

H.R. 2755 - COMMUNICATIONS COMMISSION AUTHORIZATIONS ACT OF 1983

1. Modified Open.
2. Waives section 402(a) [authorization of new budget authority not reported by May 15 preceding the fiscal year in which it is effective] of the Budget Act against consideration of the bill.
3. Committee amendment in the nature of a substitute made in order as original text for purposes of amendment and considered as read.
4. No amendment in order except the following:
 - (1) amendments to change dollar amount for FCC authorization which are subject to dollar amount amendments;
 - (2) germane amendments to sections 3, 5 and 6 relating to funding and authority of CPB; and
 - (3) an amendment to section 8 printed in the Congressional Record of November 8, 1983 by Representative Rodino or Representative Kastenmeier.
5. Provides one motion to recommit with or without instructions.

RESOLUTION

RESOLVED, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of Rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2755) to authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed 1 hour(s), to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be considered as having been read. No amendment to the bill or to said substitute shall be in order except:

- (1) amendments only to change the dollar figure on page 2, line 10 to another dollar figure, which shall only be subject to amendments to change such dollar figure to another dollar figure;
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- (3) an amendment to section 8 of said substitute printed in the Congressional Record of November 8, 1983 by, and if offered by, Representative Rodino of New Jersey or Representative Kastenmeier of Wisconsin.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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ROUTING AND TRANSMITTAL SLIP

Date 10/24/83

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Steve		
2. Mark		
3. Roger		
4.		
5.		

Action	FR.	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	<input checked="" type="checkbox"/> For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

I have started to get calls from the Hill on the status of HR2755 "Authorization" and in particular this "public safety amendment." Probably another push about the same as LA Sheriff's Dept. Here is the bill and report sections so you can give them the information

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post) JFL	Room No.—Bldg.
	Phone No.

5041-102

☆ GPO : 1981 O - 341-529 (120)

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

**DIRECTION ON USE OF FUNDS REGARDING SPECTRUM ALLOCATION AND ASSIGNMENTS
FOR PUBLIC SAFETY PURPOSES**

Sec. 9. (a) Funds authorized to be appropriated under section 2 of this Act shall be used by the Federal Communication Commission to establish a plan which adequately ensures that the needs of State and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes.

(b) Pending adoption of a plan, the Commission, while making assignments and allocations, shall duly recognize the needs of State and local public safety authorities.

**SECTION 9.—DIRECTION ON USE OF FUNDS REGARDING SPECTRUM ALLOCA-
TION AND ASSIGNMENTS FOR PUBLIC SAFETY PURPOSES**

Section 9 requires that the FCC establish a plan which adequately ensures that the needs of State and local public safety agencies will be taken into account when the FCC makes decisions regarding spectrum allocations. Specifically, in establishing the plan, the FCC must (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment; and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes. The provisions require the FCC, pending adoption by the FCC of a plan, to recognize the needs of state and local public safety agencies in making frequency assignments or spectrum allocations.

At the present time, certain public safety authorities must use as many as five different sets of frequencies, each necessitating different equipment. This system can be both inefficient and dangerous, as different public safety authorities within the same locale (e.g. police, fire, and ambulance) might not be able to effectively coordinate operations because they cannot easily communicate with each other. Such scattered frequency allocations are increasingly inadequate to meet the increased demands being placed on our police, fire, and other safety authorities.

This Committee recognized the importance of providing adequate frequency to meet the needs of public safety users of the spectrum when it adopted the "Communications Amendments Act of 1982", later passed by Congress and signed into law (Public Law 97-259, — Stat. —, Sept. 13, 1982). That legislation directed the Commission to consider the needs of public safety agencies when taking actions to manage the private land mobile radio spectrum. The Conference Report (Report 97-765) stated with respect to this issue:

The Commission should be ever vigilant to promote the public land mobile spectrum needs of police departments and other public agencies which need to use such radio services to fulfill adequately their obligations to protect the American public. (p. 52)

In adopting Section 5, it is the Committee's intent that the Commission proceed immediately to address the shortage problems, as well as any potential future problems confronting the public safety sector. This Commission undertaking should identify the needs, assuming use of equipment which is suitable and commercially available, of public safety authorities. The Committee notes that public safety officials have indicated that frequency shortages are particularly acute in congested, urban areas which are also the areas where public safety must place the greatest demand on their communications capabilities in order to manage properly their large operations and to assure a rapid and efficient public safety response capability.

The Committee expects the Commission to proceed expeditiously to carry out these actions, and the Committee will closely monitor its progress. The Committee believes, as it has stated on prior occasions, that public safety consideration should be a top priority when frequency allocation decisions are made.

CLARIFICATION AND ADMINISTRATION OF SECTION 223

Sec. 3. (a) Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(1) by striking out "\$500" and inserting in lieu thereof "\$50,000";

(2) by inserting "(a)" before "Whoever"; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) Whoever knowingly—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene or indecent communication for commercial purposes to any person under eighteen years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A), shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

"(2) It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons eighteen years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

"(3) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, intentionally violates paragraph (1)(A) or (1)(B) shall be subject to a fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4)(A) In addition to the penalties under paragraphs (1) and (3), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1)(A) or (1)(B) shall be subject to a civil fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1)(A) or (1)(B). An injunction may be granted in accordance with the Federal Rules of Civil Procedure."

(b) Section 223(a) of the Communications Act of 1934 (as redesignated by subsection (a) of this section) is amended in paragraph (2) by inserting "facility" after "telephone".

(c) The Federal Communications Commission shall issue regulations pursuant to section 223(b)(2) of the Communications Act of 1934 (as added by subsection (a) of this section) not later than one hundred and eighty days after the date of the enactment of this Act.

(d) The Commission shall act on all complaints alleging violation of section 223 of the Communications Act of 1934 which are pending on the date of the enactment of this Act within ninety days of such date of enactment.