



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Morning Meeting Minutes

May 29, 2014, 9:04 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



**COMMISSIONERS PRESENT:** Jim Clancy, Chair; Paul W. Hobby, Vice Chair; Hugh C. Akin, Wilhelmina Delco, Tom Harrison, Bob Long, Tom Ramsay, and Chase Untermeyer.

**COMMISSIONERS NOT PRESENT:** None.

**STAFF PRESENT:** Natalie Adelaja, Natalia L. Ashley, Amy Barden, Lee Boyd, Margie Castellanos, Homer Diaz, Robbie Douglas, Nick Espinosa, Jessie Haug, Jessica Hurtado, Becky Levy, Bobby Mannas, Mike McElhaney, John Moore, Jim Tinley, and Patty Williams.

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### MINUTES

This meeting was recorded. These minutes are a summary record of the Commission's actions at the meeting. For a detailed record of discussions and statements made by persons speaking at the meeting, please consult the audio recordings on file at the Commission's office.

**Agenda Item 1: Call to order; roll call.**

The meeting was called to order by Chair Clancy. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present.

**Agenda Item 2: Communication to the Commission from the public.**

None.

**Agenda Item 3: Approve minutes for the following meetings:  
Preconference hearing – April 3, 2014;  
AM public meeting – April 3, 2014;  
PM public meeting – April 3, 2014; and  
Executive Session (Empower Texans, et al v. Texas Ethics Commission, et al) – April 3, 2014.**

Motion by Vice Chair Hobby to approve the meeting minutes listed under agenda item 3; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

**Agenda Item 4: Presentation on and discussion of the electronic filing system project by RFD & Associates, Inc.**

Chair Clancy introduced this agenda item to the Commission. Tom Lynch, Client Engagement Manager; Erik Dietz, Project Manager; and Scott T. Glover, Software Development, with RFD & Associates, Inc., gave a detailed briefing on the electronic filing software. Commissioners expressed that they are very concerned about the users' experience, and they would like to see more of an "interview" style with pop-up questions to guide the filers.

**Agenda Item 5: Discussion of Opinion Request AOR-585: Whether comprehensive diagnostic testing provided to a member of the legislative or executive branch is a gift for purposes of the lobby law, and the application of the reporting requirements in the lobby law for such testing.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Jack Gullahorn, attorney representing the Professional Advocacy Association of Texas, spoke on this agenda item. After discussion among Mr. Gullahorn and the Commissioners, Commissioner Untermeyer made suggestions for changes to the summary. Ed Shack, attorney, spoke on this agenda item. Motion by Commissioner Akin to adopt AOR-585 with amended summary; second by Commissioner Harrison. **Motion passed by a vote of eight ayes. AOR-585 is adopted.**

**Agenda Item 6: Discussion of Opinion Request AOR-586: Whether a nonprofit organization that plans to make direct campaign expenditures from its general treasury funds to expressly advocate for the election or defeat of clearly identified candidates for state and local offices in Texas is required to appoint a campaign treasurer as a political committee.**

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chris Gober, attorney with Gober Hilgers, PLLC, testified against the draft opinion. After discussion among the Commissioners, a motion was made by Vice Chair Hobby to table AOR-586; second by Commissioner Untermeyer. **Motion passed by a vote of eight ayes.**

**Agenda Item 7: Public discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rules §18.7 (Timely Reports and Complete Reports) and §20.20 (Timeliness of Action by Electronic Filing) to expressly state that the filing deadline for reports filed electronically with the Commission is midnight Central Time Zone.**

Motion by Commissioner Untermeyer to publish for public comment Texas Ethics Commission Rules §§18.7 and 20.20; second by Commissioner Delco. **Motion passed by a vote of eight ayes.**

**Agenda Item 8: Public discussion and possible action on the proposal and publication in the Texas Register of a rule defining the phrase "acting in concert" for purposes of Election Code § 254.261 (Direct Campaign Expenditure Exceeding \$100).**

Chair Clancy announced that Agenda Item 8 is tabled.

**Agenda Item 9: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rule § 20.577 (Reporting Schedule for a Candidate for State Chair) to clarify that candidates for state chair are required to file campaign finance reports electronically.**

Motion by Commissioner Long to adopt the amendment of section 20.577 of the Ethics Commission Rules; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

**Agenda Item 10: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of Ethics Commission Rule § 40.2 regarding financial activity required to be disclosed on a personal financial statement.**

Motion by Commissioner Delco to adopt new section 40.2 of the Ethics Commission Rules; second by Commissioner Harrison. Commissioner Untermeyer asked for clarification on the purpose of the new rule since it states what is currently being done. Natalia Luna Ashley, Executive Director, explained that the current procedure for disclosing financial activity on a personal financial statement has been the staff's long-standing position, but there was question in the regulated community whether the procedure was in case the fact. She stated that the Commission has interpreted the law this way in its enforcement process and determined that it should be clarified in a rule. **Motion passed by a vote of eight ayes.**

**Agenda Item 11: Public discussion and possible action on review processes to determine level of local compliance for reports required to be filed under Title 15 of the Election Code.**

Chair Clancy briefed the Commission on this agenda item. He proposed sending a survey to the local filing authorities to determine the level of local compliance with regard to Title 15 reports. The survey should be simple and ask very basic questions that don't take the filing authorities a long time to complete. The survey would give the Commission a snapshot of the level of compliance that is out there in these areas. The results are not necessarily for enforcement purposes, but to determine training needs, how to make tools available, and where to direct our efforts. The initial survey is mainly to determine the scope of the problem.

The Commissioners and Natalia Luna Ashley, Executive Director, discussed the aspects of the survey. Chair Clancy asked that a report be available at the next Commission meeting to determine the level of compliance with our request and the level of compliance within Title 15 for those who have reported. Motion by Commissioner Harrison to survey local filing authorities regarding the levels of compliance with campaign finance/Title 15 reports for 2011, 2012, and 2013; second by Commissioner Akin. Ross Fischer, local attorney, spoke regarding this agenda item. **Motion passed by a vote of eight ayes.**

**Agenda Item 12: Public discussion and possible action on a proposed guide regarding the per diem set by the Commission.**

Commissioner Untermeyer addressed the Commission on this agenda item. Motion by Commissioner Untermeyer to adopt Per Diem Guide as amended; second by Vice Chair Hobby. Natalia Luna Ashley, Executive Director, clarified that the Commission was adopting "Exhibit B." **Motion to adopt Exhibit B of the Per Diem Guide passed by a vote of eight ayes.**

**Agenda Item 13: Comments by Executive Director.**

Natalia Luna Ashley, Executive Director, introduced two new staff – Lee Boyd who is a full time summer intern working on the electronic filing project; and Jessica Hurtado who is a new staff attorney.

Ms. Ashley thanked the Commission for choosing her as the new Executive Director.

Ms. Ashley also announced that Becky Levy has returned to the staff.

**Agenda Item 14: Comments by the Commissioners.**

Chair Clancy spoke about the Commission’s intention to make enforcement of the campaign finance law one of its top priorities.

**Agenda Item 15: Adjourn.**

Motion by Commissioner Ramsay to adjourn; second by Commissioner Harrison. **Motion passed by unanimous consent.**