

1-1 By: West (Senate Sponsor - Shapiro) H.B. No. 1816
1-2 (In the Senate - Received from the House May 11, 2005;
1-3 May 13, 2005, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 20, 2005, reported
1-5 favorably, as amended, by the following vote: Yeas 6, Nays 0;
1-6 May 20, 2005, sent to printer.)

1-7 COMMITTEE AMENDMENT NO. 1 By: Barrientos

1-8 Amend H.B. 1816 (engrossed version) as follows:

1-9 (1) Strike SECTION 2 of the bill and renumber subsequent
1-10 SECTIONS of the bill as appropriate.

1-11 (2) In SECTION 4 of the bill (page 3, line 62), strike
1-12 "provided by SECTION 1 of this Act" and substitute "otherwise
1-13 provided".

1-14 (3) Add the following appropriately numbered SECTIONS to
1-15 the bill and renumber subsequent SECTIONS as appropriate:

1-16 SECTION__. (a) The legislature finds that the transfer of
1-17 powers and duties over railroads from the Railroad Commission of
1-18 Texas to the Texas Department of Transportation results in an
1-19 agency that has a name that no longer reflects the administrative
1-20 and executive jurisdiction of the agency. The changes in law made
1-21 by this Act provide that the Railroad Commission of Texas no longer
1-22 has powers and duties over railroads, but primarily over
1-23 energy-related issues.

1-24 (b) The legislature also finds that the subject of this Act,
1-25 as discerned from the body of this Act, makes the renaming of the
1-26 Railroad Commission of Texas relevant, appropriate, and in the
1-27 natural and logical sequence to the subject matter and original
1-28 purpose of this Act.

1-29 SECTION__. Effective October 1, 2005, Subchapter A, Chapter
1-30 81, Natural Resources Code, is amended by adding Section 81.002 to
1-31 read as follows:

1-32 Sec. 81.002. TEXAS ENERGY COMMISSION. (a) The Railroad
1-33 Commission of Texas is renamed the Texas Energy Commission.

1-34 (b) Except as provided by Subsection (c), Article 6445,
1-35 Revised Statutes, a reference in law to the Railroad Commission of
1-36 Texas means the Texas Energy Commission.

1-37 (c) The Texas Energy Commission is the successor agency to
1-38 the Railroad Commission of Texas under Section 30(b), Article XVI,
1-39 Texas Constitution.

1-40 SECTION__. (a) Effective October 1, 2005:

1-41 (1) the name of the Railroad Commission of Texas is
1-42 changed to the Texas Energy Commission;

1-43 (2) all powers, duties, obligations, rights,
1-44 contracts, leases, records, assets, property, funds, and
1-45 appropriations of the Railroad Commission of Texas:

1-46 (A) that do not primarily relate to railroads and
1-47 the regulations of railroads are the powers, duties, obligations,
1-48 rights, contracts, leases, records, assets, property, funds, and
1-49 appropriations of the Texas Energy Commission; and

1-50 (B) that primarily relate to railroads and the
1-51 regulation of railroads are the powers, duties, obligations,
1-52 rights, contracts, leases, records, assets, property, funds, and
1-53 appropriations of the Texas Department of Transportation;

1-54 (3) all rules, policies, forms, procedures, and
1-55 decisions of the Railroad Commission of Texas:

1-56 (A) that do not relate primarily to railroads and
1-57 the regulation of railroads are continued in effect as rules,
1-58 policies, forms, procedures, and decisions of the Texas Energy
1-59 Commission until superseded by a rule or other appropriate action
1-60 of the Texas Energy Commission; and

1-61 (B) that relate primarily to railroads and the
1-62 regulation of railroads are continued in effect as rules, policies,
1-63 forms, procedures, and decisions of the Texas Department of
1-64 Transportation until superseded by a rule or other appropriate

2-1 action of the Texas Department of Transportation;
 2-2 (4) all full-time employees of the Railroad Commission
 2-3 of Texas:
 2-4 (A) who do not primarily perform functions
 2-5 related to railroads and the regulation of railroads become
 2-6 employees of the Texas Energy Commission; and
 2-7 (B) who primarily perform functions related to
 2-8 railroads and the regulation of railroads become employees of the
 2-9 Texas Department of Transportation;
 2-10 (5) any investigation, complaint, action, contested
 2-11 case, or other proceeding involving the Railroad Commission of
 2-12 Texas that:
 2-13 (A) does not relate primarily to railroads and
 2-14 the regulation of railroads is transferred without change in status
 2-15 to the Texas Energy Commission, and the Texas Energy Commission
 2-16 assumes, without a change in status, the position of the Railroad
 2-17 Commission of Texas in any investigation, complaint, action,
 2-18 contested case, or other proceeding that does not relate primarily
 2-19 to railroads and the regulation of railroads involving the Railroad
 2-20 Commission of Texas; and
 2-21 (B) relates primarily to railroads and the
 2-22 regulation of railroads is transferred without change in status to
 2-23 the Texas Department of Transportation, and the Texas Department of
 2-24 Transportation assumes, without a change in status, the position of
 2-25 the Railroad Commission of Texas in any investigation, complaint,
 2-26 action, contested case, or other proceeding that relates primarily
 2-27 to railroads and the regulation of railroads involving the Railroad
 2-28 Commission of Texas; and
 2-29 (6) a member of the Railroad Commission of Texas is a
 2-30 member of the Texas Energy Commission.
 2-31 (b) The Railroad Commission of Texas shall adopt a timetable
 2-32 for phasing in the change of the agency's name so as to minimize the
 2-33 fiscal impact of the name change. Until October 1, 2005, to allow
 2-34 for phasing in the change of the agency's name and in accordance
 2-35 with the timetable established as required by this section, the
 2-36 agency may perform any act authorized by law for the Railroad
 2-37 Commission of Texas as the Railroad Commission of Texas or as the
 2-38 Texas Energy Commission. Any act of the Railroad Commission of
 2-39 Texas acting as the Texas Energy Commission after the effective
 2-40 date of this Act and before October 1, 2005, is an act of the
 2-41 Railroad Commission of Texas.
 2-42 (c) The transfer of the powers and duties of the Railroad
 2-43 Commission of Texas that relate primarily to railroads and the
 2-44 regulation of railroads to the Texas Department of Transportation
 2-45 does not affect the validity of a right, privilege, or obligation
 2-46 accrued, a contract or acquisition made, any liability incurred, a
 2-47 permit or license issued, a penalty, forfeiture, or punishment
 2-48 assessed, a rule adopted, a proceeding, investigation, or remedy
 2-49 begun, a decision made, or other action taken by or in connection
 2-50 with the Railroad Commission of Texas.

2-51 A BILL TO BE ENTITLED
 2-52 AN ACT

2-53 relating to the transfer of powers and duties over railroads from
 2-54 the Railroad Commission of Texas to the Texas Department of
 2-55 Transportation.
 2-56 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 2-57 SECTION 1. Effective October 1, 2005, Article 6445, Revised
 2-58 Statutes, is amended to read as follows:
 2-59 Art. 6445. POWER AND AUTHORITY. (a) Power and authority
 2-60 are hereby conferred upon the Texas Department of Transportation
 2-61 [~~Railroad Commission of Texas~~] over all railroads, and suburban,
 2-62 belt and terminal railroads, and over all public wharves, docks,
 2-63 piers, elevators, warehouses, sheds, tracks and other property used
 2-64 in connection therewith in this State, and over all persons,
 2-65 associations and corporations, private or municipal, owning or
 2-66 operating such railroad, wharf, dock, pier, elevator, warehouse,
 2-67 shed, track or other property to fix, and it is hereby made the duty

3-1 of the said department [~~Commission~~] to adopt all necessary rates,
3-2 charges and regulations, to govern and regulate such railroads,
3-3 persons, associations and corporations, and to correct abuses and
3-4 prevent unjust discrimination in the rates, charges and tolls of
3-5 such railroads, persons, associations and corporations, and to fix
3-6 division of rates, charges and regulations between railroads and
3-7 other utilities and common carriers where a division is proper and
3-8 correct, and to prevent any and all other abuses in the conduct of
3-9 their business and to do and perform such other duties and details
3-10 in connection therewith as may be provided by law.

3-11 (b) All powers and duties of the Railroad Commission of
3-12 Texas that relate to railroads and the regulation of railroads are
3-13 transferred to the Texas Department of Transportation.

3-14 (c) A reference in law to the Railroad Commission of Texas
3-15 that relates to railroads and the regulation of railroads means the
3-16 Texas Department of Transportation.

3-17 SECTION 2. (a) On October 1, 2005:

3-18 (1) all powers, duties, obligations, rights,
3-19 contracts, leases, records, assets, property, funds, and
3-20 appropriations of the Railroad Commission of Texas that relate
3-21 primarily to railroads and the regulation of railroads are
3-22 transferred to the Texas Department of Transportation;

3-23 (2) all rules, policies, forms, procedures, and
3-24 decisions of the Railroad Commission of Texas that relate primarily
3-25 to railroads and the regulation of railroads are continued in
3-26 effect as rules, policies, forms, procedures, and decisions of the
3-27 Texas Department of Transportation, until superseded by a rule or
3-28 other appropriate action of the Texas Department of Transportation;

3-29 (3) any investigation, complaint, action, contested
3-30 case, or other proceeding involving the Railroad Commission of
3-31 Texas that relates primarily to railroads and the regulation of
3-32 railroads is transferred without change in status to the Texas
3-33 Department of Transportation, and the Texas Department of
3-34 Transportation assumes, without a change in status, the position of
3-35 the Railroad Commission of Texas in any investigation, complaint,
3-36 action, contested case, or other proceeding that relates primarily
3-37 to railroads and the regulation of railroads involving the Railroad
3-38 Commission of Texas; and

3-39 (4) all employees of the Railroad Commission of Texas
3-40 that perform duties relating primarily to railroads and the
3-41 regulation of railroads become employees of the Texas Department of
3-42 Transportation.

3-43 (b) The transfer of the powers and duties of the Railroad
3-44 Commission of Texas that relate primarily to railroads and the
3-45 regulation of railroads to the Texas Department of Transportation
3-46 does not affect the validity of a right, privilege, or obligation
3-47 accrued, a contract or acquisition made, any liability incurred, a
3-48 permit or license issued, a penalty, forfeiture, or punishment
3-49 assessed, a rule adopted, a proceeding, investigation, or remedy
3-50 begun, a decision made, or other action taken by or in connection
3-51 with the Railroad Commission of Texas.

3-52 SECTION 3. As soon as possible after the effective date of
3-53 this Act but before October 1, 2005, the Railroad Commission of
3-54 Texas shall determine and report to the Texas Department of
3-55 Transportation on:

3-56 (1) which obligations, contracts, records, assets,
3-57 and property of the Railroad Commission of Texas relate primarily
3-58 to railroads and the regulation of railroads; and

3-59 (2) which employees of the Railroad Commission of
3-60 Texas perform duties that relate primarily to railroads and the
3-61 regulation of railroads.

3-62 SECTION 4. Except as provided by Section 1 of this Act, this
3-63 Act takes effect immediately if it receives a vote of two-thirds of
3-64 all the members elected to each house, as provided by Section 39,
3-65 Article III, Texas Constitution. If this Act does not receive the
3-66 vote necessary for immediate effect, this Act takes effect
3-67 September 1, 2005.

3-68 * * * * *