

- SUBJECT:** Transferring certain hearings from SOAH to Railroad Commission
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 5 ayes — West, Farabee, E. Jones, Canales, B. Keffer
0 nays
2 absent — Crabb, Delisi
- WITNESSES:** For — Commissioner Charles R. Matthews, Texas Railroad Commission;
(Registered but did not testify:) Martin Fleming, Texas Independent Producers
and Royalty Owners Association; Bill Stevens, Texas Alliance of Energy
Producers

Against — Tom “Smitty” Smith, Public Citizen

On — *(Registered, but did not testify:)* Cathleen Parsley, State Office of
Administrative Hearings
- BACKGROUND:** In 2001, the 77th Legislature enacted SB 310 by Harris, the Texas Railroad
Commission (RRC) sunset bill. The act added Utilities Code, sec. 102.006,
and Government Code, sec. 2003.0491, requiring the utility division of the
State Office of Administrative Hearings (SOAH) to conduct hearings in
contested utility rate cases not heard by one or more railroad commissioner.
- DIGEST:** CSHB 2846 would repeal the sections of the Utilities Code and Government
Code that require SOAH to hear cases challenging utility rates.

The bill would take immediate effect if finally passed by a two-thirds record
vote of the membership of each house. Otherwise, it would take effect
September 1, 2003. A hearing pending before SOAH on the effective date
would be transferred to the RRC on that date.
- SUPPORTERS
SAY:** CSHB 2846 would allow the RRC to resume its original duty of hearing rate
challenges, thus restoring efficiency to the processing of these cases. The
Legislature approved the transfer of this duty to SOAH last session under the

assumption that it would save money by consolidating the duties of the RRC and SOAH. However, because the RRC still must represent itself at these hearings, no such savings have occurred. The RRC has the experience and ability to conduct these hearings itself.

As part of its budget submission for fiscal 2004-05, the RRC recommended that appropriations for its SOAH budget fall “below the line” in order to prioritize more essential services. This was done in anticipation that the commission would resume its case hearing duties. Without CSHB 2846, the RRC would have to come up with close to \$200,000 in general revenue to pay SOAH for rate-case hearings.

**OPPONENTS
SAY:**

The Legislature should not abandon the Sunset Advisory Commission’s recommendation that the RRC transfer rate-case hearings to SOAH. Because SOAH is charged with hearing administrative disputes in many areas of state government, the agency has adequate staff to absorb seasonal fluctuations in rate challenges that can overwhelm the RRC. SOAH provides a professional, objective venue in which contentious rate challenges may be heard, and the agency largely is insulated from the pressure placed on the RRC by the commercial interests that the commission regulates.

NOTES:

The committee substitute added the provision that a hearing pending before SOAH on the bill’s effective date would be transferred to the RRC.