

## **BILL ANALYSIS**

C.S.H.B. 896  
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Regulated Industries  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

A cornerstone for a successful electric and telecommunications market in Texas is a regulatory regime that produces stable, predictable regulation. The financial institutions and companies that choose to invest in Texas must be assured of a consistent pattern of regulatory decision-making, resulting in a predictable regulatory environment. Part of the challenge in attaining such an environment is allowing the appointed Public Utility Commission ("PUC") Commissioners the flexibility to communicate and discuss relevant issues. Under the current scheme, the quorum rule prohibits commissioners from discussing PUC business outside a formal hearing. This makes the most basic of business communications difficult, if not impossible.

C.S.H.B. 896 proposes a solution to alleviate the quorum restrictions and allow for a broader forum of discussion among members to provide improved handling of proceedings before the PUC. Appellate judges are permitted to discuss their cases within a panel, trial judges are permitted to consult other judges, yet our PUC Commissioners are not even afforded this even when hearing a contested case. While C.S.H. B. 896 does not allow the members of the entire PUC to fully discuss the cases pending before them in the same manner as the judiciary, it will allow a smaller, informal discussion by increasing the number of commissioners that constitute a quorum from two to three.

Moreover, current law contains conflicting language regarding the eligibility for appointment as a commissioner to the PUC in relation to certain the pecuniary interests. C.S.H.B. 896 clarifies the conflicting provisions regarding membership qualifications by ensuring that a person is not eligible to serve as a commissioner if he directly or indirectly owns or controls more than a 10 percent interest, with a value exceeding \$10,000, of a business or entity regulated by the commission.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 12.051(a), Utilities Code, increase the number of commissioners on the PUC from three to five.

SECTION 2. Amends Section 12.053(b), Utilities Code, to by striking the language that previously addressed the ownership or control of stocks or bonds with a value of \$10,000 or more in a public utility, affiliate, or direct competitor of a public utility as a disqualification for appointment to the PUC.

SECTION 3. Amends Section 12.152(a), Utilities Code, by clarifying that a person is not eligible for appointment as a commissioner or executive director of the PUC if the person directly or indirectly owns or controls more than a ten percent interest or a pecuniary interest, including stocks and bonds, with a value exceeding \$10,000 in a business entity regulated by or receiving funds from the PUC, utility competitor, utility supplier, or other entity affected by a commission decision.

SECTION 4. Directs the Governor to promptly appoint two additional members of the PUC after the Act takes effect. Further directs the Governor to designate one of the new

commissioners to serve a term expiring September 1, 2011 and one to serve a term expiring September 1, 2013. Additionally, the bill directs that a quorum of the commission is a majority of the number of members qualified until all appointees have taken office.

SECTION 5. Directs that the changes made by this Act relating to qualifications and eligibility to serve as a commissioner or employee of the PUC apply only after the effective date and that those serving as a commissioner or employee prior to the effective date continue under the previous law as it existed immediately prior to the effective date of the Act.

SECTION 6. The Act takes effect September 1, 2007.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

SECTION 2 of the original bill, which amended Section 12.101, Utilities Code, by allowing the commission to employ legal clerks, has been eliminated. SECTION 2 in C.S.H.B. 896 amends Section 12.053(b), Utilities Code, by striking the language that previously addressed the ownership or control of stocks or bonds with a value of \$10,000 or more in a public utility, affiliate, or direct competitor of a public utility as a disqualification for appointment to the PUC.

SECTION 3 of the original bill which defined a legal clerk and required the commission to employ a clerk for each commissioner for one fiscal year, has been eliminated. SECTION 3 in C.S.H.B. 896 amends Section 12.152(a), Utilities Code, by clarifying that a person is not eligible for appointment as a commissioner or executive director of the PUC if the person directly or indirectly owns or controls more than a ten percent interest or a pecuniary interest, including stocks and bonds, with a value exceeding \$10,000 in a business entity regulated by or receiving funds from the PUC, utility competitor, utility supplier, or other entity affected by a commission decision.

SECTION 4 of the original bill, which required that an order from a proceeding that is conducted by the commission be written by the commissioners with the help of the legal clerks and not delegated to other commission staff, has been eliminated. SECTION 4 of C.S.H.B. 896 directs the Governor to promptly appoint two additional members of the PUC after the Act takes effect. Further directs the Governor to designate one of the new commissioners' to serve a term expiring September 1, 2011 and one to serve a term expiring September 1, 2013. Additionally, the bill directs that a quorum of the commission is a majority of the number of members qualified until all appointees have taken office.

SECTION 5 of the original bill is renumbered as SECTION 4 in C.S.H.B. 896. SECTION 5 in C.S.H.B. 896 directs that the changes made by this Act relating to qualifications and eligibility to serve as a commissioner or employee of the PUC apply only after the effective date and that those serving as a commissioner or employee prior to the effective date continue under the previous law as it existed immediately prior to the effective date of the Act.

SECTION 6 of the original bill, which dealt with the effective date of the application of the commissioners writing their opinions and the hiring of legal clerks, has been eliminated. SECTION 6 in C.S.H.B. 896 is the effective date of the Act - September 1, 2007.

SECTION 7 of the original bill is renumbered as SECTION 6 in C.S.H.B. 896.