

CHARTER COMMISSION MEETING
MARCH 4, 2015 AT 6:00 PM
Richardson Civic Center/City Hall
City Council Chambers/Large Conference Room, Suite 202
411 W. Arapaho Road, Richardson, TX 75080

The Charter Commission will conduct a Public Hearing on Wednesday, March 4, 2015, at 6:00 p.m. in the City Council Chambers, Civic Center/City Hall, 411 W. Arapaho Road, Richardson, Texas 75080. Immediately following the Public Hearing the Charter Commission will conduct its regular meeting to be held in the Large Conference Room/City Manager's Office (Suite 202) of the Civic Center, 411 W. Arapaho Road, Richardson, Texas 75080.

As authorized by Section 551.071 (2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

PUBLIC HEARING - CITY COUNCIL CHAMBERS, 6:00 PM

CALL TO ORDER

1. Conduct a Public Hearing to receive public input on the Richardson City Charter.

RECESS

REGULAR MEETING – LARGE CONFERENCE ROOM, SUITE 202
IMMEDIATELY FOLLOWING PUBLIC HEARING

RECONVENE

1. Consider approval of the February 11, 2015 Charter Review Commission Meeting Minutes.
2. Review Richardson City Charter, Article 12, *Franchises* and consider any recommendations for amendments thereto.
3. Review Richardson City Charter, Article 13, *Ordinances* and consider any recommendations for amendments thereto.
4. Review Richardson City Charter, Article 15, *Publications* and consider any recommendations for amendments thereto.
5. As necessary discuss planned review of Richardson Charter for next scheduled meeting.

ADJOURN

I hereby certify that this notice was posted on the Civic Center/City Hall Bulletin Board on Friday, February 27, 2015 by 5:00 p.m.

CITY OF RICHARDSON

Aimee Nemer, City Secretary

ACCOMMODATION REQUESTS FOR PERSONS WITH DISABILITIES SHOULD BE MADE AT LEAST 48 HOURS PRIOR TO THE MEETING BY CONTACTING SUSAN MATTISON, ADA COORDINATOR, VIA PHONE AT 972 744-0809, VIA EMAIL AT ADACoordinator@cor.gov, OR BY APPOINTMENT AT 1621 E. LOOKOUT DRIVE, RICHARDSON, TX 75082.

MINUTES
CHARTER REVIEW COMMISSION
FEBRUARY 11, 2015 MEETING

CALL TO ORDER

Chairman Dubey called the meeting to order at 6:01 p.m. with the following present:

Commissioners Present:

Bob Dubey, Chair
Ron Taylor, Vice Chair
Gerald Bright, Commissioner
Marta Frey, Commissioner
Helene Lee, Commissioner
Jason Lemons, Commissioner
Bill McCalpin, Commissioner
John Murphy, Commissioner
Nancy Wilson, Commissioner

City Staff Present:

Shanna Sims-Bradish, Asst. City Manager
Kent Pfeil, Director of Finance
Bob Dransfield, Bond Attorney
Pete Smith, City Attorney
Aimee Nemer, City Secretary

Commissioners Absent:

Kim Quirk, Commissioner

1. Consider approval of the February 4, 2015 Charter Review Commission Meeting Minutes.

Commission Action

Commissioner Bright noted a correction of the word “a” to “as” on page 3. Commissioner Frey moved to approve the Minutes as corrected. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

2. Review City Attorney Opinion Memorandum regarding follow up items for City Charter, Article 3, City Council and Article 4, Nomination and Election of City Council Members and consider any recommendations for amendments thereto.

Commission Action

Section 3.01

Commissioner Murphy moved to approve the recommended changes as presented. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 3.09

Commissioner McCalpin moved to approve the changes as recommended and the additional change of the words “members of the council” to “council members”. Commissioner Wilson seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 3.10

Commissioner Bright moved to approve the changes as presented and recommended. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 4.06

Commissioner Frey moved to approve the changes as presented and recommended. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 4.07 and 4.08

Commissioner Frey moved to approve these sections as presented and recommended. Commissioner Murphy seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

3. Review Richardson City Charter, Article 11, *Budget and Financial Procedures* and consider any recommendations for amendments thereto.

Commission Action

Section 11.01

Commissioner McCalpin moved to approve as presented and recommended. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.02

Commissioner Frey moved to approve as presented and recommended without the alternative language that was presented regarding the budget message. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.03

Commissioner McCalpin moved to approve the recommended changes with the amendment to delete the last sentence and to use a lowercase “b” in the word “budget” in the title of the section. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.04

Commissioner Murphy moved to approve as presented with recommended changes. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.05

Commissioner Frey moved to approve as presented with recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.06

Commissioner Murphy moved to approve as presented with recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.07

Commissioner Bright moved to approve as presented with recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.08

Commissioner McCalpin moved to approve with recommended changes and deleting the words “reservation of”; and changing the word “any” to “each”. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.09

Commissioner McCalpin moved to approve this section as recommended and with additional changes so that the section reads, “Expenditures to meet unusual and unforeseen conditions, which were not included in the original budget, may from time to time be authorized as amendments to the original budget. Any amendment providing for additional expenditure shall also provide for reductions in other expenditures or supplemental revenues to fund such amendments, or an amount from the unallocated fund balance as a supplement. These amendments shall be ratified by ordinance at the end of the fiscal year.” Commissioner Murphy seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.10

Commissioner Lemons moved to approve as recommended with the additional changes of removing the word “and” after “city secretary” and changing the word “final” to “adopted”. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.11

Commissioner Bright moved to approve as presented with recommended changes. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 11.12

Commissioner Lemons moved to approve this section as presented with no recommended changes. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

4. Review Richardson City Charter, Article 16, *Collection of Taxes* and consider any recommendations for amendments thereto.

Commission Action

Section 16.01

Commissioner Frey moved to approve as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 16.02

Commissioner Wilson moved to approve as presented with recommended changes. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 16.03

Commissioner Bright moved to approve as presented with recommended changes and changing the title to “Tax payments”. Commissioner Murphy seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 16.04

Commissioner Murphy moved to approve this section as presented with no recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 16.05

Commissioner Frey moved to approve the deletion of this section. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

5. Review Richardson City Charter, Article 19, *Issuance and Sale of Bonds* and consider any recommendations for amendments thereto.

Commission Action

Section 19.01

Commissioner Bright moved to approve with the recommended changes and the additional changes of making the word “Borrow” in the title a lowercase “b”, making the word “City” a lowercase “c” throughout the section, changing the phrase, “laws of the State of Texas” to “constitution and statutes of the state of Texas” throughout the section, and starting a new sentence with “The City shall have the power to issue general obligation bonds...” Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 19.02

Commissioner Murphy moved to approve this section with the recommended changes and the additional change of replacing the capital “C” in “City” with a lowercase “c” and changing the phrase, “laws of the State of Texas” to “constitution and statutes of the state of Texas” Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 19.03 and 19.04

Commissioner Frey moved to approve Section 19.03 as presented with no recommended changes and the deletion of Section 19.04. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

Section 19.05

Commissioner Murphy moved to approve as presented with no recommended changes. Commissioner Frey seconded the motion. A vote was taken and passed, 10-0 with Commissioner Quirk absent.

6. As necessary discuss planned review of Richardson Charter for next scheduled meeting.

The Commission discussed the next meeting of March 4, 2015 and confirmed that it would be a public hearing held in the Council Chambers. A visitor commented that he would like to see the previous Minutes available for that meeting. The Commission determined that the Minutes would be on that agenda for approval.

Ron Taylor, John Murphy, and Erica Yaeger noted that they would be absent on March 4.

ADJOURN

With no further business, the meeting was adjourned at 8:07 p.m. with a motion by Commissioner Murphy, seconded by Commissioner Lemons, and approved unanimously.

Bob Dubey, Chair

ATTEST:

CITY SECRETARY

Franchises

The City's authority to grant franchises for utilities varies by utility. The City wants to retain the broadest authority possible to respond to the ever changing area of the law.

Electric Utilities: Tex Utility Code §181.042 provides that an electric utility has the right to construct, maintain, and operate lines over, under, across, on, or along a state highway, a county road, a municipal street or alley, or other public property in a municipality. Tex. Util. Code Ann. §181.042. Section 181.043(a) provides that an electric utility may exercise authority under Section 181.042 in a municipality with the consent of and subject to the direction of the governing body of the municipality. Tex. Util. Code Ann. §181.043.

Cable and Telecommunications: The state now controls cable and telecommunications franchising, leaving cities with only managing the rights-of-way under city rights-of-way management ordinances. Chapter 283, Texas Local Government Code.

Gas Utilities: Tex Utility Code §103.002(a) provides that Gas Utility Regulatory Act "does not restrict the rights and powers of a municipality to grant or refuse a franchise to use the streets and alleys in the municipality or to make a statutory charge for that use." Tex. Util. Code Ann. §103.002. The Act does not detail of the terms of a franchise other than the franchise cannot negate the authority of the Railroad Commission.

Tex. Trans. Code §311.001 gives a home rule city exclusive control over and under the public streets, highways, and alleys of the municipality, which would also address a city's authority with respect to grant of franchises and use of city streets by third parties generally. Hence, we recommend very little substantive changes. There are a numbers of sections in the Transportation Code that refer to municipal franchises. For example, Tex. Trans. Code Chapter 131 dealing with miscellaneous railroads, discusses the ability of the owner of an interurban railway company to acquire the franchise of another company (Tex Trans Code §131.032) subject to the consent of the franchising municipality (Tex Trans Code §131.033). While not immediately on the planning horizon, the potential for a small interurban rail operation located on city streets similar to what has developed in Uptown in Dallas is not out of the realm of future possibility for City Line. In addition, interurban electric railways have the authority to sell electricity. We recommend leaving these sections alone so that it is clear that city has authority under the charter to require a franchise for intra- or interurban rail lines using the City's streets.

Sections 12.13 and 12.14 should also remain. Cities routinely deal with the question of the ability of the city council or city administration to grant abutting property owners some private use of the public right of way adjacent to the property (e.g. parking, encroachments in the right-of-way, outdoor dining areas).. Having these charter provisions eliminates any question about council

authority to grant such private use within the public right of way without the need for a franchise agreement.

Section 12.15 allows the City to require co-location of facilities on a company’s existing poles for payment of a reasonable fee to the company which owns the poles. Given the inability to require franchise agreements for cable and telecommunications companies, this section does not have the same use it once did. However, it would still be a good provision that can be used for electric franchise agreements.

Also applicable: Article 1175 Texas Revised Civil Statutes; Chapter 33 of the Texas Utility Code. We have provided copies of some but not all the statutes.

**RICHARDSON CHARTER
(Articles 12, 13 & 15)**

ARTICLE 12. - FRANCHISES

Section 12.01. - Ownership, control and use of real and public property by the city.

The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the City of Richardson is hereby declared to be inalienable to said city, except by ordinances passed by vote of the majority of the city council of the city, as hereinafter provided. No franchise or easement involving the right to use same, either along, across, over or under the same, shall ever be valid unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting the same. No act or omission of the city, its city council, officers or agents shall be construed to confer or extend by estoppel or indirection any right, franchise or easement not expressly granted by ordinance.

Section 12.02. - Exclusive franchises prohibited.

No ~~exclusive~~ franchise **to construct, maintain or operate a public or private utility, or a renewal or extension thereof, shall be exclusive** ~~or privilege shall ever be granted, nor a franchise, nor a privilege to commence at any time after six (6) months subsequent to the taking effect of the ordinance granting the same. No franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, unless by specific ordinance granting an extension for the purpose of renegotiating such franchise.~~

Comment [p1]: Shorten and clarified the text

Comment [p2]: Deleted as covered by section 12.05.

Section 12.03. – Power to grant Franchise by ordinance.

Except as otherwise provided by state or federal law, the ~~The~~ City of Richardson shall have the **full power as now or hereafter granted under the Texas Constitution and the laws of the State of Texas** by ordinance to grant, **renew, amend and extend a franchise for public or private utilities of every character and consents and agreements as to all other users of**

public property, including, but not limited to users of the public rights-of-way, streets and utility easements, operating within the City ~~any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third and final reading, which reading shall be at three (3) separate regular meetings of the city council of the City of Richardson, the last of which shall take place not less than thirty (30) days from the first.~~

Comment [p3]: Made it clear the city has all power under the statutes and constitution to grant franchises. Not necessary to have multiple readings of the ordinance. State law does not require multiple readings.

Section 12.04. - Ordinances granting.

Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as the city council shall see fit to impose. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of the Charter. If such franchises shall not be exercised in substantial accordance with the terms hereof, and of the ordinance granting the same, then[,] after notice and reasonable hearing to the holders thereof, such franchise may be cancelled or annulled and the city council shall, by ordinance, adopt reasonable rules and regulations for such notice and hearing.

Section 12.05. - Term of franchises.

No determinate or fixed term franchise shall ever be granted for a longer term than twenty (20) years; nor shall any right, privilege or franchise now in existence be extended beyond the period now fixed for its termination, directly or indirectly, unless by specific ordinance granting an extension for the purpose of renegotiating such franchise. No holder of a franchise heretofore or hereafter granted shall have a right (unless such right is granted in the franchise) to transfer or assign its properties and franchise to any other person, firm or corporation without the consent of the city, and such consent when given shall not operate as the granting of a franchise or as a new franchise.

Section 12.06. - Indeterminate franchises.

In addition to the powers conferred to grant privileges and franchises for a fixed term not to exceed twenty (20) years, the City of Richardson shall have power to grant indeterminate franchises. The term "indeterminate franchise," as used in this Charter, shall mean and embrace every privilege, franchise or easement granted directly or indirectly by the City of Richardson which shall have no fixed or determinate duration. An indeterminate franchise shall continue in force only until such time as the city shall exercise an option, to be provided for in the ordinance granting any such franchise. Such ordinance shall give the city in express terms the right to purchase the property of the franchise holder or cause a purchaser to buy such property. Such ordinance shall also fix the time or times when such right may be exercised or terminated.

Section 12.07. - Compensation for franchises.

All persons, firms or corporations to whom franchises may hereafter be granted, or their assigns and successors, shall as compensation for the right or privilege enjoyed pay to the city a sum not less than two (2) percent of the gross receipts of the business pursued by the holder of

the franchise earned for service rendered in the City of Richardson, **or such other sums as may be allowed by applicable law.**

All sums required to be paid by the holder of any franchise under the terms of this section shall be due and payable quarterly as shall be set out in the franchise agreement or ordinance, and shall be exclusive of and in addition to all ad valorem taxes upon the value of the franchise and other property of the holder thereof and all lawful occupation taxes imposed upon the occupation or calling of the holder thereof; and the amount of such compensation may be changed from time to time as in the opinion of the city council may be just and reasonable, to the extent and upon such terms and conditions as may be fixed in the ordinance granting such franchise.

Section 12.08. - Right to fix rates.

The right is hereby delegated where applicable to the City of Richardson, acting through its city council, to determine, fix and regulate the charges, fares or rates of any holder of a franchise or other public privilege in Richardson, and to prescribe the kind of service to be furnished and the manner in which it shall be rendered, **as allowed by state and federal law.** The city has the right to alter or change such rules, regulations, and compensation, from time to time.

Section 12.09. - Changes and extensions.

The City Council shall have the power, by ordinance or resolution and without reference to the other franchise provisions of this Charter, to grant the right and to require utility companies and all other companies or individuals enjoying a franchise from the city now or hereafter to make and furnish necessary changes in or reasonable extensions of facilities and service in or to any portion of the city as in the judgment of the city council may be necessary. Said changes or extensions are under and subject to the terms and conditions of the franchise then enjoyed by such franchise holder in connection with which the change or extension is to be made, and under such further terms and conditions as the city council may deem proper. The city council shall have the power to prevent the making of unnecessary or unprofitable extensions.

Section 12.10. - Discrimination forbidden.

Every public service corporation shall furnish and provide equal and uniform service alike to all persons, firms and corporations in the City of Richardson. It shall be unlawful and a sufficient ground for the forfeiture of any franchise for any such corporation to grant free service or furnish better service or to furnish service for a lower price or rate, conditions or quantity of service considered to any person, firm or corporation than to any other person, firm or corporation or to otherwise discriminate in the matter of rates or service. Any such public service corporation may, however, from time to time, with the consent and approval of the city council, adopt schedules governing rates, conditions or quantities of service considered, and allow applicants to choose between alternative schedules. But no such schedule shall be operative nor shall service be

furnished in accordance therewith until filed and approved by the city council of the City of Richardson.

Section 12.11. - Authorization of railway companies and transit systems.

The city council shall have power to authorize railway companies and transit systems operating within the City of Richardson and operating their lines from the City of Richardson to other towns and cities beyond its limits to lay their tracks and establish their switches on and over the streets and other property of the City of Richardson or such parts thereof as the city council may see fit, subject to the terms of the Charter and to such other conditions as may be imposed by the city council.

Section 12.12. - Railway and transit operations.

Except as otherwise provided by state or federal law, the ~~The~~ City of Richardson shall have the following powers by ordinance or otherwise:

- (a) To regulate the speed of trains, subways, monorails, or any other engines and locomotives within the limits of Richardson;
- (b) To require railway companies and transit systems to keep the streets over which they run properly drained and to pay all or any part of the paving, grading, draining, and repair thereof along the streets so used by such railway companies or transit systems;
- (c) To require railway companies and transit systems to light streets over which they run wherever deemed necessary or advisable by the city council;
- (d) To require railway companies and transit systems to construct and keep in repair from curb to curb, bridges and crossings over all the ditches made or crossed by them, and to construct and maintain drains and culverts where crossed by any line of said railway companies or transit systems, on all streets over which they run;
- (e) To direct and control the laying and construction of railway companies and transit system tracks, turnouts and switches and to regulate the grade of same, and to require them to conform to the grade of the streets of Richardson as they may hereafter be or are now established;
- (f) To require that said tracks and turnouts and switches be so constructed and laid out as to interfere as little as possible with the ordinary travel in the use of the streets;
- (g) To require any or all railway companies and transit systems operating any track(s) upon or across any public streets of the City of Richardson to reduce such track(s) below or elevate such track(s) above the level of the streets intersected or occupied by such track(s) and to require the company or companies owning or operating such track or

tracks to provide necessary and proper crossing for the public travel at intersecting streets; all such work to be done in the manner required by the City of Richardson.

The portion of the street occupied by a railway company and transit system shall be deemed to be the space between the tracks and twenty-four (24) inches on the outside of each of the rails, and all the space between the double tracks, turnouts and switches. Should any railway company and transit system propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this Charter, it shall become liable for such portion of the cost of such improvement as the city council may direct, or as is fixed by this Charter.

Section 12.13. - Abutting property.

The city council shall have the power, by ordinance, or resolution, to grant to any owner of property abutting upon the streets or other property of the city the use thereof or to go over or under the same in any manner which may be necessary or proper to the enjoyment of said abutting property by the owner; provided, that such use be not inconsistent with or does not unreasonably impair the public use to which said street or other public property may be dedicated. The city council shall fix the terms and conditions of any such grant and the time for which the same shall exist. The right is expressly reserved to the city, acting through said city council, to terminate such grant when deemed inconsistent with the public use of the property of the city or when the same may become a nuisance.

Section 12.14. - ~~Compensation for grant.~~

~~For the rights granted under the preceding section[,] the city shall receive annual compensation to be fixed by the city council, not less than five dollars (\$5.00) per annum. Such compensation shall be paid each year in advance on the second day of January. The failure to pay same when due shall operate as an absolute forfeiture of the rights granted.~~

Comment [p4]: Recommend deletion. Not necessary and often times the city grants a license and sets compensation if nay in such license agreement.

Section 12.15. - Shared use.

Except as otherwise provided by state or federal law, the city council shall have the power to require any corporation or transit system holding a franchise from the city to allow the use of its tracks, poles and wire by any other corporation to which the city shall grant a franchise, upon payment of a reasonable rental therefor to be fixed by the city council.

Section 12.15~~16~~. - Revocable permits.

Permits or licenses unconditionally revocable at the will of the city council for minor or temporary privileges in the streets, public ways and public places of the city may be granted and revoked by ordinance or resolution, from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Comment [p5]: Not necessary to grant such limited use by ordinance. Also such use may be granted by a license rather than a permit.

Section 12.16~~17~~. - Public services; condemnation.

The City of Richardson shall have power to buy or construct, own, maintain and operate a system or systems of waterworks, gas or electric lighting plants, telephones, transit systems and sewers, or any other public service or enterprise that may be approved by a majority of the qualified voters of the City of Richardson voting therefor at any regular election for city officers in accordance with the provisions of this Charter; and may demand and receive compensation for such services furnished for private purposes, and shall have power to condemn the property of any person, firm or corporation for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only the actual physical assets shall be purchased by the City of Richardson.

Ordinances

Articles 13 and 15 are subject to various provisions of state law including Texas Local Government Code Sections 51.001-51.003, 51.071-51.079, 52.013, 53.001-53.006 copies of some of which have been provided.

ARTICLE 13. - ORDINANCES

Section 13.01. - Rules and regulations validated.

All ordinances, resolutions, rules and regulations of the City of Richardson heretofore ordained, passed or enacted that are in force at the time this Charter or any amendment thereto becomes effective, and which are not in conflict with such Charter, shall remain in full force and effect until altered, amended or repealed by the city council after such Charter or any amendment thereto takes effect.

Comment [p6]: Validation of prior actions.

Section 13.02. - ~~Action requiring an ordinance.~~

~~In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the city council shall be by ordinance which:~~

- ~~(a) Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency;~~
- ~~(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;~~
- ~~(c) Levy taxes, except as otherwise provided in Article 11 with respect to the property tax levied by adoption of the budget;~~
- ~~(d) Grant, renew or extend a franchise;~~

~~(e) Authorize the borrowing of money;~~

~~(f) Convey or lease or authorize the conveyance or lease of any lands of the city.~~

Comment [p7]: Could eliminate section 13.02. All of the listed items already require the adoption of an ordinance except item (f). Except for item (f) it is redundant to require the listed items to be adopted by ordinance. Item (f) is not required by state law.

Section 13.03. - Ordinance authentication, recordation and publication ~~Publication.~~

~~All measures of the council shall be authenticated and recorded as established by this Charter or by such means as may otherwise be allowed by state law, or as the council may provide by ordinance from time to time. Every ordinance imposing any penalty, fine, imprisonment or forfeiture for a violation of its provisions shall, after passage thereof, be published by publishing the caption thereof at least once in a local newspaper or by such other means as may be allowed by state law; in lieu of publishing the full text of the ordinance, a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof may be published. All ordinances, except as herein otherwise provided, shall be published once by publishing the caption or title of the ordinance in a newspaper of the city, if the city council so directs in passing said ordinance.~~

Comment [p8]: Relocated from Article 15. No need for separate Article 15.

Comment [p9]: Shortened the existing text. State law allows the publication of caption of an ordinance. Texas Local Government Code section 52.013 governs the publication of ordinances. State law does not require publication of all ordinances.

Section ~~13.04~~13.03. - Style.

The style of ordinances shall be "Be It Ordained by the City Council of the City of Richardson," but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the council.

Section ~~13.05~~13.04. - Codification.

The city council shall have power to cause the ordinances of the city to be printed in code form, and shall have the same arranged and digested as often as the council may deem advisable.

Comment [p10]: Codification is governed by Texas Local Government Code Chapter 53.

Section ~~13.06~~13.05. - Valid and effective.

The final passage of an ordinance by the city council and the publication of the same when so required shall be all that is necessary to make such ordinances valid and effective. The signature of the mayor and city secretary shall be affixed to each ordinance.

Section ~~13.07~~13.06. - Enrollment.

Each ordinance passed by the city council shall be enrolled by the city secretary within five (5) days after its passage, or as soon thereafter as is practicable. ~~The enrolled ordinance shall be carefully compared with the original ordinance and all amendments, if any, by the city secretary. If errors exist therein, they shall be corrected. If found correct, or after the correction of errors, if any exist, the city secretary shall endorse on the margin thereof the words "Correctly Enrolled" and give the date thereof and subscribe the city secretary's name thereto.~~

Comment [p11]: Ordinance may only be corrected by subsequent ordinance and may not be corrected by city secretary.

~~ARTICLE 15 – PUBLICATIONS~~

~~All measures of the council shall be authenticated, recorded, and published or not published as established by this Charter or as the council may from time to time by ordinance provide.~~

Comment [p12]: Eliminated Article 15 and relocated to section 13.02. No need to have separate article for this subject matter which properly belongs in article 13.

LOCAL GOVERNMENT CODE

TITLE 9. PUBLIC BUILDINGS AND GROUNDS

SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS AND GROUNDS

CHAPTER 283. MANAGEMENT OF PUBLIC RIGHT-OF-WAY USED BY TELECOMMUNICATIONS PROVIDER IN MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 283.001. STATE POLICY; PURPOSE. (a) It is the policy of this state to:

- (1) encourage competition in the provision of telecommunications services;
- (2) reduce the barriers to entry for providers of services so that the number and types of services offered by providers continue to increase through competition;
- (3) ensure that providers of telecommunications services do not obtain a competitive advantage or disadvantage in their ability to obtain use of a public right-of-way within a municipality; and
- (4) fairly reduce the uncertainty and litigation concerning franchise fees.

(b) It is also the policy of this state that municipalities:

- (1) retain the authority to manage a public right-of-way within the municipality to ensure the health, safety, and welfare of the public; and
- (2) receive from certificated telecommunications providers fair and reasonable compensation for the use of a public right-of-way within the municipality.

(c) The purpose of this chapter is to establish a uniform method for compensating municipalities for the use of a public right-of-way by certificated telecommunications providers that:

- (1) is administratively simple for municipalities and telecommunications providers;
- (2) is consistent with state and federal law;

- (3) is competitively neutral;
- (4) is nondiscriminatory;
- (5) is consistent with the burdens on municipalities created by the incursion of certificated telecommunications providers into a public right-of-way; and
- (6) provides fair and reasonable compensation for the use of a public right-of-way.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.002. DEFINITIONS. In this chapter:

(1) "Access line":

(A) means, unless the commission adopts a different definition under Section 283.003, a unit of measurement representing:

(i) each switched transmission path of the transmission media that is physically within a public right-of-way extended to the end-use customer's premises within the municipality, that allows the delivery of local exchange telephone services within a municipality, and that is provided by means of owned facilities, unbundled network elements or leased facilities, or resale;

(ii) each termination point or points of a nonswitched telephone or other circuit consisting of transmission media located within a public right-of-way connecting specific locations identified by, and provided to, the end-use customer for delivery of nonswitched telecommunications services within the municipality; or

(iii) each switched transmission path within a public right-of-way used to provide central office-based PBX-type services for systems of any number of stations within the municipality, and in that instance, one path shall be counted for every 10 stations served; and

(B) may not be construed to include interoffice transport or other transmission media that do not terminate at

an end-use customer's premises or to permit duplicate or multiple assessment of access line rates on the provision of a single service.

(2) "Certificated telecommunications provider" means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission to offer local exchange telephone service or a person who provides voice service.

(3) "Commission" means the Public Utility Commission of Texas.

(4) "Consumer price index" means the annual revised consumer price index for all urban consumers for Texas, as published by the Federal Bureau of Labor Statistics.

(5) "Local exchange telephone service" has the meaning assigned by Section 51.002, Utilities Code.

(6) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications.

(7) "Voice service" means voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 U.S.C. Section 332(d).

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 28, eff. September 7, 2005.

Sec. 283.003. COMMISSION REVIEW. (a) Not later than September 1, 2002, the commission shall determine whether

changes in technology, facilities, or competitive or market conditions justify a modification in the commission-established categories of access lines or, if necessary, the adoption of a definition of "access line" provided by this section. The commission may not begin a review authorized by this section before March 1, 2002.

(b) As part of the proceeding described by Subsection (a), and as necessary after that proceeding, the commission by rule may modify the definition of "access line" and the categories of access lines as necessary to ensure competitive neutrality and nondiscriminatory application and to maintain consistent levels of compensation, as annually increased by growth in access lines and consumer price index, as applicable, to the municipalities.

(c) After September 1, 2002, the commission, on its own motion, shall make the determination required by this section at least once every three years.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.004. APPLICATION. This chapter applies only to municipal regulations and fees imposed on and collected from certificated telecommunications providers.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.005. INFORMATION. (a) The commission may collect and compile any information from certificated telecommunications providers and municipalities as is necessary to implement this chapter.

(b) The commission shall maintain the confidentiality of the information described by Subsection (a) in accordance with Section [52.207](#), Utilities Code.

(c) Information provided to municipalities under this chapter shall be governed by confidentiality procedures

established by the commission in compliance with Section 52.207, Utilities Code.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.006. FEE REQUIREMENT FOR USE OF RIGHT-OF-WAY.

(a) Notwithstanding any other law, a certificated telecommunications provider that does not use a public right-of-way within the municipality may not be required to pay franchise fees, right-of-way fees or any other fee or other compensation, other than a fee or compensation excluded from the "base amount" under Section 283.053(a), directly to the municipality to provide local exchange telephone service in the municipality.

(b) This section does not affect the number of access lines counted and reported to the commission under Section 283.055.

(c) The commission shall adopt rules to determine the method of payment and to ensure that access line fees are paid on a competitively neutral and non-discriminatory basis by certificated telecommunications providers that provide more access lines than they purchase from an underlying provider of resold services or unbundled network elements.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. RIGHT-OF-WAY FEES

Sec. 283.051. RIGHT-OF-WAY FEE. (a) Notwithstanding any other law, a certificated telecommunications provider that provides telecommunications services within a municipality is required to pay as compensation to a municipality for use of the public rights-of-way in the municipality only the amount determined by the commission under Section 283.055.

(b) This section does not affect the right of a municipality to initiate legal action against a certificated telecommunications provider that uses a public right-of-way to provide local exchange telephone service within a municipality and has not compensated the municipality in accordance with this chapter.

(c) Fees imposed under this chapter shall constitute "a municipal fee" or "municipal fees" within the meaning of the Utilities Code.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.052. EFFECT OF PAYMENT OF RIGHT-OF-WAY FEES TO MUNICIPALITY. (a) Subject to the requirements of Sections [283.056](#) and [283.057](#), a certificated telecommunications provider that complies with this chapter and commission orders issued under this chapter:

(1) may erect poles or construct conduit, cable, switches, and related appurtenances and facilities and excavate within a public right-of-way to provide telecommunications service; and

(2) is not subject to municipal franchise requirements.

(b) All use of a public right-of-way is nonexclusive and subject to Section [283.056](#).

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.053. BASE AMOUNT. (a) In determining a municipality's "base amount" under this section, pole rental fees, special assessments, and taxes of any kind, including ad valorem or sales and use taxes, or other compensation not related to the use of a public right-of-way, are not included.

(b) For purposes of determining the amount of a municipality's right-of-way fee under Section 283.055, the "base amount" for a municipality not described by another subsection is the total amount of revenue received by the municipality in franchise, license, permit, and application fees and in-kind services or facilities from certificated telecommunications providers in 1998 within the boundaries of the municipality, including all newly annexed areas. The base amount prescribed under this subsection shall include the municipal fee rate escalation provisions and the value of in-kind services or facilities received in 1998 in accordance with Subsection (f) specifically prescribed in applicable agreements or ordinances effective or adopted by January 12, 1999, unless the governing body of the municipality elects otherwise. However, that additional compensation may not become part of the base amount before it becomes effective under the existing franchise agreement or ordinance.

(c) The base amount for a municipality located in a county with a population of less than 25,000 or a municipality that either did not have an effective franchise agreement or ordinance on January 12, 1999, or was not in existence on that date shall be, at the election of the governing body of the municipality, equal to:

(1) an amount not greater than the statewide average fee per line for each category of access line of the certificated telecommunications provider with the greatest number of access lines in that municipality, multiplied by the total number of access lines in each category located within the boundaries of the municipality on December 31, 1998, for a municipality in existence on that date, or on the date of incorporation for a municipality incorporated after that date;

(2) an amount not greater than the base amount determined for a similarly sized municipality in the same or an adjacent county in which the certificated telecommunications provider with the greatest number of access lines in the municipality is the same for each municipality; or

(3) the total amount of revenue received by the municipality in franchise, license, permit, and application fees from all certificated telecommunications providers in 1998.

(d) The base amount for a municipality that was involved in litigation relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 and that, not later than December 1, 1999, repeals any ordinance subject to dispute in the litigation, voluntarily dismisses with prejudice any claims in the litigation for compensation, and agrees to waive any potential claim for compensation under any franchise agreement or ordinance expired or in existence on September 1, 1999, is equal to, at the municipality's election:

(1) an amount not to exceed the state average access line rate on a per category basis for the certificated telecommunications provider with the greatest number of access lines in that municipality multiplied by the total number of access lines located within the boundaries of the municipality on December 31, 1998, including any newly annexed areas; or

(2) an amount not to exceed 21 percent of the total sales and use tax revenue received by the municipality pursuant to Chapter 321, Tax Code. The amount does not include sales and use taxes collected under:

(A) Chapter 451, 452, 453, or 454, Transportation Code, for a mass transit authority;

(B) Chapter 504 or 505;

(C) Chapters 334 and 335, Local Government Code;

or

(D) Chapters 321, 322, and 323, Tax Code, for a special district, including health service, crime control, hospital, and emergency service districts.

(e) A litigating municipality electing to dismiss with prejudice its claims in the litigation and repealing any ordinance subject to dispute in the litigation does not, by making the election, waive any defenses it may have to claims by other parties to the litigation. A municipality in litigation

relating to franchise fees with one or more certificated telecommunications providers during any part of 1998 that does not make an effective election under Subsection (d) shall be governed by Subsection (b).

(f) For the purpose of determining the base amount, in-kind services or facilities provided to municipalities under existing franchise agreements or ordinances by certificated telecommunications providers shall be valued at one percent of the total 1998 revenue from franchise, permit, license, and application fees paid to the municipality under all applicable telecommunications franchise agreements or ordinances, unless a municipality can establish before the commission that those services or facilities received by the municipality had a greater value in 1998.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.18, eff. April 1, 2009.

Sec. 283.054. EXISTING FRANCHISE AGREEMENTS AND ORDINANCES. (a) Except as otherwise provided by this chapter, this chapter does not affect the validity of a franchise agreement or ordinance with a certificated telecommunications provider executed before January 12, 1999. A municipality may continue to enforce a franchise agreement or ordinance and to collect franchise fees and other charges under that franchise agreement or ordinance until the date on which the agreement or ordinance expires by its own terms or is terminated in accordance with the terms of this section. A provider may elect to terminate a franchise agreement or obligations under an existing ordinance as of the effective date of the right-of-way fee rates adopted in accordance with the commission's rules adopted under this chapter. A provider terminating a franchise agreement or obligations under an existing ordinance under this

section shall become governed by this chapter on the date of termination. A termination under this subsection does not affect the calculation of the municipality's base amount under Section 283.053. A certificated telecommunications provider electing to terminate an existing franchise agreement or obligations under an ordinance under this section shall provide notice to the commission and the affected municipality not later than December 1, 1999.

(b) If a franchise agreement or obligations under an ordinance in a municipality expire or are terminated under Subsection (a) before the commission has determined the amounts to be paid to a municipality, the affected certificated telecommunications providers operating in the municipality shall continue paying at the rates required under the terms of the expired agreement or ordinance until the commission's determination and the certificated telecommunications provider's implementation of appropriate rates under this chapter.

(c) During the period in which a franchise agreement or ordinance described by Subsection (a) is in effect, a certificated telecommunications provider not subject to an existing franchise agreement or ordinance that wants to construct facilities to offer telecommunications services in the municipality shall pay right-of-way fees that are competitively neutral and non-discriminatory, consistent with the charges of the most recent agreement or ordinance between the municipality and the certificated telecommunications provider serving the largest number of access lines within the municipality. The provider shall pay those fees for the duration of that agreement or ordinance or until the right-of-way fees established by commission rule take effect. If the existing franchise agreement or ordinance contains a provision requiring in-kind services or facilities, the certificated telecommunications provider not subject to an existing franchise agreement or ordinance shall pay an amount equal to an additional one percent of its total fees under the applicable agreement or ordinance in lieu of any in-kind services or facilities, if any, that

otherwise are required under the terms of the existing franchise agreement or ordinance. However, the municipality may not require a certificated telecommunications provider to provide any services or facilities without compensation or at below-market rates for the right to use a public right-of-way or to provide telecommunications services in the municipality. On request of the certificated telecommunications provider not subject to an existing franchise agreement or ordinance, the commission shall convert the compensation under the existing franchise agreement or ordinance to a fee per access line on a competitively neutral and non-discriminatory basis, and the certificated telecommunications provider may elect to pay the municipality on a fee per access line basis rather than the manner of compensation provided under the existing franchise agreement or ordinance.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.055. DETERMINATION OF FEES BY COMMISSION. (a) Not later than November 1, 1999, the commission shall establish not more than three categories of access lines for statewide use.

(b) Not later than March 1, 2000, the commission shall establish:

(1) for each municipality, rates per access line by category for the use of the rights-of-way in that municipality; and

(2) the statewide average of those rates per access line by category for each certificated telecommunications provider, if necessary.

(c) The rates when applied to the total number of access lines by category in the municipality shall be equal to the base amount.

(d) Not later than December 1, 1999, a municipality that wants to effect an allocation of the base amount over specific

access line categories to be assessed rates shall notify the commission of the desired allocation. The commission shall establish an allocation of the base amount over the categories of access lines if a municipality does not file its proposed allocation by December 1, 1999. A municipality may request a modification of the commission's allocation not more than once every 24 months by notifying the commission and all affected certificated telecommunications providers in September of that year that the municipality wants to change the allocation for the next calendar year. A municipality's allocation shall be implemented unless, on complaint by an affected certificated telecommunications provider, the commission determines that the allocation is not just and reasonable, is not competitively neutral, or is discriminatory.

(e) Rates imposed under this section and the allocation among certificated telecommunications providers must be exercised in a competitively neutral manner, may not unduly impair competition, must be non-discriminatory, and must comply with state and federal law. The commission shall determine the applicable rates for each municipality for each category, taking into account the allocation under Subsection (d) and the type, use, and function of access lines.

(f) Certificated telecommunications providers shall pay to the municipality a quarterly amount calculated monthly based on the access line rates established by the commission under this section and the number of access lines as reflected in the reports filed under Subsection (j). The providers shall make the quarterly payment not later than 45 days after the end of the quarter.

(g) Beginning 24 months after the date the commission establishes rates per access line, the commission shall annually adjust the rates per access line for each municipality by an amount equal to one-half the annual change, if any, in the consumer price index. At that time, the commission shall provide each certificated telecommunications provider and

municipality with the adjusted monthly rates for each category of access line.

(h) On an annual basis, an affected municipality may provide notice to the commission to decline all or any portion of any increase in the per category access line rates.

(i) A certificated telecommunications provider may not be required to remit a right-of-way fee to a municipality on those access lines that have been resold, leased, or otherwise provided to another certificated telecommunications provider, if the underlying certificated telecommunications provider supplying those services or facilities has been furnished with adequate proof that the provider of services to the end-use customer will directly remit to the municipality a right-of-way fee based on those access lines.

(j) On a quarterly basis, each certificated telecommunications provider shall file a report with the commission that shows the number of access lines, including access lines by category, that the provider has within each municipality at the end of each month of the quarter. The provider shall include with the report a certified statement from an authorized officer or duly authorized representative of the provider stating that the information contained in the report is true and correct to the best of the officer's or representative's knowledge and belief after inquiry. On request and subject to the confidentiality protections of Section [283.005](#), each certificated telecommunications provider shall provide each affected municipality with a copy of the report required by this subsection.

(k) On request of the commission and to the extent available, the report required by Subsection (j) shall specifically identify access lines that are provided by means of resold services or unbundled facilities to another certificated telecommunications provider who is not an end-use customer and the identity of the certificated telecommunications providers obtaining the resold services or unbundled facilities to provide services to end-use customers. A provider may not include in

its monthly count of access lines and is not required to remit a right-of-way fee to the municipality on access lines that are resold, leased, or otherwise provided to another certificated telecommunications provider if the provider receives adequate proof that the provider leasing or purchasing the access lines will include the access lines in its monthly count and remit payment on those access lines to the municipality.

(l) The commission may use a report required under Subsection (j) only to verify the number of access lines that serve premises within the municipality.

(m) Notwithstanding any other provision of this chapter, payment by a certificated telecommunications provider that complies with the terms of an unexpired franchise agreement or right-of-way ordinance that applies to the provider satisfies the payment attributable to the provider required by this chapter.

(n) A municipality may not demand or require from a certificated telecommunications provider services, facilities, or goods without compensation or at below-market rates.

(o) A certificated telecommunications provider shall, to the extent required, implement commission established access line rates not later than the 90th day after the date the commission establishes the access line rates under this chapter.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.056. MUNICIPAL AUTHORIZATIONS; PROHIBITION ON OTHER FEES AND CHARGES. (a) A municipality may not require a certificated telecommunications provider to:

(1) pay any compensation other than the fee authorized by Section 283.055, including an application, permit, excavation, or inspection fee, for the right to use a public right-of-way to provide telecommunications services in the municipality; or

(2) provide any services or facilities for the right to use a public right-of-way or to provide telecommunications services in the municipality.

(b) Notwithstanding any other law or any other provision of this chapter, a municipality may require the issuance of a construction permit without cost to a certificated telecommunications provider locating facilities in or on public rights-of-way within the municipality. The terms of the permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

(c) A municipality may exercise those police power-based regulations in the management of a public right-of-way that apply to all persons within the municipality. A municipality may exercise police power-based regulations in the management of the activities of certificated telecommunications providers within a public right-of-way only to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public. Police power-based regulation of certificated telecommunications providers may not include activities that are governed by this chapter or are within the sole business discretion of the certificated telecommunications provider. In addition, any police power-based regulation must be competitively neutral and may not be unreasonable or discriminatory. A municipality specifically may not impose regulations on certificated telecommunications providers that are not authorized by this chapter, including:

(1) requirements that particular business offices be located in the municipality;

(2) requirements for filing reports and documents with the municipality that are not required by state law to be filed with the municipality and that are not related to the use of a public right-of-way;

(3) inspection of a provider's business records except to the extent necessary to conduct an authorized review of the provider to ensure compliance with the access line reporting requirements of this chapter if commenced within 90

days after the filing of a certificated telecommunications provider's report of access lines; and

(4) approval of transfers of ownership or control of a provider's business, except that a municipality may require that a provider maintain current point of contact information and provide notice of a transfer within a reasonable time.

(d) In the exercise of its lawful regulatory authority, a municipality shall promptly process each valid and administratively complete application of a certificated telecommunications provider for any permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, obtain zoning or subdivision regulation approvals, or for other similar approvals, and shall make every reasonable effort to not delay or unduly burden that provider in the timely conduct of its business.

(e) If there is an emergency necessitating response work or repair, a certificated telecommunications provider may begin that repair or emergency response work or take any action required under the circumstances, provided that the certificated telecommunications provider notifies the affected municipality as promptly as possible after beginning the work and later acquires any approval required by a municipal ordinance applicable to emergency response work.

(f) The compensation paid under this chapter is in lieu of any permit, license, approval, inspection, or other similar fee or charge, including all general business license fees customarily assessed by a municipality for the use of a public right-of-way against persons operating telecommunications-related businesses. The compensation paid under this chapter constitutes full compensation to a municipality for all of a certificated telecommunications provider's facilities located within a public right-of-way, including interoffice transport and other transmission media that do not terminate at an end-use customer's premises, even though those types of lines are not used in the calculation of the compensation. This chapter may not be construed to affect the ad valorem taxation of a

certificated telecommunications provider's facilities or to permit the ad valorem taxation of a certificated telecommunication provider's occupancy of a public right-of-way.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.057. INDEMNITY. (a) Certificated telecommunications providers shall indemnify and hold the municipality and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the certificated telecommunications provider, any agent, officer, director, representative, employee, affiliate, or subcontractor of the certificated telecommunications provider, or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the municipality, its officers, employees, contractors, or subcontractors. If a certificated telecommunications provider and the municipality are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the municipality under state law and without waiving any defenses of the parties under state law. This section is solely for the benefit of the municipality and certificated telecommunications provider and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(b) A certificated telecommunications provider or municipality shall promptly advise the other in writing of any known claim or demand against the certificated telecommunications provider or the municipality related to or arising out of the certificated telecommunications provider's activities in a public right-of-way.

(c) Municipalities with franchise agreements or ordinances applicable to certificated telecommunications providers in effect under a general-use ordinance adopted before January 12, 1999, and after July 1, 1998, and having 1.3 million access lines or more within the municipality on September 1, 1999, may continue to enforce the indemnity provision contained in those franchise agreements or ordinances until the earlier of the date the franchise agreements or ordinances expire or December 31, 2003. A certificated telecommunications provider providing access lines in a municipality described by this subsection is also subject to the indemnity provided by this section.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

Sec. 283.058. ADDITIONAL COMMISSION JURISDICTION. The commission shall have the jurisdiction over municipalities and certificated telecommunications providers necessary to enforce this chapter and to ensure that all other legal requirements are enforced in a competitively neutral, non-discriminatory, and reasonable manner.

Added by Acts 1999, 76th Leg., ch. 840, Sec. 1, eff. Sept. 1, 1999.

TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 131.001. DEFINITION OF PERSON. In this chapter:

- (1) "person" includes a corporation, as provided by Section 312.011, Government Code; and
- (2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER B. ELECTRIC RAILWAYS

Sec. 131.011. DEFINITION. In this subchapter, "interurban electric railway company" means a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.012. EMINENT DOMAIN. A corporation chartered for the purpose of constructing, acquiring, maintaining, or operating lines of electric railway between municipalities in this state for the transportation of freight, passengers, or both freight and passengers may:

- (1) exercise the power of eminent domain with all the rights and powers granted by law to a railroad company; and
- (2) enter, condemn, and appropriate land, right-of-way, easements, or other property of any person or corporation to acquire:

- (A) right-of-way on which to construct and operate lines of railway for the acquiring corporation; or
- (B) sites for depots or power plants.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.013. RIGHT-OF-WAY. (a) A corporation described by Section 131.012 may:

- (1) lay out right-of-way not to exceed 200 feet in width for its railways;
- (2) construct its railways and appurtenances on that right-of-way; and
- (3) with compensation being made in accordance with law:

- (A) take for the purpose of cuttings and embankments additional land necessary for the proper construction and security of its railways; and

- (B) cut down any tree or remove any structure that may be in danger of falling on or obstructing its railway.

(b) The corporation may:

- (1) have an examination and survey of its proposed railway made as necessary to select the most advantageous route; and

- (2) for the purposes of Subdivision (1), enter on the land or water of any person or corporation, subject to responsibility for all damages that may be caused by the entrance, examination, or survey.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.014. CONSTRUCTION OF RAILWAY ALONG OR OVER WATERWAY OR INFRASTRUCTURE. (a) A corporation described by Section 131.012 may construct its railway along, across, or over any stream, water course, bay, navigable water, arm of the sea,

street, highway, steam railway, turnpike, or canal located in the route of its electric railway.

(b) The corporation may erect and operate a bridge, tram, trestle, or causeway, over, along, or across any stream, water course, bay, navigable water, arm of the sea, street, highway, turnpike, or canal described by Subsection (a).

(c) A bridge or other structure described by Subsection (b) may not be erected so as to unnecessarily or unreasonably prevent the navigation of the stream, water course, bay, arm of the sea, or navigable water.

(d) This section does not authorize the construction of an electric railway on or across a street, alley, square, or property of a municipality without the consent of the governing body of the municipality.

(e) Before constructing an electric railway along or on a highway, turnpike, or canal, an interurban electric railway company must obtain the consent of the authority having jurisdiction over the highway, turnpike, or canal.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.015. USE OF ELECTRIC STREET RAILWAY TRACKS. (a) An interurban electric railway company's power of eminent domain under this subchapter includes the power to condemn for its use and benefit easements and right-of-way to operate interurban cars along and on the track of an electric street railway company owning, controlling, or operating track on any public street or alley in a municipality for a purpose described by Subsection (b), subject to the consent, authority, and control of the governing body of the municipality.

(b) Condemnation under Subsection (a) may be used only to secure an entrance into and an outlet from a municipality on a route designated by the governing body of the municipality.

(c) In a proceeding to condemn an easement or right-of-way under this section, the court or the jury trying the case shall

define and establish the terms on which the easement or right-of-way may be used.

(d) A court rendering a judgment in a proceeding under this section may review and reform the terms of a grant and the provisions of the judgment on a subsequent application by a party to the original proceeding or a person claiming through or under a party to the original proceeding.

(e) The hearing on an application brought under Subsection (d) is in the nature of a retrial of the proceeding with respect to the terms on which the easement may be used except that the court may not declare the easement forfeited or impair the exercise of the easement.

(f) An application under Subsection (d) may not be made before the second anniversary of the date of the final judgment on the most recent application.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.016. TIME REQUIRED FOR CONSTRUCTION. The rights secured under this chapter by an interurban electric railway company are void unless the road to be constructed under the charter of the company is fully constructed from one municipality to another within 12 months of the date of the final judgment awarding the company an easement or right-of-way under Section 131.015.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.017. USE OF CONDEMNED TRACK. (a) Unless the company whose track is condemned under this subchapter consents, an interurban electric railway company exercising the powers granted under this chapter may not receive for transportation freight or passengers at any location on the condemned track destined to another location on the condemned track.

(b) A company that wilfully violates Subsection (a) forfeits the easement or right-of-way used to provide the transportation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY

Sec. 131.031. DEFINITION. In this subchapter, "interurban railway" means an electric or other interurban line of railway in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY AUTHORIZED.

(a) A corporation organized under the laws of this state that is authorized to construct, acquire, and operate an interurban railway may:

(1) acquire, lease, or purchase the physical property, rights, and franchise of any other railway corporation with similar powers; or

(2) lease or purchase physical property, rights, and franchises of any suburban or street railway corporation the railway lines of which are to be operated in connection with the interurban railway.

(b) The owner of physical property or a right or franchise described by Subsection (a)(1) or (2) may sell or dispose of the property, right, or franchise to the corporation making an acquisition, lease, or purchase under Subsection (a).

(c) An acquisition or purchase under this section may be on the terms:

(1) agreed to by the board of directors of each corporation; and

(2) authorized or approved by a majority of the stockholders of each corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.033. MUNICIPAL CONSENT REQUIRED. (a) Before selling property under this subchapter, a corporation that owns or operates a street car railway must obtain the consent of the governing body of the municipality in which the street car line is located.

(b) This subchapter does not affect a charter provision of a municipality that provides for the right of qualified voters of the municipality to vote on the granting or amending of franchise to a street or interurban railway.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.034. USE OF STREET RAILWAYS. A corporation authorized to construct, acquire, and operate an interurban railway and a corporation owning and operating a street railway may enter into a trackage or lease contract to allow for continuous passage into or through a municipality, subject to the consent of the governing body of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.035. LIMITATION ON ACQUISITION. A corporation described by this subchapter may not:

(1) acquire, own, control, or operate a parallel or competing interurban line; or

(2) purchase, lease, acquire, own, or control, directly or indirectly, the shares or certificates of stock or bonds, a franchise or other right, or the physical property or

any part of the property, of any corporation in violation of the law commonly known as the antitrust law.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER D. PROVISION OF UTILITIES

Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS. An interurban electric railway company, as defined by Section 131.011, is entitled to produce, supply, and sell electric light and power to the public and to municipalities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY STREET, SUBURBAN, OR BELT LINE RAILWAY. A corporation organized under the general laws of this state that owns or operates with electric power any street or suburban railway or belt line of railways in and near a municipality for the transportation of freight and passengers within this state may:

- (1) supply and sell electric light and power to the public or a municipality;
- (2) acquire or otherwise provide appliances necessary for an activity authorized by Subdivision (1); and
- (3) in the manner provided by law, amend its articles of incorporation to expressly include the authority under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER E. REDUCED STREET RAILWAY FARES

Sec. 131.101. APPLICABILITY. This subchapter applies only to a person or corporation owning or operating a street railway

in or on the public streets of a municipality with a population of 40,000 or more.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.102. CHILDREN YOUNGER THAN 13 YEARS OF AGE. (a) The owner or operator of a street railway shall transport a child younger than 13 years of age for half the fare regularly collected for the transportation of an adult.

(b) This section does not apply to the transportation of a child to or from a school or other institution of learning located one mile or more outside the corporate limits of the municipality in which the street car operates.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.103. STUDENTS. (a) The owner or operator of a street railway shall sell or provide for the sale of tickets for half of the regular fare collected for the transportation of adults to students younger than 18 years of age who attend academic, public, or private school in a grade not higher than the highest grade of the public high schools located in or adjacent to the municipality in which the railway is located.

(b) Tickets under this section must be sold in lots of 20, with each ticket valid for one trip over the railway lines.

(c) Tickets under this section are not required to be sold unless the student making the purchase presents the written certificate of the principal of the school the student attends stating that the student:

- (1) is younger than 18 years of age; and
- (2) is in regular attendance at a school in a grade that qualifies under Subsection (a).

(d) Tickets under this section are not required to be sold and may not be used except during the months when a school qualifying under Subsection (a) is in session.

(e) A student described by Subsection (a) shall be transported at half fare only when the student presents a ticket issued under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.104. CHILDREN YOUNGER THAN SIX YEARS OF AGE. The owner or operator of a street railway shall transport free of charge a child younger than six years of age when attended by a passenger who is at least six years of age.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.105. TRANSFER RIGHTS. The owner or operator of a street railway shall offer a passenger paying a reduced fare or no fare under this subchapter the same rights as to the use of transfers issued by the owner or operator's line or other lines as offered to a passenger paying full fare.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. STREET AND SUBURBAN RAILWAYS. (a) Street and suburban railways engaged in the transportation of freight in and near a municipality are subject to the control of the department.

(b) A street railway company is not exempt from payment of assessments that may be imposed against it for street improvements.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.902. FREIGHT INTERURBAN RAILWAYS. (a) An entity incorporated as an electric, gas or gasoline, denatured alcohol, or naphtha interurban or motor railway that engages in transporting freight is subject to the control of the department.

(b) A corporation described by Subsection (a) is not exempt from payment of assessments that may be imposed against it for street improvements.

(c) An interurban railway described by Subsection (a):

(1) may exercise the same power of eminent domain as given by law to railroads;

(2) may exercise the power of eminent domain to acquire right-of-way on which to construct its railway lines and sites for depots and power plants;

(3) has the same rights, powers, and privileges as granted by law to an interurban electric railway company; and

(4) may acquire, hold, and operate other public utilities in and adjacent to a municipality in or through which the company operates.

(d) An interurban railway company described by Subsection (a) may not condemn property on which is located a cemetery unless it is affirmatively shown, and found by the court trying the condemnation suit, that:

(1) it is necessary to take the property; and

(2) no other route is possible or practicable.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN RAILWAYS. A corporation organized before September 1, 1925, under any law of this state, that operates a line of electric,

gas or gasoline, denatured alcohol, or naphtha motor railway in and between municipalities in this state, may:

(1) own and operate union depots and office buildings; and

(2) acquire, hold, and operate electric light and power plants in and adjacent to a municipality in or through which the railway operates.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.904. MOTOR BUS LINES. (a) This section applies only to a corporation authorized to operate a street or suburban railway or an interurban railway and to carry passengers for hire.

(b) Subject to the approval of the governing body of the municipality in which the corporation operates its railway, the corporation may:

(1) substitute, wholly or partly, motor bus lines for its railway; and

(2) maintain and operate automobile motor buses to carry passengers for hire on:

(A) public roads, streets, plazas, alleys, and highways within the corporate limits of a municipality under regulations prescribed by the municipality; and

(B) public roads and highways that are located outside the corporate limits of that municipality but within five miles of the corporate limits, under regulations prescribed by the commissioners court of the county.

(c) The substitution of motor buses or the discontinuance of a railway under this section does not impair any corporate power of a corporation incorporated before August 30, 1933, as a street or interurban railway with respect to the operation of other public utilities authorized by a corporate charter or statute in effect on August 30, 1933.

(d) A corporation acting under this section must amend its charter and pay any fee provided by law for the filing of the amendment.

(e) This section may not be construed to impair the rights of a municipality under a franchise granted to a corporation or its predecessor before August 30, 1933.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

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TITLE 6. ROADWAYS

SUBTITLE E. MUNICIPAL STREETS

CHAPTER 311. GENERAL PROVISIONS RELATING TO MUNICIPAL STREETS

SUBCHAPTER A. GENERAL AUTHORITY

Sec. 311.001. GENERAL AUTHORITY OF HOME-RULE MUNICIPALITY.

(a) A home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality.

(b) The municipality may:

(1) control, regulate, or remove an encroachment or obstruction on a public street or alley of the municipality;

(2) open or change a public street or alley of the municipality; or

(3) improve a public highway, street, or alley of the municipality.

(c) Notwithstanding Subsection (a) or (b) or Section 311.007, before a municipality with a population of 1.9 million or more may install traffic calming measures within the municipality, the governing body of the municipality must:

(1) publish standards and criteria, which must include sufficient notice to allow the governing body to receive and consider public comments from residents within one-half mile of the proposed traffic calming measure;

(2) on request of affected residents, schedule and hold a public meeting before implementation of the measure; and

(3) if the measure involves the closure of a street to motor vehicular traffic, before the closure:

(A) hold a public hearing on the issue of the closure; and

(B) approve the closure by a majority vote.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1321 (H.B. [3082](#)), Sec. 1, eff. June 19, 2009.

UTILITIES CODE

TITLE 3. GAS REGULATION

SUBTITLE A. GAS UTILITY REGULATORY ACT

CHAPTER 103. JURISDICTION AND POWERS OF MUNICIPALITY

Sec. 103.002. FRANCHISES. (a) This subtitle does not restrict the rights and powers of a municipality to grant or refuse a franchise to use the streets and alleys in the municipality or to make a statutory charge for that use.

(b) A municipality that performs a regulatory function under this subtitle may make each charge that is authorized by:

- (1) this subtitle; or
- (2) the applicable franchise agreement.

(c) A franchise agreement may not limit or interfere with a power conferred on the railroad commission by this subtitle.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

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TITLE 4. DELIVERY OF UTILITY SERVICES

SUBTITLE B. PROVISIONS REGULATING DELIVERY OF SERVICES

CHAPTER 181. MISCELLANEOUS POWERS AND DUTIES OF UTILITIES

Sec. 181.042. AUTHORITY TO CONSTRUCT, MAINTAIN, AND OPERATE LINES. An electric utility has the right to construct, maintain, and operate lines over, under, across, on, or along a state highway, a county road, a municipal street or alley, or other public property in a municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 181.043. CONSENT REQUIRED IN MUNICIPALITY. (a) An electric utility may exercise authority under Section [181.042](#) in

a municipality with the consent of and subject to the direction of the governing body of the municipality.

(b) Subsection (a) does not apply to a municipal electric utility exercising authority under Section [181.042](#) in its municipal territory.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE B. ELECTRIC UTILITIES

CHAPTER 33. JURISDICTION AND POWERS OF MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 33.001. MUNICIPAL JURISDICTION. (a) To provide fair, just, and reasonable rates and adequate and efficient services, the governing body of a municipality has exclusive original jurisdiction over the rates, operations, and services of an electric utility in areas in the municipality, subject to the limitations imposed by this title.

(b) Notwithstanding Subsection (a), the governing body of a municipality shall not have jurisdiction over the BPL system, BPL services, telecommunications using BPL services, or the rates, operations, or services of the electric utility or transmission and distribution utility to the extent that such rates, operations, or services are related, wholly or partly, to the construction, maintenance, or operation of a BPL system used to provide BPL services to affiliated or unaffiliated entities.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., 2nd C.S., Ch. 2 (S.B. 5), Sec. 1, eff. September 7, 2005.

Sec. 33.002. SURRENDER OF MUNICIPAL JURISDICTION TO COMMISSION. (a) A municipality shall regulate all local utility service in the municipality until the commission assumes jurisdiction over a local utility under this subtitle.

(b) A municipality may elect to have the commission exercise exclusive original jurisdiction over electric utility

rates, operations, and services in the municipality by ordinance or by submitting the question of the surrender of its jurisdiction to the voters at a municipal election.

(c) The governing body of a municipality shall submit at a municipal election the question of surrendering its jurisdiction to the commission if the governing body receives a petition signed by a number of qualified voters of the municipality equal to at least the lesser of 20,000 or 10 percent of the number of voters voting in the last preceding general election in the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.003. REINSTATEMENT OF MUNICIPAL JURISDICTION. (a) A municipality that surrenders its jurisdiction to the commission may at any time reinstate its jurisdiction by a vote of the electorate.

(b) A municipality that reinstates its jurisdiction under Subsection (a) may not surrender that jurisdiction before the fifth anniversary of the date of the election in which the municipality elected to reinstate its jurisdiction.

(c) A municipality may not, by a vote of the electorate, reinstate the jurisdiction of the governing body during the time a case involving the municipality is pending before the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.004. AREA EXEMPT FROM COMMISSION REGULATION. (a) If a municipality does not surrender its jurisdiction, local utility service in the municipality is exempt from regulation by the commission under this subtitle to the extent that this subtitle applies to local service.

(b) The municipality may exercise in the exempt area the same regulatory powers under the same standards and rules as the commission or under other consistent standards and rules.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.005. EXEMPT AREA REPORTING. (a) An electric utility serving an area exempt from commission regulation is subject to the reporting requirements of this title.

(b) A report must be filed with:

- (1) the governing body of the municipality; and
- (2) the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.006. COMMISSION POWERS IN NONEXEMPT AREAS. This subchapter does not limit the duty and power of the commission to regulate the service and rates of a municipally regulated electric utility for service provided to another area in this state.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.007. ALLOWABLE CHARGES. A municipality that performs a regulatory function under this title may make each charge that is authorized by:

- (1) this title; or
- (2) the applicable franchise agreement.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.008. FRANCHISE CHARGES. (a) Following the end of the freeze period for a municipality that has been served by an electric utility, and following the date a municipally owned utility or an electric cooperative has implemented customer choice for a municipality that has been served by that municipally owned utility or electric cooperative, a municipality may impose on an electric utility, transmission and distribution utility, municipally owned utility, or electric

cooperative, as appropriate, that provides distribution service within the municipality a reasonable charge as specified in Subsection (b) for the use of a municipal street, alley, or public way to deliver electricity to a retail customer. A municipality may not impose a charge on:

- (1) an electric utility, or transmission and distribution utility, municipally owned utility, or electric cooperative for electric service provided outside the municipality;
- (2) a qualifying facility;
- (3) an exempt wholesale generator;
- (4) a power marketer;
- (5) a retail electric provider;
- (6) a power generation company;
- (7) a person that generates electricity on and after January 1, 2002; or
- (8) an aggregator, as that term is defined by Section [39.353](#).

(b) If a municipality collected a charge or fee for a franchise to use a municipal street, alley, or public way from an electric utility, a municipally owned utility, or an electric cooperative before the end of the freeze period, the municipality, after the end of the freeze period or after implementation of customer choice by the municipally owned utility or electric cooperative, as appropriate, is entitled to collect from each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative that uses the municipality's streets, alleys, or public ways to provide distribution service a charge based on each kilowatt hour of electricity delivered by the utility to each retail customer whose consuming facility's point of delivery is located within the municipality's boundaries. The charge imposed shall be equal to the total electric franchise fee revenue due the municipality from electric utilities, municipally owned utilities, or electric cooperatives, as appropriate, for calendar year 1998 divided by the total

kilowatt hours delivered during 1998 by the applicable electric utility, municipally owned utility, or electric cooperative to retail customers whose consuming facilities' points of delivery were located within the municipality's boundaries. The compensation a municipality may collect from each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative providing distribution service shall be equal to the charge per kilowatt hour determined for 1998 multiplied times the number of kilowatt hours delivered within the municipality's boundaries.

(c) The municipal franchise charges authorized by this section shall be considered a reasonable and necessary operating expense of each electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative that is subject to a charge under this section. The charge shall be included in the nonbypassable delivery charges that a customer's retail electric provider must pay under Section 39.107 to the utility serving the customer.

(d) The municipal franchise charges authorized by this section are in lieu of any franchise charges or fees payable under a franchise agreement in effect before the expiration of the freeze period or, as appropriate, before the implementation of customer choice by a municipally owned utility or electric cooperative. Except as otherwise provided by this section, this section does not affect a provision of a franchise agreement in effect before the end of the freeze period or, as appropriate, before the implementation of customer choice by a municipally owned utility or electric cooperative.

(e) A municipality may conduct an audit or other inquiry or may pursue any cause of action in relation to an electric utility's, transmission and distribution utility's, municipally owned utility's, or electric cooperative's payment of charges authorized by this section only if such audit, inquiry, or pursuit of a cause of action concerns a payment made less than two years before commencement of such audit, inquiry, or pursuit of a cause of action; provided, however, that this subsection

does not apply to an audit, inquiry, or cause of action commenced before September 1, 1999. An electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative shall, on request of the municipality in connection with a municipal audit, identify the service provider and the type of service delivered for any service in addition to electricity delivered directly to retail customers through the utility's electricity-conducting facilities that are located in the municipality's streets, alleys, or public ways and for which the utility receives compensation.

(f) Notwithstanding any other provision of this section, on the expiration of a franchise agreement existing on September 1, 1999, an electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative and a municipality may mutually agree to a different level of compensation or to a different method for determining the amount the municipality may charge for the use of a municipal street, alley, or public way in connection with the delivery of electricity at retail within the municipality.

(g) After the end of the freeze period or after implementation of customer choice by the municipally owned utility or electric cooperative, as appropriate, a newly incorporated municipality or a municipality that has not previously collected compensation for the delivery of electricity at retail within the municipality may adopt and collect compensation based on the same rate per kilowatt hour that is collected by any other municipality in the same county that is served by the same electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative.

(h) In this section, "distribution service" means the delivery of electricity to all retail customers.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 15, eff. Sept. 1, 1999.

SUBCHAPTER B. RATE DETERMINATION

Sec. 33.021. RATE DETERMINATION. (a) A municipality regulating an electric utility under this subtitle shall require the utility to submit information as necessary to make a reasonable determination of rate base, expenses, investment, and rate of return in the municipality.

(b) A municipality shall make a determination under Subsection (a) using the procedures and requirements prescribed by this title.

(c) A municipality shall retain personnel necessary to make the determination of reasonable rates.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.022. CONSIDERATION OF REVENUES AND RETURN FROM NONEXEMPT AREA. In establishing rates and charges in an area exempt from commission regulation, the governing body may consider an electric utility's revenues and return on investment in an area that is not exempt from commission regulation.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.023. RATEMAKING PROCEEDINGS. (a) The governing body of a municipality participating in or conducting a ratemaking proceeding may engage rate consultants, accountants, auditors, attorneys, and engineers to:

(1) conduct investigations, present evidence, and advise and represent the governing body; and

(2) assist the governing body with litigation in an electric utility ratemaking proceeding before the governing body, a regulatory authority, or a court.

(b) The electric utility in the ratemaking proceeding shall reimburse the governing body of the municipality for the reasonable cost of the services of a person engaged under

Subsection (a) to the extent the applicable regulatory authority determines is reasonable.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.024. STATEMENT OF INTENT. (a) Not later than the 31st day before the date an electric utility files a statement of intent under Section 36.102, the electric utility shall provide notice of intent to file the statement to each municipality having original jurisdiction.

(b) Not later than the 30th day after the date a municipality receives notice under Subsection (a), the municipality may request that the electric utility file with the municipality a statement of intent in accordance with Section 36.102.

(c) If requested by a municipality under Subsection (b), the electric utility shall file the statement of intent with the municipality at the same time the statement is filed with the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.025. MUNICIPAL STANDING. (a) A municipality has standing in each case before the commission that relates to an electric utility providing service in the municipality.

(b) A municipality's standing is subject to the right of the commission to:

(1) determine standing in a case involving a retail service area dispute that involves two or more electric utilities; and

(2) consolidate municipalities on an issue of common interest.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.026. JUDICIAL REVIEW. A municipality is entitled to judicial review of a commission order relating to an electric utility providing services in the municipality as provided by Section 15.001.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER C. APPEAL OF MUNICIPAL ORDER

Sec. 33.051. APPEAL BY PARTY. A party to a rate proceeding before a municipality's governing body may appeal the governing body's decision to the commission.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.052. APPEAL BY RESIDENTS. The residents of a municipality may appeal to the commission the decision of the municipality's governing body in a rate proceeding by filing with the commission a petition for review signed by a number of qualified voters of the municipality equal to at least the lesser of 20,000 or 10 percent of the qualified voters of the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.053. FILING OF APPEAL. (a) An appeal under this subchapter is initiated by filing a petition for review with the commission and serving a copy of the petition on each party to the original rate proceeding.

(b) The appeal must be initiated not later than the 30th day after the date of the final decision by the governing body of the municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.054. HEARING AND ORDER. (a) An appeal under this subchapter, Subchapter D, or Subchapter E is de novo and based on the test year presented to the municipality.

(b) The commission shall enter a final order establishing the rates the commission determines the municipality should have set in the ordinance to which the appeal applies.

(c) In a proceeding involving the rates of a municipally owned utility, the commission must enter a final order on or before the 185th day after the date the appeal is perfected or the utility files a rate application as prescribed by Section 33.104.

(d) In a proceeding in which a rate change is concurrently sought from the commission under the commission's original jurisdiction, the commission must enter a final order on or before the later of the 120th day after the date the appeal is perfected or the date final action must be taken in the proceeding filed with the commission.

(e) In a proceeding not governed by Subsection (c) or (d), the commission must enter a final order on or before the 185th day after the date the appeal is perfected.

(f) If the commission fails to enter a final order before the expiration of the applicable period prescribed by Subsections (c)-(e), the rates proposed by the utility are considered to be approved by the commission and take effect on the expiration of that period.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.055. APPLICABILITY OF RATES. (a) Temporary or permanent rates set by the commission are prospective and observed from the date of the applicable commission order, except an interim rate order necessary to effect uniform system-wide rates or to provide an electric utility the opportunity to avoid confiscation during the period beginning on the date a petition for review is filed with the commission and ending on the date of a final order establishing rates.

(b) The commission shall order interim rates on a prima facie showing by the electric utility that it has experienced confiscation during that period. The electric utility shall refund or credit against future bills:

(1) money collected under the interim rates in excess of the rate finally ordered; and

(2) interest on that money, at the current rate as determined by the commission.

(c) In this section, "confiscation" includes negative cash flow experienced by an electric utility at any time a rate case proceeding is pending.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER D. PROVISIONS APPLICABLE TO APPEAL BY RATEPAYERS OUTSIDE MUNICIPALITY

Sec. 33.101. APPEAL BY RATEPAYERS OUTSIDE MUNICIPALITY.

(a) The ratepayers of a municipally owned utility who are outside the municipality may appeal to the commission an action of the governing body of the municipality affecting the municipally owned utility's rates by filing with the commission a petition for review signed by a number of ratepayers served by the utility outside the municipality equal to at least the lesser of 10,000 or five percent of those ratepayers.

(b) A petition for review is properly signed if signed by a person or the spouse of a person in whose name residential utility service is carried.

(c) For purposes of this section, each person who receives a separate bill is a ratepayer. A person who receives more than one bill may not be counted as more than one ratepayer.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.102. IDENTIFICATION OF RATEPAYERS OUTSIDE MUNICIPALITY. (a) A municipality that owns a utility shall:

(1) disclose to any person, on request, the number of ratepayers who reside outside the municipality; and

(2) provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the municipality.

(b) The municipality may not charge a fee for disclosing the information under Subsection (a)(1). The municipality may charge a reasonable fee for providing information under Subsection (a)(2).

(c) The municipality shall provide information requested under Subsection (a)(1) by telephone or in writing, as preferred by the person making the request.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.103. FILING OF APPEAL. (a) Not later than the 14th day after the date a governing body of a municipality makes a final decision, the municipality shall issue a written report stating the effect of the decision on each class of ratepayer.

(b) An appeal under this subchapter is initiated by filing a petition for review with the commission and serving a copy of the petition on each party to the original rate proceeding.

(c) The appeal must be initiated not later than the 45th day after the date the municipality issues the written report required by Subsection (a).

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.104. RATE APPLICATION. Not later than the 90th day after the date a petition for review is filed that complies with Section 33.103, the municipality shall file with the commission a rate application that complies in all material respects with the rules and forms prescribed by the commission. The commission may, for good cause shown, extend the period for filing a rate application.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. RATE DETERMINATION AND APPEAL OF ORDERS OF CERTAIN
MUNICIPAL UTILITIES

Sec. 33.121. APPLICATION OF COMMISSION REVIEW. A municipally owned utility is subject to this subchapter if the utility is a utility:

(1) whose rates are appealed under Subchapter D;

(2) for which the commission orders a decrease in annual nonfuel base revenues that exceeds the greater of \$25,000,000 or 10 percent of the utility's nonfuel base revenues, as computed on a total system basis without regard to the utility's municipal boundaries and established in the appealed rate ordinance; and

(3) for which the commission finds that the rates paid by the combined residential or other major customer class, other than a class in which the municipality is the customer of the municipally owned utility, are removed from cost-of-service levels to the extent that, under the nonfuel base revenue requirement adopted by the commission as computed on a total system basis without regard to the municipality's boundaries, a change in nonfuel base rate revenues in excess of 50 percent from adjusted test year levels would be required to move that class to a relative rate of return of unity (1.00 or 100 percent) under the cost-of-service methodology adopted by the commission in an appeal under Subchapter D.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.122. REVIEW OF CERTAIN RATE DECISIONS. (a) Except as provided by Subsections (b)-(f), for a period of 10 years beginning on the later of August 28, 1989, or the effective date of the rate ordinance that is the subject of the commission's final order invoking the application of this section, the commission has appellate jurisdiction over the

rates charged by the municipally owned utility, both inside and outside the municipality, in the same manner and subject to the same commission powers and authority provided by this subtitle for an electric utility.

(b) The commission has jurisdiction to review the cost allocation and rate design methodologies adopted by the governing body of a municipally owned utility subject to this section. If the commission finds that the cost-of-service methodologies result in rates that are unjust, unreasonable, or unreasonably discriminatory, or unduly preferential to a customer class, the commission may order the implementation of ratesetting methodologies the commission finds reasonable.

(c) The commission shall ensure that a customer class, other than a class in which the municipality is the customer of the municipally owned utility, does not pay rates that result in a relative rate of return of more than 115 percent under the cost-of-service methodology found reasonable by the commission. A customer class may not experience a percentage base rate increase that is greater than 1-1/2 times the system average base increase. In moving an above-cost class toward cost-of-service levels, each class farthest above cost shall be moved sequentially toward cost so that no above-cost class moves toward cost until no other class is further removed from cost.

(d) A municipality subject to this section may design residential rates, as a matter of intra-class rate design, to accomplish reasonable energy conservation goals, notwithstanding any other provision of this title.

(e) The commission's jurisdiction under this section may be invoked by any party to a local rate proceeding required by this section in the same manner as an appeal of the rates of an electric utility under Section [33.051](#).

(f) The commission's jurisdiction under this section does not extend to a municipally owned utility's:

- (1) revenue requirements, whether base rate or fuel revenues;
- (2) invested capital;

(3) return on invested capital;
(4) debt service coverage ratio; or
(5) level of transfer of revenues from the utility to the municipality's general fund.

(g) The governing body of a municipally owned utility subject to this section shall establish procedures similar to the procedures of a municipality that retains original jurisdiction under Section 33.001 to regulate an electric utility operating in the municipality. The procedures must include a public hearing process in which an affected ratepayer is granted party status on request and is grouped for purposes of participation in accordance with common or divergent interests, including the particular interests of all-electric residential ratepayers and residential ratepayers outside the municipality.

(h) This section does not require the governing body of a municipality or the governing board of a municipally owned utility subject to this section to adopt procedures that require the use of the Texas Rules of Evidence, the Texas Rules of Civil Procedure, or the presentation of sworn testimony or any other form of sworn evidence.

(i) The governing body of a municipally owned utility subject to this section shall appoint a consumer advocate to represent the interests of residential and small commercial ratepayers in the municipality's local rate proceedings. The consumer advocate's reasonable costs of participating in a proceeding, including the reasonable costs of ratemaking consultants and expert witnesses, shall be funded by and recovered from residential and small commercial ratepayers.

(j) The commission shall adopt rules applicable to a party to an appeal under Subchapter D that provide for the public disclosure of financial and in-kind contributions and expenditures related to preparing and filing an appeal petition and preparing expert testimony or legal representation for an appeal. A party or customer who is a member of a party who makes a financial contribution or in-kind contribution to assist

in an appeal by another party or customer class under Subchapter D shall be required, on a finding of the commission to that effect, to pay the municipally owned utility a penalty equivalent in amount to two times the amount of the contribution.

(k) This section does not limit the right of a party or customer to spend money to represent its own interests following the filing of a petition with the commission under Subchapter D.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.123. REVIEW OF CERTAIN DECISIONS FOR RATES CHARGED OUTSIDE MUNICIPALITY. (a) For a period of 10 years beginning on the later of August 28, 1989, or the effective date of the rate ordinance that is the subject of the commission's final order invoking the application of this section, the commission has appellate jurisdiction over the rates charged by the municipally owned utility, outside the municipality, as provided by this section.

(b) Except as otherwise provided by this section, a ratepayer of a municipally owned utility subject to this section who resides outside the municipality may appeal any action of the governing body of a municipality affecting the rates charged by the municipally owned utility outside the municipality by filing a petition for review with the commission in the manner provided for an appeal under Subchapter D. The petition must plainly disclose that the cost of the appeal will be funded by a surcharge on the monthly electric bills of ratepayers outside the municipality as prescribed by the commission.

(c) After the commission approves the sufficiency of a petition, the appellants shall submit to the office for approval a budget itemizing the scope and expected cost of consultant services to be purchased by the appellants in the appeal.

(d) Not later than the 120th day after the date the commission enters its final order, the municipality shall assess a onetime surcharge on a per capita basis among residential

ratepayers who reside outside the municipality to pay the reasonable consultant and legal costs approved by the counsellor. The municipality shall reimburse the appellants for incurred costs not later than the 90th day after the date the commission enters its final order.

(e) A municipality may not:

(1) include the costs associated with its defense of an appeal under this section in the rates charged a ratepayer outside the municipality; or

(2) if the municipality appeals an order entered by the commission under this section, include the costs associated with its appeal in the rates charged a ratepayer outside the municipality.

(f) A ratepayer who brings an appeal under this section may not receive funding for rate case expenses except from a residential ratepayer who resides outside the municipality or from another municipality inside whose boundaries the municipally owned utility provides service. The commission shall adopt rules for reporting financial and in-kind contributions in support of an appeal under this section. If the commission finds that an appellant has received contributions from a source other than from a ratepayer who resides outside the municipality or from another municipality, the appeal and each commission order entered in the appeal are void.

(g) The commission has jurisdiction in an appeal under this section to review and ensure that the revenue requirements of a municipally owned utility subject to this section are reasonable. The jurisdiction under this subsection does not extend to regulating the use and level of a transfer of the utility's revenues to the municipality's general fund.

(h) The commission has jurisdiction to review the cost allocation and rate design methodologies adopted by the governing body of a municipally owned utility subject to this section. If the commission finds that the cost-of-service methodologies result in rates that are unjust, unreasonable, or

unreasonably discriminatory or unduly preferential to a customer class, the commission may order the implementation of ratesetting methodologies the commission finds reasonable. The commission's jurisdiction under this subsection does not include intra-class residential rate design.

(i) An intervenor in an appeal under this section is limited to presenting evidence on cost allocation and rate design methodologies, except that an intervenor may present evidence in support of the municipality on an issue related to utility revenues.

(j) A ratepayer of a municipally owned utility subject to this section who resides outside the municipality may elect to petition for review under either this section or Subchapter D when appealing a rate ordinance or other ratesetting action of the governing body of a municipality.

Acts 1997, 75th Leg., ch. 166, Sec. 1, eff. Sept. 1, 1997.

VERNON'S CIVIL STATUTES

TITLE 28. CITIES, TOWNS AND VILLAGES

CHAPTER 13. HOME RULE

Art. 1175. ENUMERATED POWERS. A home-rule municipality has the following powers:

1. To prohibit the use of any street, alley, highway or grounds of the city by any telegraph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided by any such ordinance. To determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy the franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time alter or change such rules, regulations and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose.

2. Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the

right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

3. Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

Acts 1913, p. 307; Acts 1921, p. 169; Acts 1963, 58th Leg., p. 447, ch. 160, art. II.

Subd. 19 amended by Acts 1967, 60th Leg., p. 189, ch. 100, Sec. 1, eff. Aug. 28, 1967; Subd. 35 added by Acts 1975, 64th Leg., p. 237, ch. 89, Sec. 8, eff. Jan. 1, 1976; Subd. 35 added by Acts 1975, 64th Leg., p. 627, ch. 258, Sec. 1, eff. Sept. 1, 1975. Renumbered subd. 36 and amended by Acts 1979, 66th Leg., p. 905, ch. 413, Sec. 1, eff. June 6, 1979. Amended by Acts 1987, 70th Leg., ch. 149, Sec. 8(a), eff. Sept. 1, 1987. Subd. 37 added by Acts 1987, 70th Leg., ch. 79, Sec. 1, eff. May 12, 1987; Acts 1987, 70th Leg., ch. 1057, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 1082, Sec. 1, eff. June 20, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 49(b), 86(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 678, Sec. 4, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 455, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 165, Sec. 23,

eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 227, Sec. 27,
eff. Sept. 1, 1999.