-sharing
arrangement executed before the date of loss, made to cover costs of an accident,
equipment failure, or negligence at a utility facility owned by a person or
governmental body not selling power inside the State of Texas;

"(C) costs of processing a refund or credit under Subsection (c) of Section 43
of this Act;

"(D) costs incurred by purchasing over-priced services or supplies from
affiliates or nonaffiliated companies;

"(E) wasteful expenditures or expenditures not in the public interest;

"(F) excessive executive salaries;

"(G) advertising expenses, except expenses that are determined by the
commission to be reasonable and that pertain to conservation, safety, filing
requirements, or equipment or specialty services, including long distance telephone
services or sales;

"(H) unreasonable legal expenses;

"(I) civil penalties and fines; or

"(J) voluntary contributions to needy ratepayers that are intended to reduce
utility costs of the ratepayers.

"The regulatory authority may promulgate reasonable rules and regulations
with respect to the allowance or disallowance of any [certain] expenses for
ratemaking purposes.

"Section 42. Whenever the regulatory authority, after reasonable notice and
hearing, on its own motion or on complaint by any affected person, finds that the
existing rates of any public utility for any service are unreasonable or in any way
in violation of any provision of law, the regulatory authority shall determine the just
and reasonable rates, including maximum or minimum rates, to be thereafter
observed and in force, and shall fix the same by order to be served on the public
utility; and such rates shall constitute the legal rates of the public utility until
changed as provided in this Act. Whenever a public utility does not itself produce
or generate that which it distributes, transmits, or furnishes to the public for
compensation, but obtains the same from another source, the regulatory authority
shall have the power and authority to investigate the cost of such production or
generation in any investigation of the reasonableness of the rates of such public
utility.

"Section 43. (a) No utility may make changes in its rates except by filing a
statement of intent with the regulatory authority having original jurisdiction at least
35 days prior to the effective date of the proposed change. The statement of intent
shall include proposed revisions of tariffs and schedules and a statement specifying
in detail each proposed change, the effect the proposed change is expected to have
on the revenues of the company, the classes and numbers of utility consumers
affected, and such other information as may be required by the regulatory
authority’s rules and regulations. A copy of the statement of intent shall be mailed
or delivered to the appropriate officer of each affected municipality, and notice shall
be given by publication in conspicuous form and place of a notice to the public of
such proposed change once in each week for four successive weeks prior to the
effective date of the proposed change in a newspaper having general circulation in
each county containing territory affected by the proposed change, and by mail to
such other affected persons as may be required by the regulatory authority’s rules
and regulations. Provided, however, nothing in this subsection shall apply to a water
or sewer utility that, together with all affiliated utilities, has a combined total off:
"(t) has fewer than 150 customers; and
"(2) is not a member of a group filing a consolidated tax return; and
"(3) is not under common control or ownership with another water or sewer utility.

(b) The regulatory authority, for good cause shown, may, except in the case of major changes, allow changes in rate to take effect prior to the end of such 35 day period under such conditions as it may prescribe, subject to suspension as provided herein. All such changes shall be indicated immediately upon its schedules by such utility. 'Major changes' shall mean an increase in rates which would increase the aggregate revenues of the applicant more than the greater of $100,000 or two and one-half percent, but shall not include changes in rates allowed to go into effect by the regulatory authority or made by the utility pursuant to an order of the regulatory authority after hearings held upon notice to the public.

(c) Whenever there is filed with the Regulatory Authority any schedule modifying or resulting in a change in any rates then in force, the Regulatory Authority shall on complaint by any affected person or may on its own motion, at any time within 30 days from the date when such change would or has become effective, and, if it so orders, without answer or other formal pleading by the utility, but on reasonable notice, including notice to the governing bodies of all affected municipalities and counties, enter on a hearing to determine the propriety of such change. The Regulatory Authority shall hold such a hearing in every case in which the change constitutes a major change in rates, provided that an informal proceeding may satisfy this requirement if no complaint has been received before the expiration of 45 days after notice of the change shall have been filed. In each case involving a major change over which the commission has jurisdiction, the commission shall hold a regional hearing in a place determined by the commission to be appropriate. A regional hearing is not required in a case involving a water, sewer, or member-owned utility, unless the commission determines otherwise. The purpose of a regional hearing is to collect testimony for inclusion in the record of the rate change hearing to be held in Austin.

(d) Pending the hearing and decision, the local Regulatory Authority, after delivery to the affected utility of a statement in writing of its reasons therefor, may suspend the operation of the schedule for a period not to exceed 90 [120] days beyond the date on which the schedule of rates would otherwise go into effect and the commission may suspend the operation of the schedule for a period not to exceed 180 days beyond the date on which the schedule would otherwise go into effect. If the Regulatory Authority does not make a final determination concerning any schedule of rates prior to expiration of the period or periods of suspension: If the Regulatory Authority finds that a longer time will be required for a final determination, the Regulatory Authority may further extend the period for an additional 30 days. If the Regulatory Authority does not make a final determination concerning any schedule of rates within a period of 150 days after the time when the schedule of rates would otherwise go into effect, the schedule shall be deemed to have been approved by the Regulatory Authority. This approval is subject to the authority of the Regulatory Authority thereafter to continue a hearing in progress. The Regulatory Authority may in its discretion fix temporary rates for any period of suspension under this section. During the suspension by the Regulatory Authority as above provided, the rates in force when the suspended schedule was filed shall continue in force unless the Regulatory Authority shall establish a temporary rate. The Regulatory Authority shall give preference to the hearing and decision of questions arising under this section over all other questions pending before it and decide the same as speedily as possible.

(e) If the regulatory authority fails to make its final determination of rates within 150 [90] days from the date that the proposed change otherwise would have
gone into effect, the utility concerned may put a changed rate, not to exceed the proposed rate, into effect upon the filing with the regulatory authority of a bond payable to the regulatory authority in an amount and with sureties approved by the regulatory authority conditioned upon refund and in a form approved by the regulatory authority. The utility concerned shall refund or credit against future bills all sums collected during the period of suspension in excess of the rate finally ordered plus interest at the current rate as finally determined by the regulatory authority.

“(f) If, after hearing, the Regulatory Authority finds the rates to be unreasonable or in any way in violation of any provision of law, the Regulatory Authority shall determine the level of rates to be charged or applied by the utility for the service in question and shall fix the same by order to be served upon the utility; these rates are thereafter to be observed until changed, as provided by this Act.

“(g) A rate or tariff set by the commission may not authorize an automatic adjustment of a rate for, or pass through of, changes in the fuel costs of the utility. Any revision of rates or tariffs to allow recovery of additional fuel costs may be made only upon a public hearing and order of the commission. At such public hearing the commission may consider any costs that are appropriate and in the public interest. Nothing herein shall prohibit the commission, after a hearing, from granting interim relief for fuel cost increases that are the result of unusual or emergency circumstances or conditions. The Regulatory Authority shall allow the full amount of any increases in the cost of purchased electricity which have been accepted by a federal Regulatory Authority or approved after a hearing on wholesale rates by a Texas Regulatory Authority to be recovered as an operating expense by the purchasing utility concurrently with the effective date of such increased cost to the purchasing utility or as soon thereafter as is reasonably practical.

“(g) A water or sewer utility exempted in Subsection (a) of this section may change its rates by filing a statement of change with the commission at least 30 days after providing notice of the change to its customers. The changed rates may be put into effect on the filing of the statement of change. At the request of one-tenth of the customers of the utility within 60 days after the day the rates are put into effect, the commission may hold a hearing, which may be an informal proceeding.

“On a finding by the commission that the changed rates are not just and reasonable, the commission shall set the utility’s rates according to its usual procedure. The utility shall refund or credit against future bills all sums collected since the filing of the statement of change in excess of the rate finally set plus interest at the current rate as finally determined by the commission. No filing for a rate change under this section may be made for a period of six months from the last such filing by the same utility.

“Section 44. Public utility rates for areas not within any municipality shall not exceed without commission [or railroad commission] approval 115 percent of the average of all rates for similar services of all municipalities served by the same utility within the same county.

“Section 45. No public utility may, as to rates or services, make or grant any unreasonable preference or advantage to any corporation or person within any classification, or subject any corporation or person within any classification to any unreasonable prejudice or disadvantage. No public utility may establish and maintain any unreasonable differences as to rates of service either as between localities or as between classes of service.

“Section 46. No public utility may, directly or indirectly, by any device whatsoever or in any manner, charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered by the utility than that prescribed in the schedule of rates of the public utility applicable
thereto when filed in the manner provided in this Act, nor may any person knowingly receive or accept any service from a public utility for a compensation greater or less than that prescribed in the schedules, provided that all rates being charged and collected by a public utility upon the effective date of this Act may be continued until schedules are filed. Nothing in this Act shall prevent a cooperative corporation from returning to its members the whole, or any part of, the net earnings resulting from its operations in proportion to their purchases from or through the corporation.

"Section 47. No public utility may discriminate against any person or corporation that sells or leases equipment or performs services in competition with the public utility, nor may any public utility engage in any other practice that tends to restrict or impair such competition.

"Section 48. No payments made in lieu of taxes by a public utility to the municipality by which it is owned may be considered an expense of operation for the purpose of determining, fixing, or regulating the rates to be charged for the provision of utility service to a school district or hospital district. No rates received by a public utility from a school district or hospital district may be used to make or to cover the cost of making payments in lieu of taxes to the municipality by which the public utility is owned.

"ARTICLE VII. CERTIFICATES OF CONVENIENCE AND NECESSITY

"Section 49. For the purposes of this article only: (a) 'Retail public utility' means any person, corporation, water supply or sewer service corporation, municipality, political subdivision or agency, or cooperative corporation, now or hereafter operating, maintaining, or controlling in Texas facilities for providing retail utility service.

"(b) "Public utility" does not include any person, corporation, municipality, political subdivision or agency, or cooperative corporation under the jurisdiction of the Railroad Commission. For the purposes of this article only, "public utility" includes a water supply or sewer service corporation.

"Section 50. Beginning one year after the effective date of this Act, unless otherwise specified:

"(1) No public utility may in any way render service directly or indirectly to the public under any franchise or permit without first having obtained from the commission a certificate that the present or future public convenience and necessity require or will require such installation, operation, or extension.

"(2) Except as otherwise provided in this article no retail public utility may furnish, make available, render, or extend retail public utility service to any area to which retail utility service is being lawfully furnished by another retail public utility on or after the effective date of this Act, without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.

"Section 51. (a) A public utility is not required to secure a certificate of public convenience and necessity for:

"(1) an extension into territory contiguous to that already served by it and not receiving similar service from another public utility and not within the area of public convenience and necessity of another utility of the same kind;

"(2) an extension within or to territory already served by it or to be served by it under a certificate of public convenience and necessity; or

"(3) operation, extension, or service in progress on the effective date of this Act.

"(b) Any extensions allowed by Subsection (a) of this section shall be limited to devices for interconnection of existing facilities or devices used solely for
transmitting public utility services from existing facilities to customers of retail utility service.

"Section 52. (a) A public utility shall submit to the commission an application to obtain a certificate of public convenience and necessity or an amendment thereof.

"(b) On or before 90 days after the effective date of this Act, or at a later date on request in writing by a public utility when good cause is shown, or at such later dates as the commission may order, each public utility shall file with the commission a map or maps showing all its facilities and illustrating separately facilities for generation, transmission, and distribution of its services.

"(c) Each applicant for a certificate shall file with the commission such evidence as is required by the commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority.

"Section 53. On application made to the commission within six months after the effective date of this Act, the commission shall issue a certificate of public convenience and necessity for the construction or operation then being conducted to any public utility actually providing service to any geographical area on the effective date of this Act, or to any person or corporation actively engaged on the effective date of this Act in the construction, installation, extension, or improvement of, or addition to, any facility or system used or to be used in providing public utility service.

"Section 54. (a) When an application for a certificate of public convenience and necessity is filed, the commission shall give notice of such application to interested parties and, if requested, shall fix a time and place for a hearing and give notice of the hearing. Any person interested in the application may intervene at the hearing.

"(b) Except for certificates for prior operations granted under Section 53, the commission may grant applications and issue certificates only if the commission finds that the certificate is necessary for the service, accommodation, convenience, or safety of the public. The commission may issue the certificate as prayed for, or refuse to issue it, or issue it for the construction of a portion only of the contemplated system or facility or extension thereof, or for the partial exercise only of the right or privilege.

"(c) Certificates of convenience and necessity shall be granted on a nondiscriminatory basis after consideration by the commission of the adequacy of existing service, the need for additional service, the effect of the granting of a certificate on the recipient of the certificate and on any public utility of the same kind already serving the proximate area, and on such factors as community values, recreational and park areas, historical and aesthetic values, environmental integrity, and the probable improvement of service or lowering of cost to consumers in such area resulting from the granting of such certificate.

"(d) In addition to the requirements of this section, an electric utility applying for certificate of convenience and necessity for a new generating plant must first file a notice of intent to file an application for certification.

"(1) The notice of intent shall set out alternative methods considered to help meet the electrical needs, related electrical facilities, and the advantages and disadvantages of the alternatives. In addition, the notice shall indicate compatibility with the most recent long-term forecast provided in this Act.

"(2) The commission shall conduct a hearing on the notice of intent to determine the appropriateness of the proposed generating plant as compared to the alternatives and shall issue a report on its findings. In conjunction with the issuance of the report, the commission shall render a decision approving or disapproving the
such decision shall be rendered within 180 days from the date of filing the notice of intent.

"(e) On approval of the notice of intent, a utility may apply for certification for a generating plant, site, and site facilities no later than 12 months before construction is to commence.

"(f) The application for certification shall contain such information as the commission may require to justify the proposed generating plant, site, and site facilities and to allow a determination showing compatibility with the most recent forecast.

"(2) Certificates of convenience and necessity shall be granted on a nondiscriminatory basis if the commission finds that the proposed new plant is required under the service area forecast, that it is the best and most economical choice of technology for that service area as compatible with the commission's forecast, and that conservation and alternative energy sources cannot meet the need.

Section 55. (a) If an area has been or shall be included within the boundaries of a city, town, or village as the result of annexation, incorporation, or otherwise, all public utilities certified or entitled to certification under this Act to provide service or operate facilities in such area prior to the inclusion shall have the right to continue and extend service in its area of public convenience and necessity within the annexed or incorporated area, pursuant to the rights granted by its certificate and this Act.

"(b) Notwithstanding any other provision of law, a public utility shall have the right to continue and extend service within its area of public convenience and necessity and to utilize the roads, streets, highways, alleys, and public property for the purpose of furnishing such retail utility service, subject to the authority of the governing body of a municipality to require any public utility, at its own expense, to relocate its facilities to permit the widening or straightening of streets by giving to the public utility 30 days' notice and specifying the new location for the facilities along the right-of-way of the street or streets.

"(c) This section may not be construed as limiting the power of cities, towns, and villages to incorporate or extend their boundaries by annexation, nor may this section be construed as prohibiting any city or town from levying taxes and other special charges for the use of the streets as are authorized by Section 182.025, Tax Code [Article 11.03, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended].

Section 56. Contracts between retail public utilities designating areas to be served and customers to be served by those utilities, when approved by the commission, shall be valid and enforceable and shall be incorporated into the appropriate areas of public convenience and necessity.

Section 57. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing but which has not as yet been granted to it, such public utility may apply to the commission for an order preliminary to the issuance of the certificate. The commission may thereupon make an order declaring that it will, on application, under such rules as it prescribes, issue the desired certificate on such terms and conditions as it designates, after the public utility has obtained the contemplated franchise or permit. On presentation to the commission of evidence satisfactory to it that the franchise or permit has been secured by the public utility, the commission shall issue the certificate.

Section 58. (a) The holder of any certificate of public convenience and necessity shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.

"(b) Unless the commission issues a certificate that neither the present or future convenience and necessity will be adversely affected, the holder of a
certificate, shall not discontinue, reduce, or impair service to a certified service area or part thereof except for:

"(1) nonpayment of charges;

"(2) nonuse; or

"(3) other similar reasons in the usual course of business.

"(c) Any discontinuance, reduction, or impairment of service, whether with or without approval of the commission, shall be in conformity with and subject to such conditions, restrictions, and limitations as the commission shall prescribe.

"Section 59. If the commission determines that a purchaser, assignee, or lessee is capable of rendering adequate service, a public utility may sell, assign, or lease a certificate of public convenience and necessity or any rights obtained under the certificate. The sale, assignment, or lease shall be on the conditions prescribed by the commission.

"Section 60. If a public utility in constructing or extending its lines, plant, or system interferes or attempts to interfere with the operation of a line, plant, or system of any other public utility, the commission may issue an order prohibiting the construction or extension or prescribing terms and conditions for locating the lines, plants, or systems affected.

"Section 61. After notice and hearing, the commission may:

"(1) order a public utility to provide specified improvements in its service in a defined area if service in such area is inadequate or is substantially inferior to service in a comparable area and it is reasonable to require the company to provide such improved service;

"(2) order two or more public utilities to establish specified facilities for the interconnecting service; and

"(3) order a telephone company or telephone companies to provide extended area toll-free service within a specified metropolitan area where there is a sufficient community of interest within the area and such service can reasonably be provided.

"Section 62. (a) The commission at any time after notice and hearing may revoke or amend any certificate of convenience and necessity if it finds that the certificate holder has never provided or is no longer providing service in the area, or part of the area, covered by the certificate.

"(b) When the certificate of any public utility is revoked or amended, the commission may require one or more public utilities to provide service in the area in question.

"(c) From the effective date of Subsections (c), (d), and (e) of this section until September 1, 1982, any person or corporation, including subsidiaries of a common parent corporation, owning a tract of land with no or minimal existing telecommunications services situated within the certified service areas of two or more telecommunications utilities as defined in Section 3(c)(2)(a) of this Act, as amended, may upon application in writing to the commission request the commission after notice and hearing to amend the certificates of the telecommunications utilities and to provide that the service to such tract will be furnished by the utility designated by the commission.

"(d) In determining whether the certified service areas of the telecommunications utilities should be amended pursuant to an application under Subsection (c) of this section, the commission shall take into consideration the adequacy and quality of existing service, the need for existing service, the probable improvement of service or lowering of costs to consumers in such areas resulting from the requested amendments of certification, the particular needs of the applicant for service, including specialized or unusual services, and any duplication of facilities which would result from failure to amend the certificates.

"(e) The commission may amend the certificates of telecommunications utilities as requested under Subsection (c) of this section if it finds such amendment to be proper after consideration of the factors listed in Subsection (d) of this section.
ARTICLE VIII. SALE OF PROPERTY AND Mergers

Section 63. No public utility may sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of $100,000 or merge or consolidate with another public utility operating in this state unless the public utility reports such transaction to the commission [or railroad commission] within a reasonable time. All transactions involving the sale of 50 percent or more of the stock of a public utility shall also be reported to the commission within a reasonable time. On the filing of a report with the commission [or railroad commission], the commission [or railroad commission] shall investigate the same with or without public hearing, to determine whether the action is consistent with the public interest. In reaching its determination, the commission [or railroad commission] shall take into consideration the reasonable value of the property, facilities, or securities to be acquired, disposed of, merged or consolidated. If the commission [or railroad commission] finds that such transactions are not in the public interest, the commission [or railroad commission] shall take the effect of the transaction into consideration in the rate-making proceedings and disallow the effect of such transaction if it will unreasonably affect rates or service. The provisions of this section shall not be construed as being applicable to the purchase of units of property for replacement or to the addition to the facilities of the public utility by construction.

Section 64. No public utility may purchase voting stock in another public utility doing business in Texas, unless the utility reports such purchase to the commission [or railroad commission].

Section 65. No public utility may loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the public utility unless the public utility reports the transaction to the commission [or railroad commission] within a reasonable time.

ARTICLE IX. RELATIONS WITH AFFILIATED INTERESTS

Section 67. The commission [or railroad commission] shall have jurisdiction over affiliated interests having transactions with public utilities under the jurisdiction of the commission [or railroad commission] to the extent of access to all accounts and records of such affiliated interests relating to such transactions, including but in no way limited to accounts and records of joint or general expenses, any portion of which may be applicable to such transactions.

Section 68. The commission [or railroad commission] may require the disclosure of the identity and respective interests of every owner of any substantial interest in the voting securities of any public utility or its affiliated interest. One percent or more is a substantial interest within the meaning of this section.

ARTICLE X. JUDICIAL REVIEW

Section 69. Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule. The commission shall be a party defendant in any such proceeding represented by the attorney general. [The issue of confiscation shall be determined by a preponderance of the evidence.]

Section 70. Any party represented by counsel who alleges that existing rates are excessive or that those prescribed by the commission are excessive, and who is a prevailing party in proceedings for review of a commission order or decision, may in the same action recover against the regulation fund reasonable fees for attorneys and expert witnesses and other costs for its efforts before the commission and the court, the amount of such attorneys' fees to be fixed by the court. On a finding by the court that an action under this article was groundless and brought in bad faith
and for the purpose of harassment, the court may award to the defendant public utility the reasonable attorneys' fees.

"ARTICLE XI. VIOLATIONS AND ENFORCEMENT"

"Section 71. Whenever it appears to the commission [or railroad commission] that any public utility or any other person or corporation is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the commission [or railroad commission] entered or adopted under the provisions of this Act, or that any public utility or any other person or corporation is failing to comply with the provisions of this Act or with any such rule, regulation, or order, the attorney general on request of the commission [or railroad commission], in addition to any other remedies provided herein, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the commission [or railroad commission] against such public utility or other person or corporation to enjoin the commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, or order.

"Section 71A. (a) At the request of the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that violates a final order of the commission or allows any property owned or controlled by it to be used in violation of a final order of the commission.

"(b) The court shall appoint a receiver if such appointment is necessary to guarantee the collection of assessments, fees, penalties, or interest, to guarantee continued service to the customers of the utility, or to prevent continued or repeated violation of the final order.

"(c) The receiver shall execute a bond to assure the proper performance of the receiver's duties in an amount to be set by the court.

"(d) After appointment and execution of bond the receiver shall take possession of the assets of the utility specified by the court. Until discharged by the court, the receiver shall perform the duties that the court directs to preserve the assets and carry on the business of the utility and shall strictly observe the final order involved.

"(e) Upon a showing of good cause by the utility, the court may dissolve the receivership and order the assets and control of the business returned to the utility.

"Section 71B. The receiver may, subject to the approval of the court and after giving notice to all interested parties, sell or otherwise dispose of real or personal property, or any part thereof, of a water or sewer utility against which a proceeding has been brought under this article for the purpose of paying for the costs incurred in the operation of the receivership. Said costs shall include but are not limited to the payment of fees to the receiver for his services; payment of fees to attorneys, accountants, engineers, or any other person or entity which provides goods or services necessary to the operation of the receivership; payment of costs incurred in ensuring any property owned or controlled by a water or sewer utility is not used in violation of a final order of the commission.

"Section 72. (a) Any public utility, water supply or sewer service corporation, or affiliated interest that knowingly violates a provision of this Act, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, regulation, direction, or requirement of the commission [or railroad commission] or decree or judgment of a court, shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 for each offense.

"(b) A public utility, water supply or sewer service corporation, or affiliated interest commits a separate offense each day it continues to violate the provisions of Subsection (a) of this section.
“(c) The attorney general shall institute suit on his own initiative or at the request of, in the name of, and on behalf of the commission [or railroad commission], in a court of competent jurisdiction to recover the penalty under this section.

“Section 73. (a) Any member of the commission, or any officer or director of a public utility or affiliated interest, shall be subject to a civil penalty of $1,000 for each and every knowing violation of Section 6 of this Act, such penalty to be recovered in a suit filed in a court of competent jurisdiction by the attorney general on his own initiative or at the request of, in the name of, and on behalf of, the commission.

(b) Any person, other than an officer or director of a public utility or affiliated interest or a member of the commission, shall be subject to a civil penalty of $500 for each and every knowing violation of Section 6 of this Act, such penalty to be recovered in a suit filed in a court of competent jurisdiction by the attorney general on his own initiative or at the request of, in the name of, and on behalf of, the commission.

“Section 74. (a) Any person or persons who willfully and knowingly violate the provisions of this Act shall be guilty of a third degree felony.

(b) All penalties accruing under this Act shall be cumulative and a suit for the recovery of any penalty shall not be a bar to or affect the recovery of any other penalty, or be a bar to any criminal prosecution against any public utility or any officer, director, agent, or employee thereof or any other corporation or person.

“Section 75. If any person fails to comply with any lawful order of the commission [or railroad commission] or with any subpoena or subpoena duces tecum or if any witness refuses to testify about any matter on which he may be lawfully interrogated, the commission [or railroad commission] may apply to any court of competent jurisdiction to compel obedience by proceedings for contempt.

“Section 76. Fines and penalties collected under this Act in other than criminal proceedings shall be paid to the commission [or railroad commission] and paid by the commission [or railroad commission] to the state treasury to be placed in the general revenue fund.

“Section 77. Suits for injunction or penalties under the provisions of this Act may be brought in Travis County, in any county where such violation is alleged to have occurred, or in the county or residence of any defendant.

“ARTICLE XII. COMMISSION FINANCING

“Section 78. An assessment is hereby imposed upon each public utility within the commission’s jurisdiction serving the ultimate consumer equal to one-sixth of one percent of its gross receipts from rates charged the ultimate consumers in Texas for the purpose of defraying the costs and expenses incurred in the administration of this Act. Thereafter the commission shall, subject to the approval of the Legislature, adjust this assessment to provide a level of income sufficient to fund the commission and the office of public utility counsel [operation].

“Section 79. All assessments shall be due on August 31 of each year. Any public utility may instead make quarterly payments due on August 31, November 30, February 28, and May 31 of each year. There shall be assessed as a penalty an additional fee of 10 percent of the amount due for any late payment. Fees delinquent for more than 30 days shall draw interest at the rate of six percent per annum on the assessment and penalty due.

“Section 80. All fees, penalties, and interest paid under the provisions of Sections 78 and 79 of this article shall be collected by the comptroller of public accounts and paid into the general revenue fund. The commission shall notify the
comptroller of public accounts of any adjustment of the assessment imposed in Section 78 when made.

"Section 81. The budget of the commission shall be subject to legislative approval as part of the appropriations act.

"Section 82. The commission shall keep such accounting records as required by the state auditor and shall be subject to periodic audit. The state auditor shall audit the financial transactions of the commission during each fiscal year.

"ARTICLE XIII. MISCELLANEOUS PROVISIONS

"Section 83. (a) Any affected person may complain to the regulatory authority in writing setting forth any act or thing done or omitted to be done by any public utility in violation or claimed violation of any law which the regulatory authority has jurisdiction to administer, or of any order, ordinance, rule, or regulation of the regulatory authority. The commission shall keep an information file about each complaint filed with it relating to a utility. The commission shall retain the file for a reasonable period.

"(b) If a written complaint is filed with the commission relating to a utility, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

"Section 84. A record shall be kept of all proceedings had before the regulatory authority, and all the parties shall be entitled to be heard in person or by attorney. Intervenor grouping is not permitted unless the regulatory authority specifically finds that grouping is necessary to the conduct of the case. All parties to any contested case are entitled to timely written notice of the hearing.

"Section 85. During the pendency of an appeal, the district court, the court of civil appeals, or the supreme court, as the case may be, may stay or suspend, in whole or in part, the operation of the regulatory authority order, ruling, or decision and such courts in granting or refusing a stay or suspension shall act in accordance with the practice of courts exercising equity jurisdiction.

"Section 87. (a) The regulatory authority shall assume jurisdiction and all powers and duties of regulation under this Act on January 1, 1976, except as provided in Subsection (b) of this section.

"(b) The regulatory authority shall assume jurisdiction over rates and service of public utilities on September 1, 1976.

"Section 87A. (a) The provisions of this section apply notwithstanding any other provision of this Act.

"(b) Water and sewer utility property in service which was acquired from an affiliate or developer prior to September 1, 1976, included by the utility in its rate base shall be included in all ratemaking formulae and at the installed cost of the property rather than the price set between the entities. Unless the funds for this property are provided by explicit customer agreements, the property shall be considered invested capital and shall not be considered contributions in aid of construction or customer-contributed capital.

"(c) Depreciation expense included in cost of service shall include depreciation on all currently used, depreciable utility property owned by the utility.

"Section 88. The commission is hereby authorized to receive funds for and to administer the following programs:

"(1) programs established under Part D of Title II of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.), also known as the State Energy Conservation Plan;

"(2) programs established under Part G of Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.), also known as the Institutional Conservation Program;
"(3) programs established under the National Energy Extension Service Act (42 U.S.C. 7001 et seq.); and

"(4) programs established under the Energy Research and Development Administration Appropriation Authorization (42 U.S.C. 5907 et seq.) also known as Appropriation Technology Small Grants Program (Pub. No. 95-39, Sec. 112).

"Section 89. This Act shall be construed liberally to promote the effectiveness and efficiency of regulation of public utilities to the extent that such construction preserves the validity of this Act and its provisions. The provisions of this Act shall be construed to apply so as not to conflict with any authority of the United States.

"Section 90. (a) Articles 1119, 1121, 1122, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1258, 1423, 1424, and 1425, Revised Civil Statutes of Texas, 1925, as amended; Section 8a, Chapter 283, Acts of the 40th Legislature, Regular Session, 1927 (Article 1011, Vernon's Texas Civil Statutes) and all other laws and parts of laws in conflict with this Act are repealed effective September 1, 1976.

"(b) All rules and regulations promulgated by regulatory authorities in the exercise of their jurisdiction over public utilities, as defined in this Act, shall remain in effect until such time as the commission or railroad commission promulgates provisions applicable to the exercise of the commission's or railroad commission's jurisdiction over public utilities.

"Section 91. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

SECTION 2. This Act applies only to a proceeding in which the statement of intent or application is filed on or after the effective date of this Act. A proceeding in which the statement of intent or application is filed before the effective date of this Act is governed by the law in effect when the statement of intent or application was filed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. 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.

CSSB 232 was read second time.

(Vowell and W. Hall now present)

Representative Bomer offered the following amendment to CSSB 232:

Amend Section 24(b) of CSSB 232 on page 32 by striking the language on lines 14 through 16 and substitute in lieu thereof the following:

"(b) Municipalities shall have standing in all cases before the commission subject to the right of the commission to".

The amendment was adopted without objection.

Representative Bomer offered the following amendment to CSSB 232:

Amend CSSB 232 by adding Subsection (i) on page 23, line 20 to read as follows:

(i) There shall only be one Office of Public Utility Counsel even though that office may be referenced in one or more Acts of the 68th Legislature.

The amendment was adopted without objection.
Representative B. Gibson offered the following amendment to CSSB 232:

Amend CSSB 232 as follows:

(1) Strike the section of amended law beginning on page 10, line 13, and ending on page 11, line 5, and substitute:

"Section 5. (a) The Public Utility Commission of Texas consists of three commissioners who are elected at large at the general election for state and county officers, and who serve staggered, six-year terms beginning January 1 following the year of their election.

(b) [is hereby created. It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two-thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint one commissioner whose term shall expire two years after appointment, one commissioner whose term shall expire four years after appointment, and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above-named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified. At its first meeting following January 1 of each odd-numbered year [the biennial appointment and qualification of a commissioner,] the commission shall elect one of the commissioners chairman.

(2) On page 11, lines 13, 16, and 18, strike "appointment" and substitute "election [appointment]."

(3) On page 14, line 26, between "any" and "civil" insert "other".

(4) On page 15, line 27, and page 16, lines 1 and 5, strike "appointment" and substitute "election".

(5) On page 16, between lines 8 and 9, insert:

"Section 68. (a) A public utility, affiliated interest, or any officer, director, or political committee of a public utility or affiliated interest may not make campaign contributions to a candidate for commissioner or the candidate's authorized political committees.

(b) A person, political committee, or political association may not make contributions to a candidate for commissioner and the candidate's authorized political committees that, in the aggregate, exceed $1,000.

(c) A candidate for commissioner, a political committee, or an officer or employee of a political committee may not knowingly accept a contribution forbidden by Subsections (a) and (b) of this section.

(d) The limitation imposed by Subsection (b) of this section applies separately to each election.

(e) For purposes of the limitations imposed by Subsection (b) of this section, all contributions made by a person, directly or indirectly, on behalf of a particular candidate, including contributions that are in any way directed through an intermediary or conduit to the candidate, are considered contributions from that person to that candidate. The intermediary or conduit shall report the original source and the intended recipient of such a contribution.

(6) On page 16, bracket and strike through lines 9-15.

(7) Renumber Sections 2, 3, and 4 of the bill as Sections 4, 5, and 6 and add new Sections 2 and 3 to read as follows:

SECTION 2. Subdivision 1(a), Section 61c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

"(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the..."
general election provided for in Section 9 of this code, they shall be listed on the ballot in the following relative order:

Federal offices:
President
President and Vice President
United States Senator
Congressman-at-Large
United States Representative (district office)

State offices:
(1) Statewide offices
Governor
Lieutenant Governor
Attorney General
Comptroller of Public Accounts
State Treasurer
Commissioner of General Land Office
Commissioner of Agriculture
Public Utility Commissioner
Railroad Commissioner
Chief Justice, Supreme Court
Justice, Supreme Court
Presiding Judge, Court of Criminal Appeals
Judge, Court of Criminal Appeals

(2) District offices
State Senator
State Representative
Member, State Board of Education
Chief Justice, Court of Appeals
Associate Justice, Court of Appeals
District Judge
Criminal District Judge
District Attorney
Criminal District Attorney

(3) County offices
County Judge
Judge, County Court-at-Law
Judge, County Criminal Court
Judge, County Probate Court
County Attorney
District Clerk
District and County Clerk
County Clerk
Sheriff
Sheriff and Tax Assessor-Collector
County Tax Assessor-Collector
County Treasurer
County School Superintendent
County Surveyor
Inspector of Hides and Animals

(4) Precinct offices
County Commissioner
Justice of the Peace
Constable
Public Weigher.
"The headings 'federal offices' and 'state offices' and the subheadings under 'state offices' shall not be printed on the ballot."

SECTION 3. (a) The governor shall appoint, with the advice and consent of the senate, the successor to any commissioner whose term expires or whose position becomes vacant before the initial elected commissioners take office.

(b) The terms of all appointed commissioners expire when the elected commissioners take office.

(c) Three commissioners shall be elected at the general election in 1984, one for a six-year term, one for a four-year term, and one for a two-year term. They shall draw lots to determine which commissioner serves a six-, four-, and two-year term.

W. Harrison in the chair

Representative Bomer moved to table the B. Gibson amendment.

A record vote was requested.

The motion to table prevailed by (Record 393): 105 Yeas, 39 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Banton; Bomer; Burnett; Carriker; Cary; Cavazos; Cervera; Colbert; Connelly; Coody; Craddock; Crockett; Davis; Delay; Eekels; Edwards; Eikenburg; Emmett; Evans, C.; Finnell; Fox; Gamez; Garcia, A.; Garcia, M.; Gavin; Geistwelt; Glossbrenner; Grisham; Hackney; Haley; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heffin; Hibert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Khoury; Kubiak; Kuempel; Lancy; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Madia; Mankins; Martinez, W.; Messer; Moreno, A.; Parker; Patrick; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Ragsdale; Rangel; Robinson; Russell; Saunders; Schlueter; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Siles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Uher; Valles; Vowell; Waldrop; Watson; Whaley; Wieting; Wolens; Word; Wright.

Nays — Barrientos; Barton, B.; Buchanan; Bush; Cain; Clark; Clemmons; Collins; Criss; Danburg; Delco; Denton; English; Evans, L.; Gandy; Gibson, B.; Gilley; Granoff; Green; Hall, L.; Hernandez; Hightower; Kemp; Luna; Martinez, R.; Millsap; Moreno, P.; Oliveira; Oliver; Patronella; Price; Robnett; Shaw; Smith, C.; Tow; Turner; Wallace; Willis; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gibson, J.; Hollowell; Presnal; Rudd; Salinas.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a conference committee meeting on SB 279:

Presnal on motion of G. Thompson.

Rudd on motion of G. Thompson.

Madia on motion of G. Thompson.

Hollowell on motion of G. Thompson.

J. Gibson on motion of G. Thompson.
MESSAGE FROM THE SENATE
Austin, Texas, May 16, 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:

SB 41 by Mauzy, relating to required disclosure of financial interests, activities, and gifts by elective county officers and candidates for elective county office.

SB 689 by Santiesteban, relating to the requirements for a bail bondsman license.

SB 715 by Glasgow, relating to the classification of the controlled substance methaqualone for the purposes of schedules under the Texas Controlled Substances Act.

Respectfully,
Betty King
Secretary of the Senate

CSSB 232 - (consideration continued)

Representative B. Gibson offered the following amendment to CSSB 232:

Amend CSSB 232 as follows:

(1) Strike the section of amended law beginning on page 10, line 13, and ending on page 11, line 5, and substitute:

"Section 5. (a) The [A commission to be known as the] 'Public Utility Commission of Texas' consists of three commissioners, two of whom are appointed by the governor, with the advice and consent of the senate, and one of whom is elected at the general election for state and county officers. The commissioners serve staggered, six-year terms beginning January 1 of each odd-numbered year. The elected commissioner serves as chairman. Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. It is hereby created. It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two-thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the senate, appoint one commissioner whose term shall expire two years after appointment, one commissioner whose term shall expire four years after appointment, and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above-named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified. At its first meeting following the biennial appointment and qualification of a commissioner, the commission shall elect one of the commissioners chairman."

(2) On page 11, lines 13 and 16, between "appointment" and "as" insert "or election."

(3) On page 11, line 18, between "appointment" and "he" insert "or election."

(4) On page 14, line 26, between "any" and "civil" insert "other."

(5) On page 15, line 27, between "appointment" and "the" insert "or election."
(6) On page 16, lines 1 and 5, between "appointment" and "to" insert "or election"

(7) On page 16, between lines 8 and 9, insert:

"Section 6B. (a) A public utility, affiliated interest, or any officer, director, or political committee of a public utility or affiliated interest may not make campaign contributions to a candidate for chairman or the candidate's authorized political committees.

(b) A person, political committee, or political association may not make contributions to a candidate for chairman and the candidate's authorized political committees that, in the aggregate, exceed $1,000.

(c) A candidate for chairman, a political committee, or an officer or employee of a political committee may not knowingly accept a contribution forbidden by Subsections (a) and (b) of this section.

(d) The limitation imposed by Subsection (b) of this section applies separately to each election.

(e) For purposes of the limitations imposed by Subsection (b) of this section, all contributions made by a person, directly or indirectly, on behalf of a particular candidate, including contributions that are in any way directed through an intermediary or conduit to the candidate, are considered contributions from that person to that candidate. The intermediary or conduit shall report the original source and the intended recipient of such a contribution.

(8) On page 16, bracket and strike through lines 9-15.

(9) Renumber Sections 2, 3, and 4 of the bill as Sections 4, 5, and 6 and add new Sections 2 and 3 to read as follows:

SECTION 2. Subdivision 1(a). Section 6lc, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

"(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the general election provided for in Section 9 of this code, they shall be listed on the ballot in the following relative order:

Federal offices:
President and Vice President
United States Senator
Congressman-at-Large
United States Representative (district office)
State offices:
(1) Statewide offices
Governor
Lieutenant Governor
Attorney General
Comptroller of Public Accounts
State Treasurer
Commissioner of General Land Office
Commissioner of Agriculture
Public Utility Commission Chairman
Railroad Commissioner
Chief Justice, Supreme Court
Justice, Supreme Court
Presiding Judge, Court of Criminal Appeals
Judge, Court of Criminal Appeals
(2) District offices
State Senator
State Representative
Member, State Board of Education
Chief Justice, Court of Appeals
Associate Justice, Court of Appeals
District Judge
Criminal District Judge
District Attorney
Criminal District Attorney
(3) County offices
County Judge
Judge, County Court-at-Law
Judge, County Criminal Court
Judge, County Probate Court
County Attorney
District Clerk
District and County Clerk
County Clerk
Sheriff
Sheriff and Tax Assessor-Collector
County Tax Assessor-Collector
County Treasurer
County School Superintendent
County Surveyor
Inspector of Hides and Animals
(4) Precinct offices
County Commissioner
Justice of the Peace
Constable
Public Weigher.

"The headings 'federal offices' and 'state offices' and the subheadings under 'state offices' shall not be printed on the ballot."

SECTION 3. (a) This Act does not affect current terms of members of the Public Utility Commission. The governor shall appoint, with the advice and consent of the senate, the successor to the commissioner whose term expires September 1, 1983, to serve a term expiring January 1, 1985, a successor to the commissioner whose term expires September 1, 1985, to serve a term expiring January 1, 1987, and a successor to the commissioner whose term expires September 1, 1987, to serve a term expiring January 1, 1989.

(b) A commissioner shall be elected at the general election in 1984 to take office January 1, 1985.

Representative Bomer moved to table the B. Gibson amendment.

A record vote was requested.

The motion to table prevailed by (Record 394): 109 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister, Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceverha; Colbert; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Eckels; Eikenburg; Emmett; Evans, C.; Finnelli; Fox; Gamez; Garcia, A.; Garcia, M.; Gavin; Geistweidt; Grisham; Hackney; Haley; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hildbert; Hill, A.; Hill, G.; Hill, P.; Hinajosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Leonard; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Moreno, A.; Oliveira; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polumbo; Presnal;
Representative P. Moreno offered the following amendment to CSSB 232:

Amend CSSB 232 as follows:

1. Strike the section of amended law beginning on page 10, line 13, and substitute:

   "Section 5. (a) The [commission to be known as the] 'Public Utility Commission of Texas' [is hereby created] consists of nine commissioners who are elected at the general election for state and county officers and who serve staggered six-year terms beginning on January 1 following the year of their election.

   "(b) At the first general election following a revision of district boundaries by the legislature, members shall be elected from all districts, and after taking office they shall draw lots so that three members serve six-year terms, three members serve four-year terms, and three members serve two-year terms.

   "(c) A person may not make contributions that in the aggregate exceed $500 for an election to any combination of:

   "(1) a candidate for public utility commissioner; and

   "(2) all political committees acting on behalf of such a candidate in that election.

   "(d) The definitions prescribed by Section 237, Texas Election Code (Article 14.01, Vernon's Texas Election Code), apply to Subsection (c) of this section. It shall consist of three commissioners, who shall be appointed by the governor, with the advice and consent of two-thirds of the members of the Senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Immediately after this Act takes effect, the governor shall, with the advice and consent of the Senate, appoint one commissioner whose term shall expire two years after appointment; one commissioner whose term shall expire four years after appointment; and one commissioner whose term shall expire six years after appointment. At the expiration of each of the above-named terms, there shall be appointed, in the same manner, one commissioner to hold office for a term of six years. Each commissioner shall hold office until his successor is appointed and qualified.

   "(e) At its first meeting following January 1 of each odd-numbered year [the biennial appointment and qualification of a commissioner], the commission shall elect one of the commissioners chairman.

2. On page 11, lines 13, 16, and 18, strike "appointment" and substitute "election appointment".

3. On page 14, line 26, between "any" and "civil" insert "other".

4. On page 15, lines 1 and 2, strike ", and the governor shall appoint a successor" and substitute "[, and the governor shall appoint a successor]".
(5) On page 15, line 27, and page 16, lines 1 and 5, strike "appointment" and substitute "election".

(6) On page 16, bracket and strike through lines 9-15.

(7) Renumber Sections 2-4 of the bill as Sections 6-8 and add new Sections 2-5 to read as follows:

SECTION 2. Subdivision 7(a), Section 12, Texas Election Code (Article 2.04, Vernon's Texas Election Code), is amended to read as follows:

(a) A county election precinct may not contain territory from more than one of the following territorial units:

1. commissioners precinct;
2. justice precinct;
3. congressional district;
4. state representative district;
5. state senatorial district; or
6. public utility commissioner district; or
7. [ward in a city or town with a population of 10,000 or more.]

SECTION 3. Subdivision 1(a), Section 6.04c, Texas Election Code (Article 6.05c, Vernon's Texas Election Code), is amended to read as follows:

(a) Whenever there are to appear on the ballot for any general, special, or primary election, two or more office titles of offices which are regularly filled at the general election provided for in Section 9 of this code, they shall be listed on the ballot in the following relative order:

Federal offices:
President and Vice President
United States Senator
Congressman-at-Large
United States Representative (district office)

State offices:
(1) Statewide offices
Governor
Lieutenant Governor
Attorney General
Comptroller of Public Accounts
State Treasurer
Commissioner of General Land Office
Commissioner of Agriculture
Railroad Commissioner
Chief Justice, Supreme Court
Justice, Supreme Court
Presiding Judge, Court of Criminal Appeals
Judge, Court of Criminal Appeals

(2) District offices
State Senator
State Representative
Public Utility Commissioner
Member, State Board of Education
Chief Justice, Court of Appeals
Associate Justice, Court of Appeals
District Judge
Criminal District Judge
District Attorney
Criminal District Attorney

(3) County offices
County Judge
The headings "federal offices" and "state offices" and the subheadings under "state offices" shall not be printed on the ballot.

SECTION 4. Section 186(c), Texas Election Code (Article 13.08, Vernon's Texas Election Code), is amended to read as follows:

(e) The schedule of filing fees for either a full term or an unexpired term for the various offices is as follows:

1. United States Senator ........................................... $2,000
2. All other statewide offices .................................... 1,500
3. United States representative .................................. 1,500
4. State senator .................................................. 750
5. State representative ........................................... 400
6. Member, state board of education ......................... 250
7. Chief justice or associate justice, court of appeals .......... 750
8. District judge or judge of any court
   having status of a district court as
classified in Section 61c of this code, as
added and amended (Article 6.05c,
Vernon's Texas Election Code) ....... 700
9. Judge of a statutory county court or judge
   of any court having status of a county court
   as classified in Section 61c of this code, as
   added and amended (Article 6.05c, Vernon's
   Texas Election Code), other than the
   constitutional county court ......................... 700
10. District attorney or criminal district
    attorney or a county attorney that performs
    the same functions as either of the above .......... 600
11. [Public utility commissioner] ................................ 500
12. (++) A county office as classified in
    Section 61c of this code, as added and amended
    (Article 6.05c, Vernon's Texas Election Code),
    for which a specific fee is not set by this
    subsection ........................................... 300
County surveyor or inspector of hides and animals .......................................................... 50
Judge of the constitutional county court and county commissioner,
County of 200,000 or more inhabitants .......................................................... 600
County under 200,000 inhabitants .......................................................... 300
Justice of the peace or constable,
County of 200,000 or more inhabitants .......................................................... 500
County under 200,000 inhabitants .......................................................... 200
No fee shall be charged for any office of a political party.

SECTION 5. (a) At each election of public utility commissioners held before district boundaries are revised by the legislature, commissioners shall be elected from the following districts composed of Texas congressional districts as they exist on the effective date of this Act:

(1) District 1, consisting of Texas congressional districts 7, 8, and 18;
(2) District 2, consisting of Texas congressional districts 3, 5, and 24;
(3) District 3, consisting of Texas congressional districts 20, 21, and 23;
(4) District 4, consisting of Texas congressional districts 12, 17, and 26;
(5) District 5, consisting of Texas congressional districts 1, 2, and 4;
(6) District 6, consisting of Texas congressional districts 9, 22, and 25;
(7) District 7, consisting of Texas congressional districts 13, 16, and 19.

(b) The governor shall appoint, with the advice and consent of the senate, a successor to the commissioner whose term expires on September 1, 1983, to hold office until January 1, 1985.

(c) A vacancy in the office of commissioner that occurs before January 1, 1985, shall be filled for the unexpired term as provided in Sections 5 and 7. Public Utility Regulatory Act (Article 1446c, Vernon’s Texas Civil Statutes), as those sections existed before the effective date of this Act, and those sections are continued in effect until January 1, 1985, for that purpose as if this Act were not in force.

(d) Nine commissioners shall be elected at the general election in 1984, three for six-year terms, three for four-year terms, and three for two-year terms. They shall draw lots to determine which commissioners serve six-, four-, and two-year terms.

(e) The terms of all appointed commissioners expire when the elected commissioners take office.

(f) Successors to commissioners elected under this section are elected for full, six-year terms.

Representative Bomer moved to table the P. Moreno amendment.

A record vote was requested.

The motion to table prevailed by (Record 395): 107 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Bland; Bomer; Buchanan; Burnett; Carriker; Cary; Ceverha; Clark; Colbert; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Eckels; Eikenburg; Emmett; English; Evans, C.; Finnell; Fox; Gamez; Garcia, A.; Gavin; Geisweidt; Glossbrenner; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison, D.; Harrison, W.; Heffin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, D.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Leonard; McKenna; McWilliams; Madla; Mankins; Messer; Millsap; Parker; Patrick; Patterson; Pennington; Peveto; Pierce; Polumbo;
Representative C. Smith offered the following amendment to CSSB 232:

Amend CSSB 232 by deleting the following language on lines 24 and 25, page 2:

"as a dominant carrier as hereinafter defined ("telecommunications utilities hereinafter")".

Delete the following language on line 18, page 3:

"who are not dominant carriers".

Delete Subsection 2(B) of Section 3 in its entirety.

Amend CSSB 232, Section 18 as follows:

Delete Section J 3(a) and renumber accordingly.

Delete the following language in line 17, page 27:

"carrying out the public policy above stated and of".

Representative Bomer moved to table the C. Smith amendment.

A record vote was requested.

The motion to table prevailed by (Record 396): 132 Yeas, 7 Nays, 1 Present, not voting.

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

Nays — Barton, B.; Bush; Carriker; Gibson, B.; Green; Harrison, W.; Smith, C.

Present, not voting — Mr. Speaker(C).
Absent, Excused — Gibson, J.; Salinas.

Absent — Agnich; Berlanga; Edwards; English; Moreno, P.; Oliver; Wilson; Wright.

(Salinas now present)

Representative C. Smith offered the following amendment to CSSB 232:

Amend CSSB 232, Section 3 (2)(B) by striking the word “control” at the end of line 25 and substituting the words “substantially influence”.

Amend CSSB 232, Section 3 (2)(B) by striking the following from lines 8-12 on page 4:

"Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market."

Representative Bomer moved to table the C. Smith amendment.

A record vote was requested.

The motion to table prevailed by (Record 397): 131 Yeas, 9 Nays, 1 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barragntos; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cain; Cary; Cavazos; Ceverha; Clark; Clemons; Colbert; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; Delay; Delco; Denton; Eckels; Eikenburg; Emmett; Evans, C.; Evans, L.; Finnell; Gamez; Gandy; Garcia, M.; Gavin; Geistweidt; Gibson, B.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Heflin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McKenna; McWilliams; Maia; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Oliveira; Patrick; Patronella; Patterson; Pennington; Peveo; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Rudd; Russell; Salinas; Saunders; Schoolcraft; Shaw; Shea; Short; Simpson; Smith, A.; Smith, T.; Stanislawis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Valles; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays — Barton, B.; Bush; Carrker; Collazo; Fox; Green; Harrison, W.; Smith, C.; Vowell.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gibson, J.

Absent — Edwards; English; Garcia, A.; Moreno, P.; Oliver; Parker; Robnett; Schlueter.

Representative D. Hudson offered the following amendment to CSSB 232:

Amend CSSB 232 on page 5, line 9, by inserting after the period: However, the term ‘public utility’ or ‘utility’ includes a person or corporation that furnishes such a service to its tenants if the person or corporation charges the tenants an amount greater than the sum that it paid for the service plus its cost of delivering the service to the tenants.

Representative Turner moved to table the D. Hudson amendment.
The motion to table prevailed.

Representative Heflin offered the following amendment to CSSB 232:

Amend CSSB 232 as follows:
Article I, Section 3, Subsection (v), page 9, line 27, and page 10, lines 1 through 7.
Delete this section in its entirety.
Article VI, Section 38, page 43, lines 8 through 11.
Delete, "The commission may approve a schedule of lifeline rates for residential users of an electric utility. Any underrecovery of costs from lifeline customers shall be allocated to other residential customers."

Representative Bomer moved to table the Heflin amendment.
A record vote was requested.

The motion to table prevailed by (Record 398):
118 Yeas, 27 Nays, Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Bomer; Buchanan; Burnett; Bush; Cain; Carricker; Cary; Cavazos; Clark; Clemens; Colbert; Collazo; Connelly; Coody; Craddick; Criss; Crockett; Danburg; Davis; Delco; Denton; Edwards; Eichenburg; Emmett; English; Evans, C.; Evans, L.; Finnell; Gaine; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gilley; Glossbrenner; Granoff; Green; Hackney; Haley; Hall, H.; Hall, T.; Hall, W.; Hanna; Harrison, W.; Hernandez; Hightower; Hilbert; Hill, H.; Hill, G.; Hinojosa; Hudson, D.; Hudson, S.; Hur; Jackson; Keller; Kemp; Kubiak; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonard; Luna; McWilliams; Madla; Martinez, R.; Martinez, W.; Messer; Milhan; Moreno, A.; Moreno, P.; Oliveira; Oliver; Parker; Patrick; Patton; Patterson; Pevet; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Rudd; Russell; Salinas; Saunders; Shaw; Shea; Short; Simpson; Smith, C.; Smith, T.; Stiles; Sutton; Tejeda; Thompson, S.; Tow; Turner; Valles; Vowell; Watson; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays — Agnich; Blanton; Cevnera; DeLay; Eckels; Fox; Geistweit; Hammond; Harrison, D.; Heflin; Hill, P.; Hollowell; Horn; Jones; Kibury; McKenna; Pennington; Robnett; Schoolcraft; Smith, A.; Staniswalis; Thompson, G.; Toomey; Uher; Waldrop; Wallace; Whaley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gibson, J.

Absent — Grisham; Mankins; Schlueter.

STATEMENT BY REPRESENTATIVE STANISWALIS

Due to a voting machine malfunction on the amendment offered by Representative Heflin I was recorded voting no. I should have been shown voting yes.

Staniswalis

STATEMENT BY REPRESENTATIVE WALLACE

My machine malfunctioned on Record Vote 398. It should be recorded yes.

Wallace

Representative Ragsdale offered the following amendment to CSSB 232:
Amend CSSB 232, SECTION 1, page 19, line 3, by adding a Subdivision (f) to proposed Article II, Section 8 to read as follows:

(f). The executive director or his/her designee 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 plans shall include:

1. a comprehensive analysis of all the agency's workforce by race, sex, ethnic origin, class of position, and salary or wage;

2. plans for recruitment, evaluation, selection, appointment, training, promotion and other personnel policies;

3. steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's workforce; and

4. objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the Governor's office within sixty days of the effective date of this 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 agency has taken within the reporting period to comply with these requirements.

(C. Evans in the chair)

The amendment was adopted without objection.

Representative Green offered the following amendment to CSSB 232:

Amend CSSB 232 by striking the word "may" on page 21, line 17, and substituting the word "shall".

Representative Bomer moved to table the Green amendment.

The motion to table prevailed.

Representative C. Smith offered the following amendment to CSSB 232:

Amend Section 15A.0(4) of CSSB 232 to read as follows:

4. may initiate or intervene as a matter of right or otherwise appear by and through the attorney general in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear; however, if the attorney general certifies that he is unable to provide such services, he shall grant the Public Utility Counsel the authority to appear in such proceeding on behalf of the attorney general.

Representative Bomer moved to table the C. Smith amendment.

A record vote was requested.

The motion to table prevailed by (Record 399): 107 Yeas, 37 Nays, 4 Present, not voting.

Yeas — Agnich, Armbrister; Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Cary; Ceverha; Clark; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; Eckels; Edwards; Ekenberg; Emmett; English; Evans, L.; Finnell; Gamez; Garcia, A.; Gavin; Geistweid; Gibson, J.; Glossbrenner; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Horn; Hury; Jackson; Jones; Keller; Kemp; Khoory; Kubiak; Kuempel; Laney; Lee, E. F.; Leonard; McKenna; McWilliams; Madla; Mankins; Messer; Millsap; Patrick; Patterson; Pennington; Peveto; Pierce; Polk; Presnal; Price; Robinson; Robnett;
May 16, 1983

HOUSE JOURNAL 2361

Rudd; Russell; Salinas; Saunders; Schlueher; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays — Barrientos; Barton, B.; Burnett; Bush; Cain; Carriker; Cavazos; Clemens; Colbert; Collazo; Criss; Delco; Denton; Gandy; Garcia, M.; Gibson, B.; Gilley; Granoff; Green; Hernandez; Hinojosa; Hudson, D.; Hudson, S.; Lee, D.; Luna; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Patronella; Polumbo; Ragsdale; Rangel; Shaw; Smith, C.

Present, not voting — Mr. Speaker; Evans, C(C); Fox; Hollowell.

Absent — Parker; Valles.

Representative Collazo offered the following amendment to the bill:

Amend CSSB 232 on page 22, line 24:

4. May initiate or intervene in any judicial proceedings involving or arising out of any action taken by an administrative agency in a proceeding in which the counsel was authorized to appear; under the Authority of the A. G.

Definition:

Authority: letter of Authority from A. G.

Representative Bomer moved to table the Collazo amendment.

A record vote was requested.

The motion to table prevailed by (Record 400): 106 Yeas, 40 Nays,

Yeas — Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cary; Cervera; Clark; Colbert; Connelly; Coody; Craddick; Davis; DeLay; Eckels; Eikenburg; Emmett; English; Finnell; Fox; Gamez; Gavin; Goistweidt; Gibson, J.; Glossbrenner; Green; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Hanna; Harrison, D.; Harrison, W.; Heflin; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, D.; Hurty; Jackson; Jones; Keller; Kemp; Khoury; Kubiak; Kuempel; Laney; Leonard; McKenna; McWilliams; Madla; Mankins; Messer; Millsap; Parker; Patrick; Patronella; Patterson; Pennington; Peveto; Pierce; Polk; Presnal; Ragsdale; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueher; Schoolcraft; Shea; Short; Simpson; Smith, A.; Smith, T.; Staniswalis; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wolens; Word; Wright.

Nays — Barrientos; Barton, B.; Bush; Cain; Carriker; Cavazos; Clemens; Collazo; Criss; Crockett; Danburg; Delco; Denton; Evans, L.; Gandy; Garcia, A.; Garcia, M.; Gibson, B.; Gilley; Granoff; Hernandez; Hinojosa; Hudson, S.; Lee, D.; Lee, E. F.; Luna; Martinez, R.; Martinez, W.; Moreno, A.; Moreno, P.; Oliveira; Oliver; Polumbo; Price; Rangel; Shaw; Smith, C.; Stiles; Sutton; Wilson.

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

Absent — Edwards; Valles.

Representative Wilson offered the following amendment to CSSB 232:

Amend CSSB 232 on page 75, line 18 by renumbering Section 91 as Section 92 and inserting a new Section 91 to read as follows:

Section 91. The Public Utility Commission is authorized to establish criteria and guidelines with the utility industry relating to procedures employed by the industry in terminating services to the elderly and disabled.
The amendment was adopted without objection.

Representative C. Smith offered the following amendment to CSSB 232:

Amend CSSB 232, Section 41(a) by inserting the words "by clear and convincing evidence" between the words "demonstration" and "by" on line 14, page 45.

Amend CSSB 232 in Section 41(a), page 45, line 16 by deleting the word "integrity" and inserting the word "liquidity".

Representative Bomer moved to table the C. Smith amendment.

A record vote was requested.

The motion to table prevailed by (Record 401): 115 Yeas, 19 Nays, 3 Present, not voting.

Yeas — Agnich; Armbrister; Arnold; Barton, E.; Berlanga; Blanton; Bomer; Buchanan; Burnett; Cary; Cavazos; Ceverha; Clark; Collazo; Connelly; Coody; Craddick; Crockett; Danburg; Davis; DeLay; DeLeo; Eckels; Eikenburg; English; Evans, L.; Finanell; Gamez; Garcia, A.; Gavin; Geistweidt; Gibson, B.; Gibson, J.; Gilley; Granoff; Hackney; Hall, L.; Hall, T.; Hall, W.; Hanna; Harrison, D.; Heflin; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hollowell; Horn; Hudson, D.; Hur; Jackson; Jones; Keller; Kemp; Khouy; Kuempel; Lane; Lee, D.; Lee, E. F.; Leonard; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Messer; Millsap; Moreno, A.; Oliveira; Parker; Patrick; Patronella; Patterson; Pennington; Pevelo; Pierce; Polk; Polumbo; Presnal; Price; Robinson; Robnett; Rudd; Russell; Salinas; Saunders; Schlueter; Schoolcraft; Shaw; Shca; Short; Simpson; Smith, A.; Smith, T.; Staniswals; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Uher; Vowell; Waldrop; Wallace; Watson; Whaley; Wieting; Wilson; Wolens; Word.

Nays — Barrientos; Barton, B.; Bush; Carricker; Clemons; Colbert; Denton; Gandy; Garcia, M.; Green; Harrison, W.; Hernandez; Hudson, S.; Kubiak; Martinez, W.; Oliver; Ragsdale; Rangel; Smith, C.

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

Absent — Cain; Edwards; Emmett; Glossbrenner; Grisham; Hammond; Hightower; Hinojosa; Luna; Moreno, P.; Valles; Willis; Wright.

Representative Denton offered the following amendment to CSSB 232:

Amend CSSB 232 on page 53, line 7, by deleting "may" and substituting "shall".

The amendment was adopted without objection.

Representative Green offered the following amendment to CSSB 232:

Amend CSSB 232 by striking "150" on page 50, line 3, and substituting "700".

Representative Bomer moved to table the Green amendment.

The motion to table prevailed.

Representative Eikenburg offered the following amendment to CSSB 232:

Amend CSSB 232 on page 10, lines 14 and 15, by striking the words "three commissioners, who" and inserting in lieu thereof the following:

"six (6) commissioners: one (1) from North Texas, one (1) from South Texas, one (1) from East Texas, one (1) from West Texas, one (1) from Central Texas, and one (1) without regard to geographical location. The commissioners"
Representative Bonier moved to table the Eikenburg amendment.

The motion to table prevailed.

Representative Green offered the following amendment to CSSB 232:

Amend CSSB 232 on page 67, line 27, insert the following at the end of the Paragraph:

In addition to any implied authority granted by this act, whenever it appears to the local regulatory authority that a water and sewer utility or any other person or corporation subject to regulation under the provisions of the Act dealing with water and sewer facilities is engaged in, or is about to engage in, any act in violation of this Act or of any order, rule, or regulation of the commission entered or adopted under the provisions of this Act or any local ordinance consistent with this Act and the rules and regulations of the commission, or that any water and sewer utility or any other person or corporation is failing to comply with the provisions of this Act or with any such rule, regulation, or local ordinance, the municipality in addition to any other remedies provided herein, shall bring an action in a court of competent jurisdiction against such water and sewer utility or other person or corporation to enjoin the commencement or continuation of any such act, or to require compliance with such Act, rule, regulation, order, or local ordinance."

The amendment was adopted without objection.

A record vote was requested.

CSSB 232, as amended, was passed to third reading by (Record 402): 131 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Armbrister; Arnold; Barrientos; Barton, B.; Barton, E.; Berlanga; Blanton; Bonier; Buchanan; Burnett; Cain; Carriker; Cary; Cavazos; Ceherba; Clark; Colbert; Collazo; Connelly; Coody; Criss; Crockett; Danburg; Davis; Deleo; Denton; Eckels; Edwards; Emmett; English; Evans, L.; Gamez; Gandy; Garcia, A.; Garcia, M.; Gavin; Gibson, B.; Gibson, J.; Gilley; Glossbrenner; Granoff; Grisham; Hackney; Haley; Hall, L.; Hall, T.; Hall, W.; Hammond; Harrison, D.; Harrison, W.; Hellin; Hernandez; Hightower; Hilbert; Hill, A.; Hill, G.; Hill, P.; Hinojosa; Hollowell; Horn; Hudson, D.; Hudson, S.; Hury; Jackson; Jones; Keller; Kemp; Khoury; Kubisk; Kuempel; Laney; Lee, D.; Lee, E. F.; Leonardi; Luna; McKenna; McWilliams; Madla; Mankins; Martinez, R.; Martinez, W.; Messer; Millsap; Moreno, A.; Oliveire; Oliver; Parker; Patrick; Patroneilla; Patterson; Pennington; Peveto; Pierce; Polk; Polumbo; Presnal; Price; Ragsdale; Rangel; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shee; Short; Smith, A.; Smith, T.; Staniswalis; Stiles; Sutton; Tejeda; Thompson, G.; Thompson, S.; Toomey; Tow; Turner; Valles; Waldrop; Wallace; Watson; Whaley; Wieting; Willis; Wilson; Wolens; Word; Wright.

Nays — Agnieh; Bush; Clemons; Craddick; DeLay; Eikenburg; Finnell; Fox; Geistwiedl; Green; Hanna; Moreno, P.; Salinas; Simpson; Smith, C.; Uher; Vowell.

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

HB 2445 - RULES SUSPENDED

Representative Bush moved to suspend all necessary rules to allow the Committee on Judiciary to consider HB 2445.

The motion prevailed without objection.
SB 1371 - RULES SUSPENDED

Representative G. Thompson moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider SB 1371. The motion prevailed without objection.

HCR 253 - RULES SUSPENDED

Representative Armbrister moved to suspend the 5-day posting rule to allow the Committee on Judicial Affairs to consider HCR 253. The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Business and Commerce, on adjournment today, Desk 95, to consider HB 2081 and SB 105.

Calendars, on adjournment today, Room G-14, to set the calendar.

Criminal Jurisprudence, on adjournment today, Desk 120, to consider SB 742, SB 627, HB 1079, HB 1705, and HB 2316.

Environmental Affairs, on adjournment today, Desk 109, to consider SB 1023 and SB 1000.

Judiciary, on adjournment today, Desk 79, to consider HB 2445.

Local and Consent Calendars, on adjournment today, Room G-14.

State Affairs, on adjournment today, Desk 97, to consider pending legislation.

Criminal Jurisprudence, Subcommittee on SB 18, on adjournment today, Desk 142, to consider SB 18.

Criminal Jurisprudence, Subcommittee on HB 1355, on adjournment today, Desk 4, to consider HB 1355.

Elections, 9:30 a.m. tomorrow, Desk 115, to consider SB 62, SB 306, SB 382, SB 587, and SB 858.

Transportation, 9:45 a.m. tomorrow, Desk 43, to consider SB 24.

Environmental Affairs, Subcommittee on HB 1584, on adjournment today, Desk 109, to consider HB 1584.

Liquor Regulation, Subcommittee on HB 2193, on adjournment today, Desk 57, to consider HB 2193.

Judicial Affairs, on adjournment today, Desk 102, to consider HCR 253.

Natural Resources, on adjournment today, Desk 70, to consider SB 1260.

Public Health, scheduled for adjournment today, will meet at 9 a.m. tomorrow, Room 410, Reagan Building, to consider posted bills and SCR 98.

ADJOURNMENT

Speaker Lewis moved that the house adjourn until 10 a.m. tomorrow. The motion prevailed without objection.

The house accordingly, at 6:20 p.m., adjourned until 10 a.m. tomorrow.
STANDING COMMITTEE REPORTS

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

Business and Commerce - HB 958

County Affairs - HB 1259, HB 1523, HB 2338, HB 2404, HB 2406, HB 2407, HB 2409, HB 2410, HB 2411, HB 2412, HB 2428, HB 2432, HJR 35, SB 474

Criminal Jurisprudence - HB 1943, SB 1

Environmental Affairs - HB 1878

Higher Education - SB 1014, SB 1181

Human Services - HB 1821

Insurance - HB 1863, SB 350, SB 812, SB 948

Judicial Affairs - HB 2294, HCR 250

Judiciary - HB 358, HB 1455, HB 1644, SB 803, SB 669, SB 872

Liquor Regulation - HB 1734, SB 285

Natural Resources - HB 1335

Public Education - SB 26, SCR 15

Retirement and Aging - HB 1841, HB 1843

State Affairs - HB 180, HB 394, HB 614, HB 795, HB 1075, HB 1171, HB 1594, HB 1744, HB 1911, HB 2376, HB 2444, HCR 3, HCR 170, SB 42, SB 451, SB 512, SB 578, SB 752, SB 899, SJR 22

Transportation - HB 1273, HB 1871, HR 249, SB 843

Urban Affairs - HB 440, HB 1015, SB 1038

ENGROSSED

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

**HB 105** - Arnold

**HB 784** - Arnold

**HR 396** - Cavazos, W. Harrison

**RECOMMENDATION OF THE TEXAS WATER COMMISSION FILED WITH SPEAKER**

The following recommendation of the Texas Water Commission was filed with the speaker.

May 13 - **HB 2427**