

TEXAS ETHICS COMMISSION  
P.O. Box 12070, Austin, Texas 78711-2070  
(512) 463-5800

Chad M. Craycraft, Chair  
Mary K. “Katie” Kennedy, Vice Chair  
Randall H. Erben  
Chris Flood

Patrick W. Mizell  
Richard S. Schmidt  
Joseph O. Slovacek  
Steven D. Wolens

## EXECUTIVE SESSION AGENDA

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Date and Time:	1:00 p.m., Wednesday, November 20, 2019
Location:	Room E1.014, Capitol Extension, Austin, Texas

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1. Call to order; roll call.
2. **Executive session pursuant to Section 551.071, Government Code (Consultation with Attorney; Closed Meeting).**
3. Discussion of pending litigation to seek legal advice relating to the following:
  - A. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250<sup>th</sup> Judicial District Court in Travis County, Texas; Cause No. 03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas.
  - B. Cause No. D-1-GN-14-001252: *Empower Texans, Inc. and Michael Quinn Sullivan v. State of Texas Ethics Commission; Natalia Luna Ashley, in her capacity as Executive Director of the Texas Ethics Commission; Tom Ramsay, individually and in his capacity as Commissioner; et al.*; in the 53<sup>rd</sup> Judicial District Court of Travis County, Texas; and related case, Cause No. 03-17-00770-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Tom Ramsay in his individual capacity, et al.*; in the Third Court of Appeals, Austin, Texas.
  - C. Cause No. D-1-GN-15-004455: *Texas Ethics Commission v. Empower Texans, Inc. and Michael Quinn Sullivan*, in the 345<sup>th</sup> Judicial District Court of Travis County, Texas; and related case, Cause No. 03-16-00872-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.

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*For more information, contact Anne Temple Peters, Executive Director, at (512) 463-5800.*

4. **Reconvene in open session.**

5. Adjourn.

**CERTIFICATION:** I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: Anne Temple Peters, Executive Director.

**NOTICE:** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, the Texas Ethics Commission will provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, and large print or Braille documents. In determining the type of auxiliary aid or service, the Commission will give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify Margie Castellanos at (512) 463-5800 or RELAY Texas at (800) 735-2989 two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

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## PUBLIC MEETING AGENDA

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Date and Time: 3:30 p.m., Wednesday, November 20, 2019  
Location: Room E1.014, Capitol Extension, Austin, Texas

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1. Call to order; roll call.

### ADVISORY OPINIONS

2. Discussion and possible action regarding procedures for advisory opinion requests received by the Texas Ethics Commission.
3. Reconsideration of Ethics Advisory Opinion No. EAO-550, adopted on June 28, 2019, and possible adoption of a revised advisory opinion regarding whether a public officer may use government resources for political advertising.

These opinions construe Section 39.02 of the Penal Code and Section 255.003(a) of the Election Code.

4. Advisory Opinion Draft No. AOR-629: Whether a city employee violates section 255.003 of the Election Code in certain circumstances.

This opinion construes Section 255.003(a) of the Election Code.

5. Advisory Opinion Draft No. AOR-630: Whether an elected officeholder, who is a member of a political committee, may accept transportation, lodging, and meals, or reimbursement of expenses for the same, during a regular legislative session from the committee for attending and performing official actions at the committee’s meetings.

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*For more information, contact Anne Temple Peters, Executive Director, at (512) 463-5800.*

This opinion construes Section 36.07, Penal Code, and Section 253.034, Election Code.

6. Advisory Opinion Draft No. AOR-631: Whether section 572.069 of the Government Code would prohibit a former employee of a state agency from accepting employment from a person whose bid proposal the employee reviewed when the person was not eligible to enter into a contract with the agency.

This opinion construes Section 572.069, Government Code.

7. Advisory Opinion Draft No. SP-17: Regarding the reporting of certain expenditures made for the placement of Internet political advertising.

This opinion construes section 254.035 of the Election Code and section 20.57(b) of the Ethics Commission Rules.

8. Adjourn.

**CERTIFICATION:** I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: Anne Temple Peters, Executive Director.

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# TEXAS ETHICS COMMISSION



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## ETHICS ADVISORY OPINION NO. 550

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*June 28, 2019*

### ISSUE

*Whether a public officer may use government resources for political advertising. (SP-14)*

### BACKGROUND

The Texas Ethics Commission (“Commission”) has been asked on numerous occasions about the permissibility of a public officer’s<sup>1</sup> use of government resources for political advertising. For example, we have been asked whether a public officer may be interviewed in his or her government office for use in a campaign video.

In the circumstances described above, the government resources come into the public officer’s custody or possession by virtue of holding the public office.

### SUMMARY

A public officer, including a statewide officer, legislator, county officer, municipal officer, or school district officer, would be prohibited from using government resources, such as the officer’s office in a government building, to create a photograph, video, or other communication for political advertising because the officer has custody or possession of the government resources by virtue of holding the public office.

### ANALYSIS

The Commission, on its own initiative, issues this advisory opinion to address whether a public officer may use government resources, such as the public officer’s office, to create a photograph, video, or other communication for political advertising. We also address whether a public officer may similarly use government resources that are equally accessible to the public. To resolve this

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<sup>1</sup> “Public officer” includes an officer of the state or a county, municipality, city, or political subdivision, as defined in section 1.07(a) of the Penal Code and section 1.005 of the Election Code. This opinion applies to a state officer who is a district officer of the state government, such as a legislator (*see* Elec. Code § 1.005(4)), or who is a statewide officer (*see id.* § 1.005(19)). This opinion also applies to an officer of a county, city, school district, or other subordinate self-governing entity. *See id.* § 1.005(13).

question, we must address sections 39.02(a)(2) and 39.02(a)(1) of the Penal Code and section 255.003(a) of the Election Code, which restrict the use of government resources for political advertising.<sup>2</sup>

*Use of Government Resources for Political Advertising*

*Section 39.02(a)(2), Penal Code*

Section 39.02(a)(2) of the Penal Code states that a public servant may not, with intent to obtain a benefit<sup>3</sup> or harm or defraud another, intentionally or knowingly “misuse[] government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” Penal Code § 39.02(a)(2). A public servant, as defined in the Penal Code, includes a public officer, among other enumerated persons.<sup>4</sup> Because the questions addressed by the Commission relate to public officers, this opinion applies to that class of public servants.

A “misuse” means:

[T]o deal with government property contrary to:

- (A) an agreement under which the public servant holds the property;
- (B) a contract of employment or oath of office of a public servant;
- (C) a law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- (D) a limited purpose for which the property is delivered or received.

*Id.* § 39.01(2).

The use of government resources for an individual public servant’s benefit is a misuse contrary to the state constitutional requirements that public money be used for a public purpose. Tex. Const. art. III, §§ 51, 52(a).<sup>5</sup> Therefore, the use of government resources for an individual public

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<sup>2</sup> This opinion does not apply to a judicial officer.

<sup>3</sup> “Benefit” is defined, in pertinent part, as “anything reasonably regarded as economic gain or advantage.” Penal Code § 1.07(a)(7).

<sup>4</sup> “Public servant” also includes an employee or agent of government, a juror or grand juror, an arbitrator or referee, a notary public, and a candidate for nomination or election public office. Penal Code § 1.07(a)(41).

<sup>5</sup> Tex. Const. art. III, §§ 51 (legislature may not authorize grant of public money to any individual, association, municipal or other corporation), 52(a) (legislature may not authorize any county, city, town or other political

servant's private campaign purposes would be a misuse. Section 39.02(a)(2) of the Penal Code applies only to a misuse of government resources that have "come into the public servant's custody or possession by virtue of the public servant's office or employment." A public officer would have custody or possession<sup>6</sup> of an office or other government resources by virtue of having exclusive control over those resources as a public officer. The public officer's use of a government office, which is restricted to the custody or possession of that officer, for political advertising would confer a benefit to the individual public servant for private campaign purposes and would violate section 39.02(a)(2) of the Penal Code.

Regarding government resources, such as the public area of a government facility, in our opinion, such an area would not be in the "custody or possession" of a public officer. Such an area would be equally accessible to those not having custody or possession of the government resources. Therefore, section 39.02(a)(2) of the Penal Code would not prohibit a public officer from using the public areas of a government building to create a communication for political advertising.

Regarding the specific example about which we have been asked, a public officer occupying the public officer's government office would have custody or possession of the government office by virtue of holding the public office. The government office would not be equally accessible to the public. We conclude that section 39.02(a)(2) would prohibit the public officer from using the public officer's government office to create any communication for political advertising, such as an interview for a campaign video. In our opinion, the best practices for public officers are to remove themselves from government facilities and decline to use other government resources, of which they have custody or possession, for campaign activity, including political advertising. We conclude that public officers may permissibly use government resources that are equally accessible to the general public, and they should relocate to publicly accessible areas, when creating photographs, videos, or other communications for political advertising.

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corporation or subdivision of the state to grant public money or thing of value in aid of or to any individual, association, or corporation). *See also* Ethics Advisory Opinion Nos. 386 (1997) (use of state equipment or state employees to handle campaign contributions or prepare campaign finance reports for officeholders is a misuse of government resources), 172 (1993) (state employees' work time may not be used to handle campaign contributions or expenditures); Gov't Code § 556.004 (prohibiting use of legislatively appropriated money and other resources for campaign purposes); *Texans Uniting for Reform & Freedom v. Saenz*, 319 S.W.3d 914 (Tex. App. – Austin 2010), *petition denied*, 2011 Tex. LEXIS 59 (Tex., Jan. 14, 2011) (legislature intended section 556.004 of the Government Code to prohibit state officers and employees from using their official authority to affect the result of an election, to affect the nomination of a candidate, or to achieve purposes similar in kind or nature to achieving or aiding the nomination or election of candidates); Attorney General Opinion Nos. DM-431 (1997), JM-685 (1993) (both holding that governmental entity may not pay costs in connection with election contest involving government officeholder), MW-36 (1979) (public body has no authority to contribute public funds to or on behalf of an individual or organization).

<sup>6</sup> "Custody" is defined as "[t]he care and control of a thing or person for inspection, preservation, or security." Black's Law Dictionary 467 (10th ed. 2014). "Possession" is defined as "[t]he fact of having or holding property in one's power; the exercise of dominion over property," and "[t]he right under which one may exercise control over something to the exclusion of all others." *Id.* at 1351. In the Penal Code, "possession" is more generally defined as "actual care, custody, control, or management." Penal Code § 1.07(a)(39).

*Section 39.02(a)(1), Penal Code*

Section 39.02(a)(1) of the Penal Code states that a public servant may not, with intent to obtain a benefit or harm or defraud another, intentionally or knowingly “violate[] a law relating to the public servant’s office or employment.” Penal Code § 39.02(a)(1).<sup>7</sup> Section 39.02(a)(2) of the Penal Code and the constitutional requirement to use public money for a public purpose are laws relating to the public officer’s office or employment. Therefore, in our opinion, a public officer would violate section 39.02(a)(1) of the Penal Code by using government resources of which the officer has custody or possession, including the government office, to create a photograph, video, or other communication for political advertising.

We caution that additional legal restrictions may apply to the use of any government resources, including other state or local laws or policies, and such restrictions may constitute law relating to a public servant’s office or employment under section 39.02(a)(1) of the Penal Code. This prohibition has a wide application and “allows for a vast array of potential means of committing the offense.” *State v. Martinez*, 548 S.W.3d 751, 759 (Tex. App. – Corpus Christi – Edinburg 2018), *reh’g denied*, 2018 Tex. App. LEXIS 5042 (Tex. App. – Corpus Christi – Edinburg June 11, 2018) (indictment alleging an offense under this provision must specify which law or laws relating to the public servant’s office or employment were allegedly violated). We cannot address the application of laws or policies that are outside our jurisdiction for an advisory opinion.<sup>8</sup> Accordingly, we cannot provide assurance that section 39.02(a)(1) of the Penal Code, depending upon all applicable laws, would not prohibit a public officer from using other government resources that are generally accessible to the public to create a photograph, video, or other communication for political advertising.

*Section 255.003(a), Election Code*

Section 255.003(a) of the Election Code states, in pertinent part, that an officer of a political subdivision may not knowingly “spend or authorize the spending of public funds for political advertising.” Elec. Code § 255.003(a).<sup>9</sup> The “spending” of public funds includes the use of a political subdivision employee’s work time or a political subdivision’s equipment or facilities.<sup>10</sup>

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<sup>7</sup> “Law relating to a public servant’s office or employment” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly: (A) imposes a duty on the public servant; or (B) governs the conduct of the public servant. *Id.* § 39.01(1). “Law” means the constitution or a statute of this state or of the United States, a written opinion of a court of record, a municipal ordinance, an order of a county commissioners court, or a rule authorized by and lawfully adopted under a statute. *Id.* § 1.07(a)(30).

<sup>8</sup> *See* Gov’t Code § 571.091 (specifying the laws the commission may consider in an advisory opinion).

<sup>9</sup> Section 255.003(a) of the Election Code applies to an officer of a political subdivision. “Political subdivision” includes a county, city, or school district or any other government entity that possesses authority for subordinate self-government through officers selected by it. Elec. Code § 1.005(13)(C). By contrast, section 39.02 of the Penal Code applies to any public servant. *See supra*, n. 4 (defining “public servant”).

<sup>10</sup> *See, e.g.*, Ethics Advisory Opinion No. 443 (2002) (placement of campaign flyers in a school district teachers’ lounge would involve the spending of public funds where school district employees were required to transport the flyers to an area of the school that was not accessible to the public), Ethics Advisory Opinion No. 45 (1992) (distribution of political advertising using school district equipment or school district employees on school district time would be the spending of public funds where an already existing internal mail system was used); Attorney

“Political advertising” is defined, in pertinent part, as a communication supporting or opposing a candidate for nomination or election to a public office or a public officer that is published or broadcast in return for consideration or appears in various forms of writing or on an Internet website. *Id.* § 251.001(16).

For purposes of section 255.003(a) of the Election Code, we have concluded that the use of a facility maintained by a political subdivision, in an area that was restricted to its employees, required government resources to operate while in that restricted area, and therefore violated section 255.003(a) of the Election Code.<sup>11</sup> Furthermore, we have found violations of section 255.003(a) of the Election Code on numerous occasions since the statute was enacted where public officers controlled the access to certain government resources.<sup>12</sup>

## CONCLUSION

Section 39.02(a)(2) of the Penal Code prohibits a public officer from using government resources, of which the officer has custody or possession, to create a photograph, video, or other communication for political advertising. In addition, section 255.003(a) of the Election Code prohibits a public officer, who is also an officer of a political subdivision, from using government resources, such as restricted areas of government facilities, for political advertising. These statutes do not prohibit a public officer from using government resources that are equally accessible to the public for political advertising. Section 39.02(a)(1) of the Penal Code may, depending on all applicable laws, prohibit a public officer from using publicly accessible government resources for political advertising.

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General Opinion No. KP-177 (2018) (this statute prohibits the use of school district staff, facilities, or other resources where school districts electronically distributed links to Internet websites that were partisan in nature).

<sup>11</sup> Ethics Advisory Opinion No. 443 (2002).

<sup>12</sup> See, e.g., *In re Brooks* (SC-3180260) (2018) (use of a county-owned vehicle dedicated to the officer’s use), *In re Wilson* (SC-31712183) (2018) (use of a county Facebook page maintained by the officer), *In re Joiner* (SC-31605137) (2017) (use of newsletter headlined as from officer’s desk), *In re Hawkins* (SC-31011409) (2012) (use of space in a city utility bill), *In re Downs* (SC-240588) (2004) (use of space in a city water bill), *In re McRae* (SC-240226) (2004) (use of city letterhead), *In re Clark* (SC-240225) (2004) (use of city letterhead), *In re Bowman* (SC-240218) (2004) (use of emergency services district letterhead), *In re Lord* (SC-230963) (2004) (use of city-contracted video production), *In re Williams, et. al.* (SC-211170) (2001) (use of space in city water bill and airtime on city cable channel), *In re Morgan* (SC-210541) (2001) (use of internal mail system), and *In re Williams* (SC-991032) (1999) (use of special edition of sheriff’s report).

DRAFT 1

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**ETHICS ADVISORY OPINION NO. \_\_\_\_**

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*October 4, 2019*

**ISSUES**

*Whether a city employee violates section 255.003(a) of the Election Code in the following circumstances: 1) by allowing political advertising materials to be displayed or distributed at a city-owned facility during or in connection with a candidate debate or forum, 2) if political advertising materials are displayed or distributed inside a city-owned room that is rented to and paid for by the sponsor of a candidate debate or forum, or 3) if political advertising materials are displayed or distributed in a corridor outside the room rented to the debate sponsor or in the parking lot of the city-owned building where the candidate debate or forum is being conducted. (AOR-629)*

**BACKGROUND**

The Texas Ethics Commission (“Commission”) has been asked whether a city employee would violate section 255.003(a) of the Election Code in certain circumstances. According to the facts provided for this opinion, the requestor of this opinion is the chief administrative and executive officer of a city and is responsible for the administration of all city affairs. The city owns facilities that have been used as venues for third parties to sponsor and conduct debates and forums for candidates for public office. The sponsors pay rent to the city to use the facilities and the debates and forums are open to all candidates and to the public. The debates and forums attract candidates and their supporters who wish to display or distribute political advertising materials to members of the public who may be present within a rented meeting room, in a corridor outside a rented meeting room, or in the parking lot outside a city-owned building where the debate is being conducted. The city does not prepare or pay for any of the political advertising materials, sponsor or conduct the debates, invite or contact candidates, or endorse or oppose any candidates. No city employees participate on work time in the preparation, display, placement, or distribution of the political advertising materials.

# DRAFT 1

## SUMMARY

Section 255.003(a) of the Election Code prohibits a city manager from authorizing the display or distribution of political advertising at a city-owned facility. If the facility is a public forum or is otherwise designated by the city as a limited forum, this prohibition cannot be enforced if it would violate the First Amendment of the United States Constitution to do so.

## ANALYSIS

The city manager asks if he would violate section 255.003(a) of the Election Code by allowing candidates or their supporters to display or distribute political advertising materials at a city-owned facility during or in connection with a candidate debate or forum. Section 255.003(a) states that “an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.”<sup>1</sup>

In prior opinions, we have stated that, for purposes of section 255.003(a) of the Election Code, the “spending of public funds” includes the use of a political subdivision’s resources.<sup>2</sup> In particular, in Ethics Advisory Opinion No. 443, we stated that the placement of campaign flyers in a teachers’ lounge maintained by a school district would constitute the spending of public funds for political advertising. That opinion was based on the presumption that the placement of the flyers would require school district employees to transport the flyers to a restricted area on work time, and that the “spending” of public funds includes “any use of a political subdivision’s resources for political advertising.”<sup>3</sup>

In the particular request before us, the political advertising would be displayed or distributed by persons who are not officers or employees of a political subdivision. In our opinion, however, section 255.003(a) of the Election Code prohibits an officer or employee of a political subdivision from authorizing third parties to use the political subdivision’s facilities to display or distribute their political advertising. We therefore conclude that section 255.003(a) of the Election Code would prohibit the city manager from authorizing the display or distribution of

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<sup>1</sup> Political advertising is defined as a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that: (A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or (B) appears: (i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or (ii) on an Internet website. Elec. Code §251.001(16).

<sup>2</sup> See, e.g., Ethics Advisory Opinion Nos. 532 (2015) (spending public funds includes the use of city staff and equipment to create and distribute political advertising on city letterhead), 443 (2002) (spending public funds includes the use of school district facilities to post political advertising in a restricted area of a school on work time), 45 (1992) (spending public funds includes the use of school district employees’ work time and internal mail system equipment to distribute political advertising).

<sup>3</sup> Ethics Advisory Opinion No. 443 (2002).

## DRAFT 1

political advertising in a city-owned facility during or in connection with a candidate debate or forum.

The city manager also asks if he would be deemed to have authorized the spending of public funds for political advertising if the political advertising materials are displayed or distributed: (1) in a city-owned room that is rented to and paid for by the sponsor of a candidate debate or forum, or (2) in a corridor outside the room rented to the debate sponsor or in the parking lot of the city-owned building where the debate or forum is being conducted. Whether an officer or employee of a political subdivision has authorized the use of political subdivision's resources in a particular case depends upon the specific facts. The city manager states in his request that he is the city's chief administrative and executive officer and is responsible for the administration of all city affairs, and we assume for this opinion that the city manager would be authorizing third parties to use the city facilities to display or distribute political advertising. We therefore conclude that the city manager would violate section 255.003(a) of the Election Code by authorizing the display or distribution of political advertising in the described city-owned facilities.

In Ethics Advisory Opinion No. 443, we also clarified that we did not address the use of a political subdivision's facilities that function as a public forum. In this request at issue, we are not informed as to whether any of the district's facilities are, or have been designated as, a public forum and we do not make that determination in this opinion. However, we note that section 255.003(a) of the Election Code cannot prohibit the use of public funds or resources for the display or distribution of political advertising if, under the particular circumstances, the prohibition would unconstitutionally restrict speech.<sup>4</sup> Whether section 255.003(a) of the Election Code is an unconstitutional restriction in any particular case depends on the specific facts, including the nature of the restriction, its justification, and other circumstances. Such matters are beyond the scope of this opinion and are appropriately resolved by the judiciary.

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<sup>4</sup> For a detailed analysis of the public forum doctrine, see *Cornelius v. NAACP Legal Defense and Educ. Fund*, 473 U.S. 788 (1985).

**DRAFT**

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**ETHICS ADVISORY OPINION NO. \_\_\_\_**

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*October 4, 2019*

*Whether an elected officeholder, who is a member of a political committee, may accept transportation, lodging, and meals, or reimbursement of expenses for the same, during a regular legislative session from the committee for attending and performing official actions at the committee's meetings. (AOR-630)*

**SUMMARY**

Section 36.07 of the Penal Code unequivocally prohibits a public servant from accepting an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. Section 253.034(a) of the Election Code prohibits a statewide officeholder or member of the legislature from accepting a political contribution during a regular legislative session. Under the facts presented in this opinion, neither of these restrictions would prohibit an officeholder from accepting transportation, lodging, and meals, or reimbursement of expenses for the same, from a political committee for rendering services in connection with the political committee's multi-day meeting or series of meetings.

**FACTS**

The requestor of this opinion is an elected officeholder who is subject to the moratorium on accepting political contributions during a regular legislative session. The officeholder is also a member of a political committee. The officeholder wishes to (1) attend a multi-day meeting or series of meetings of the political committee to participate in panel discussions, subcommittee meetings, receptions, dinners, luncheons, and speeches, and (2) perform official actions directly related to the political committee's mission and purpose. The officeholder asks that we assume the services would not be merely perfunctory. The officeholder would like to accept transportation, lodging, and meals, or reimbursement of expenses for the same, during a regular legislative session to attend the meeting or series of meetings.

**ANALYSIS**

The relevant laws that we must consider are section 36.07 of the Penal Code and section 253.034 of the Election Code, which restrict certain officeholders from accepting benefits in certain circumstances.

## DRAFT

### Honorarium Prohibition

Section 36.07 of the Penal Code states, in relevant part:

(a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

(b) This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

(b-1) Transportation, lodging, and meals described by Subsection (b) are not political contributions as defined by Title 15, Election Code.<sup>1</sup>

Penal Code §36.07.

According to the facts presented in this request, the officeholder would participate in the meetings and provide services, at least in part, in the officeholder's capacity as a public servant. Thus, the honorarium prohibition in section 36.07(a) of the Penal Code would prohibit the officeholder from accepting the transportation, lodging, and meals, or the reimbursement of expenses for the same, except as provided by section 36.07(b).

The exception under section 36.07(b) applies if the expenses for transportation, lodging, and meals are "in connection with a conference or similar event in which the public servant renders services."<sup>2</sup> In our opinion, a "conference or similar event" in section 36.07(b) of the Penal Code

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<sup>1</sup> "Political contribution" means a campaign contribution or an officeholder contribution. Elec. Code §251.001(5). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* §251.001(3). "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* §251.001(4).

<sup>2</sup> *See, e.g.*, Ethics Advisory Opinion Nos. 273 (1995) (a legislator may accept expenses for travel, lodging, and meals in connection with a speaking engagement), 54 (1992) (a state agency employee may accept lunch from a nonprofit organization provided during a speaking engagement in connection with a conference or similar event), 18 (1992) (a member of the legislative or executive branch of state government may accept payment for transportation, meals, and lodging expenses incurred in a speaking engagement at a nonprofit organization meeting), and 17 (1992) (a legislator may accept direct provision of, or reimbursement for, expenses for transportation, lodging, and meals incurred in connection with a speaking engagement at a conference or similar event).

## DRAFT

includes a political committee's multi-day meeting or series of meetings.<sup>3</sup> Additionally, the officeholder would be rendering services that are the same as or similar to addressing an audience or engaging in a seminar, which are examples provided by section 36.07(b). Therefore, section 36.07(a) would not prohibit the officeholder from accepting transportation, lodging, and meals, or the reimbursement of expenses for the same, to enable such participation.

### Moratorium on Accepting Political Contributions During a Regular Legislative Session

Section 253.034 of the Election Code prohibits certain officeholders, including a statewide officeholder or a member of the legislature, from knowingly accepting a political contribution that is received during the period beginning on the 30th day before the date a regular legislative session convenes and continuing through the 20th day after the date of final adjournment. However, section 36.07(b-1) of the Penal Code expressly states that transportation, lodging, and meals described by section 36.07(b) are not political contributions. Because, as discussed above, the transportation, lodging, and meals at issue, or the reimbursement of expenses for the same, are subject to the exception provided in section 36.07(b) of the Penal Code, they are not political contributions. Therefore, section 253.034(b) of the Election Code, applicable to the officeholder, would not prohibit the officeholder from accepting the transportation, lodging, and meals, or the reimbursement of expenses for the same, in these circumstances.

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<sup>3</sup> Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Gov't Code §311.011(a). "Conference" is defined, in part, as a convention or a meeting held to deliberate on a subject and usually decide how to proceed. Black's Law Dictionary 360 (10th ed. 2014). *See also, id.* at 405 (defining a convention, in part, as an assembly or meeting of members belonging to an organization or having a common objective); Ethics Advisory Opinion No. 401 (1998) (implicitly determining that section 36.07(b) of the Penal Code applies to expenses paid or provided to a state officer in connection with an appearance at a fundraiser to give a speech in support of a candidate for state or federal office).

DRAFT

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ETHICS ADVISORY OPINION NO. \_\_\_\_

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October 4, 2019

*Whether section 572.069 of the Government Code would prohibit a former employee of a state agency from accepting employment from a person whose bid proposal the employee reviewed when the person was not eligible to enter into a contract with the agency. (AOR-631)*

**SUMMARY**

Section 572.069 of the Government Code prohibits a former employee of a state agency from accepting employment from a person,<sup>1</sup> before the second anniversary of the date on which the former employee’s employment with the agency ended, because the former employee reviewed a bid proposal from the person for a contract with the agency, regardless of whether or not the person was eligible to enter into a contract with the agency.

**FACTS**

The Texas Ethics Commission has been asked whether the “revolving door” law in section 572.069 of the Government Code would prohibit the requestor of this opinion (“the requestor”) from accepting employment from a person (“the person”) whose bid proposal the requestor reviewed when employed by a state agency<sup>2</sup> (“the agency”).

The requestor states that the agency solicited bid proposals to procure a contract for information technology services in July 2017 while the requestor was employed by the agency. The requestor’s role in the procurement was to review and recommend the bid proposals as part of an evaluation team. Only the person submitted a bid proposal to the agency. While the requestor was reviewing the person’s bid proposal, the agency discovered that the person’s eligibility to conduct business with the State of Texas had expired prior to the solicitation. The agency

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<sup>1</sup> For purposes of chapter 572 of the Government Code, a “person” means an individual or a business entity. Gov’t Code §572.002(7). A “business entity” means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust. *Id.* §572.002(2).

<sup>2</sup> The agency is the Texas Department of Public Safety, which is a state agency. Gov’t Code §572.002(10)(A) (defining “state agency” in relevant part as a department in the state executive branch with statewide authority and created by the Texas Constitution or state statute).

## DRAFT

discontinued the solicitation because there were no other bidders for the contract. The requestor ended employment with the agency in December 2018.

### ANALYSIS

At the time the agency was procuring the contract, section 572.069 of the Government Code stated:

A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

Gov't Code §572.069 (effective through August 31, 2017).<sup>3</sup>

The question is whether the requestor participated on behalf of the agency in a procurement or contract negotiation involving the person. Section 572.069 does not define the term "participated;" however, it is defined in section 572.054 of the Government Code, a companion revolving door law, as "to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action." *Id.* §572.054(h)(1). It is reasonable to rely on the meaning of "participated" in section 572.054 when construing section 572.069, and we therefore apply that meaning here. *See* Gov't Code §311.011(b) (words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly).

The requestor, as an official responsibility, reviewed and evaluated a bid proposal for a contract. By doing so, the requestor participated<sup>4</sup> in a procurement on behalf of the agency, regardless of whether the bidding person was eligible to enter into the contract with the agency. Accordingly,

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<sup>3</sup> The statute was amended, effective September 1, 2017, to prevent a former employee of a state agency from accepting employment before the second anniversary of the date the "*contract is signed or the procurement is terminated or withdrawn*" (emphasis added). Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. 533), §1 (effective September 1, 2017). However, the prior version of the statute applies to the requestor in these circumstances because the amending legislation states that the changes in law apply only in relation to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after September 1, 2017. *Id.* at §17(c).

<sup>4</sup> *See also* Ethics Advisory Opinion Nos. 545 (2017) (scoring and evaluating bid proposals for a state agency contract is participation in a procurement on behalf of a state agency under section 572.069 of the Government Code), 539 (2016) (reviewing and making comments and recommendations on a consultant's reports is participation in an agency program under section 572.054 of the Government Code), and 397 (1998) (making a recommendation about a consultant seeking a contract to perform a feasibility study is clearly participation in the matter under section 572.054 of the Government Code).

## **DRAFT**

section 572.069 of the Government Code would prohibit the requestor from accepting employment from the person for two years after the date the requestor's service or employment with the agency ceased.

DRAFT 1

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**ETHICS ADVISORY OPINION NO. \_\_\_\_**

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*October 4, 2019*

**ISSUE**

*Determining the date of a political expenditure for reporting purposes for Internet political advertising, such as Google Ads, where the cost of the advertising accrues over a periodic billing cycle. (SP-17)*

*OR*

*Whether an expenditure made through a periodic bill for the placement of Internet political advertising, the amount of which is based on the number of views or clicks the Internet advertising receives during the billing period, is reported under the "utility bill" reporting provisions, where the total cost is not known until the end of the billing cycle. (SP-17)*

**SUMMARY**

If under normal business practices the total cost for Internet political advertising during a periodic billing cycle is not known until the end of the billing cycle, the date of the expenditure for reporting purposes is the date the advertiser receives the periodic bill, consistent with section 254.035(b) of the Election Code and section 20.57(b) of the Texas Ethics Commission's Rules.

**ANALYSIS**

The Texas Ethics Commission ("Commission"), on its own initiative, issues this advisory opinion to address whether expenses for placing political advertising on the Internet that accrue as the advertising reaches more people and are periodically billed to advertisers must be reported as either multiple daily expenditures or as one expenditure when the periodic bill is received.

Certain Internet advertising products, such as Google Ads, allow an advertiser to make an ad appear in the search results of another Internet user's search by associating the advertiser's ad with certain search terms. The cost to the advertiser is dependent on, among other things, how many people see and click on the ad. The actual number of clicks the ad receives and the number of times the ad appears is out of the control of the advertiser, but the advertiser is able to cap the total cost of running the ad. When the cap is reached, the ad stops appearing. Even though an

## DRAFT 1

advertiser is able monitor the number of clicks, views, and costs in almost real time, the total costs to the advertiser cannot be known until the close of the billing period.

Generally, “[t]he date of a political expenditure is the date the amount is readily determinable by the person making the expenditure . . . .” Ethics Commission Rules §20.57(a); Elec. Code §254.035(a). Under the “utility bill” exception, if the character of an expenditure is such that under normal business practices the amount is not disclosed until receipt of a periodic bill, the expenditure is not considered made until the date the bill is received. *Id.* §254.035(b). By rule, the Commission further explains that this "utility bill" exception is applicable when "under normal business practices, the amount of an expenditure is not known or readily ascertainable until receipt of a periodic bill," and provides as examples electricity bills and long-distance telephone bills.<sup>1</sup> Ethics Commission Rules §20.57(b).

In our opinion, the "utility bill" exception in section 254.035(b) of the Election Code and section 20.57(b) of the Ethics Commission Rules applies to expenditures for Internet advertising, such as Google Ads, where the normal business practice is such that the total amount of the charges during the billing cycle is dependent on usage outside of the advertiser’s control and therefore is not known until the end of that billing cycle.. For example, Candidate A enrolls in Google Ads and directs Google to make a link to Candidates A’s campaign webpage appear in Google search results for Candidate A’s name. Candidate A’s bill increases every time someone sees or clicks on the link Candidate A paid Google to serve to its users. Candidate A would not know the total monthly bill until the billing period ends. In that manner, the charges for the advertising are analogous to a telephone bill or electricity bill. Therefore, the date of the expenditure for reporting purposes for Internet advertising, where the actual total cost during a billing cycle cannot be known or readily ascertainable until the end of the billing cycle, is the date the advertiser receives the periodic bill.

Certain other Internet advertising models, such as one used by Facebook, requires an advance payment. In such cases, the date of a political expenditure is the date of the payment is made.

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<sup>1</sup> There is another exception for expenditures made by credit card. *See id.* §254.035(c),(d) (stating the amount of a political expenditure made by credit card is readily determinable on the date the person receives the credit card statement that includes the expenditure for semiannual reports). The date of an expenditure made by credit card during a pre-election reporting period is the date the credit card is charged. *See id.*; Ethics Commission Rules §20.57.

TEXAS ETHICS COMMISSION  
P.O. Box 12070, Austin, Texas 78711-2070  
(512) 463-5800

Chad M. Craycraft, Chair  
Mary K. “Katie” Kennedy, Vice Chair  
Randall H. Erben  
Chris Flood

Patrick W. Mizell  
Richard S. Schmidt  
Joseph O. Slovacek  
Steven D. Wolens

## PUBLIC MEETING AGENDA

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Date and Time: 9:00 a.m., Thursday, November 21, 2019  
Location: Room E1.014, Capitol Extension, Austin, Texas

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1. Call to order; roll call.
2. Discussion regarding dates for next Commission meeting.
3. Approve minutes for the following meetings:
  - Executive Session – June 27, 2019;
  - Formal Hearing – June 27, 2019; and
  - Public Meeting – June 28, 2019.
4. **Possible executive session pursuant to Section 551.074, Government Code (Personnel Matters):** Discussion of and possible action on personnel matters, including the salaries of Commission staff, including the Executive Director and General Counsel.

### ADMINISTRATIVE WAIVERS, REDUCTIONS, APPEALS OF FINES

5. Discussion and possible action on appeals of determinations made under Ethics Commission Rules §§18.25 and 18.26 relating to administrative waiver or reduction of a fine, for the following filers:
  1. Buddie J. Hahn (00019336)
  2. Cooke W. Kelsey (00082053)
  3. Andrew Morris (00081811)
  4. Maria T. Jackson (00062432)
  5. MarySue Louisa Femath (00082067)
  6. Kevin Kennedy, Campaign Treasurer, Texans for Fairness (GPAC) (82818)

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*For more information, contact Anne Temple Peters, Executive Director, at (512) 463-5800.*

7. Scott J. Utley, Campaign Treasurer, Parker County Republican Party (00055725)
  8. Robert Cody Garrett (00080020)
  9. Robert Cody Garrett, Campaign Treasurer, 427 PAC (Cody Garrett for RRC) (00066927)
  10. Aron Ra (00081345)
  11. Shaun McDade Nelson, Campaign Treasurer, Texas Stonewall Democratic Caucus (GPAC) (00054064)
  12. Warren Blake Baker (00082398)
6. Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive filers:
1. Johnathan B. Brohawn (00082383)
  2. Calab W. Homoth (00082729)
  3. Jeffrey A. Payne (00081830)
  4. Tony C. Teal (00082665)
  5. Gilberto Velasquez, Jr. (00069924)
  6. Kory D. Watkins (00081678)
  7. Lee B. Weaver (00082141)
  8. Ronald Hamilton, Treasurer, Citizen Input PAC (00080002)
  9. Alan Sandersen, Treasurer, Fort Bend Business PAC (00068461)
  10. Gary L. Moody, Treasurer, Neighbors for McLendon – Chisholm (00082708)
  11. Santiago Manrique, Treasurer, Opportunities for Brownsville PAC (00082679)
  12. Douglas L. Foshee, Treasurer, Texas Aspires (00069647)
  13. Lucius O'Dell, Treasurer, Texans for Conservative Government PAC (00082571)
  14. Josh Lyrock, Treasurer, Texans for Ethical Local Leadership (00082824)

## **RULEMAKING**

### **Rule Adoption**

7. Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Ethics Commission Rule §18.21, regarding the jurisdiction to consider a request to waive or reduce a fine assessed for failure to file a timely report or for filing a correction to a report.
8. Discussion and possible action on the adoption or proposal and publication in the Texas Register of amendments to Ethics Commission Rule §18.31, regarding the adjustments of reporting thresholds, and Ethics Commission Rules that are

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*For more information, contact Anne Temple Peters, Executive Director, at (512) 463-5800.*

affected by the adoption of an amendment to Ethics Commission Rule §18.31, including §§20.62, 20.65, 20.217, 20.219, 20.220, 20.221, 20.275, 20.279, 20.301, 20.303, 20.313, 20.329, 20.331, 20.333, 20.401, 20.405, 20.431, 20.433, 20.434, 20.435, 20.553, 20.555, 22.1, 22.6, 22.7, 34.41, and 34.43.

### **Rule Publication**

9. Discussion and possible action on the proposal and publication in the Texas Register of new Ethics Commission Rules §12.86, regarding motions for continuance in preliminary review hearings.
10. Discussion and possible action on the proposal and publication in the Texas Register of new Ethics Commission Rule §12.174, regarding the summary disposition of a matter in a formal hearing.
11. Discussion and possible action on the proposal and publication in the Texas Register of new Ethics Commission Rules §§18.10 and 18.11, regarding the procedures for waiving or reducing fines assessed for corrected reports, and an amendment to Ethics Commission Rule §18.9, regarding corrected and amended reports.
12. Discussion and possible action on the proposal and publication in the Texas Register of an amendment to Ethics Commission Rule §12.29, regarding the issuance of subpoenas by a respondent's attorney.
13. Discussion and possible action on the proposal and publication in the Texas Register of the repeal of Ethics Commission Rules §22.5, regarding corporate and labor organization contributions to direct campaign expenditure committees, and amendments to Ethics Commission Rules §§20.1 and 22.6, regarding definitions of terms in Title 15 of the Election Code that are in conflict with, or made obsolete by, legislation passed in the 86th Legislative Session.
14. Discussion and possible action on the proposal and publication in the Texas Register of: (1) amendments to Ethics Commission Rules §§20.1 and 24.18, regarding hybrid political committees and the designation of corporate political contributions for administrative purposes; and (2) new Ethics Commission Rules §§22.35 and 24.19, regarding political contributions to political committees by corporations and labor organizations.
15. Discussion and possible action on the proposal and publication in the Texas Register of the repeal of Ethics Commission Rules §§22.33, 27.1, and 27.101,

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regarding expenditure limits in the Judicial Campaign Fairness Act that were repealed by legislation passed in the 86th Legislative Session.

### **OTHER POLICY MATTERS**

16. Discussion of, and possible action on, any unfinished business from the Executive Session or Public Meeting held on November 20, 2019.
17. Adjourn.

**CERTIFICATION:** I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: Anne Temple Peters, Executive Director.

**NOTICE:** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, the Texas Ethics Commission will provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, and large print or Braille documents. In determining the type of auxiliary aid or service, the Commission will give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify Margie Castellanos at (512) 463-5800 or RELAY Texas at (800) 735-2989 two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

The draft meeting minutes will be available on our website the day before the meeting, at <https://www.ethics.state.tx.us/DraftMinutes>.

If you would like a copy of the draft minutes, please provide your email address below, and return this sheet to Ethics Commission staff at the meeting.

Email address:

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**EXHIBIT A**

**Text of Proposed New Rules and Amendments**

The proposed new language is indicated by underlined text.

- 1                   **Chapter 18. GENERAL RULES CONCERNING REPORTS**
- 2           **§18.21. Jurisdiction to Consider Waiver Request.**
- 3           (a) A filer must file a complete report before the executive director or commission will
- 4           consider a request to waive or reduce a fine assessed for failure to file a timely report.
- 5           (b) A request to waive or reduce a fine assessed for failure to file a timely report or for
- 6           filing a correction to a report will not be considered after an action to collect the fine is
- 7           filed in court.

EXHIBIT A

Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

The deleted language is indicated by [~~striketrough~~] text.

1 **Chapter 18. GENERAL RULES CONCERNING REPORTS**

2 **§18.31. Adjustments to Reporting Thresholds.**

3 (a) Pursuant to section 571.064 of the Government Code, the reporting thresholds are  
4 adjusted as follows:

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
...	...	...	...
<u>253.032(a)</u>	<u>Threshold of contributions accepted from an out-of-state political committee above which a certain written statement or a statement of organization is required</u>	<u>\$500</u>	<u>\$900</u>
<u>253.032(a)(1)</u>	<u>Threshold of contributions to an out-of-state political committee above which certain information regarding contributions must be included in the written statement required under section 253.032(a), Election Code</u>	<u>\$100</u>	<u>\$180</u>
<u>253.032(e)</u>	<u>Threshold of contributions accepted from an out-of-state political committee at or below which certain information or a statement of organization must be included in a report</u>	<u>\$500</u>	<u>\$900</u>
254.156(2)	Threshold at which <u>contribution</u> [ <del>contribution, loan, and expenditure</del> ] information	\$20	\$40

	for MPACs qualifying under section 254.1541 is set to \$20		
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1                   **Chapter 20. REPORTING POLITICAL CONTRIBUTIONS AND**  
2   **EXPENDITURES**

3                   **Subchapter C. REPORTING REQUIREMENTS FOR A CANDIDATE**

4                   **§20.62. Reporting Staff Reimbursement.**

5                   (a) Political expenditures made out of personal funds by a staff member of an officeholder,  
6                   a candidate, or a political committee with the intent to seek reimbursement from the  
7                   officeholder, candidate, or political committee that in the aggregate do not exceed \$6,130  
8                   [~~\$5,000~~] during the reporting period may be reported as follows IF the reimbursement  
9                   occurs during the same reporting period that the initial expenditure was made:

10                   (1) the amount of political expenditures that in the aggregate exceed \$180 [~~\$100~~]  
11                   and that are made during the reporting period, the full name and address of the  
12                   persons to whom the expenditures are made and the dates and purposes of the  
13                   expenditures; and

14                   (2) included with the total amount or a specific listing of the political expenditures  
15                   of \$180 [~~\$100~~] or less made during the reporting period.

16                   (b) Except as provided by subsection (a) of this section, a political expenditure made out  
17                   of personal funds by a staff member of an officeholder, a candidate, or a political committee  
18                   with the intent to seek reimbursement from the officeholder, candidate, or political  
19                   committee must be reported as follows:

20                   (1) the aggregate amount of the expenditures made by the staff member as of the  
21                   last day of the reporting period is reported as a loan to the officeholder, candidate,  
22                   or political committee;

23                   (2) the expenditure made by the staff member is reported as a political expenditure  
24                   by the officeholder, candidate, or political committee; and

25                   (3) the reimbursement to the staff member to repay the loan is reported as a political  
26                   expenditure by the officeholder, candidate, or political committee.

27                   ~~[(c) The \$100 threshold set out in subsection (a) of this section applies to an expenditure~~  
28                   ~~required to be disclosed on a report due on or after September 28, 2011.]~~

1 **§20.65. Reporting No Activity.**

2 (a) As a general rule, a candidate or officeholder must file a report required by Subchapter  
3 C of this chapter (relating to Reporting Requirements for a Candidate) or Subchapter D of  
4 this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have  
5 a Campaign Treasurer Appointment on File) even if there has been no reportable activity  
6 during the period covered by the report.

7 (b) This general rule does not apply to:

8 (1) special pre-election reports;

9 (2) special session reports; or

10 (3) a local officeholder who does not have a campaign treasurer appointment on file  
11 and who does not accept more than \$900 [~~\$500~~] in political contributions or make  
12 more than \$900 [~~\$500~~] in political expenditures during the reporting period.

13 (c) If a required report will disclose that there has been no reportable activity during the  
14 reporting period, the filer shall submit only those pages of the report necessary to identify  
15 the filer and to swear to the lack of reportable activity.

16 **§20.217. Modified Reporting.**

17 (a) An opposed candidate who does not intend to accept more than \$900 [~~\$500~~] in political  
18 contributions or make more than \$900 [~~\$500~~] in political expenditures (excluding filing  
19 fees) in connection with any election in an election cycle may choose to file under the  
20 modified schedule.

21 (b) Under the modified schedule, an opposed candidate is not required to file pre-election  
22 reports or a runoff report.

23 (c) To select modified filing, a candidate must file a declaration of intent not to accept more  
24 than \$900 [~~\$500~~] in political contributions or make more than \$900 [~~\$500~~] in political  
25 expenditures (excluding filing fees) in connection with the election. The declaration must  
26 include a statement that the candidate understands that if either one of those limits is  
27 exceeded, the candidate will be required to file pre-election reports and, if necessary, a  
28 runoff report.

29 (d) A declaration under subsection (c) of this section is filed with the candidate's campaign  
30 treasurer appointment.

31 (e) To file under the modified schedule, a candidate must file the declaration required under  
32 subsection (c) of this section no later than the 30th day before the first election to which

1 the declaration applies. A declaration filed under subsection (c) of this section is valid for  
2 one election cycle only.

3 (f) If an opposed candidate exceeds either of the \$900 [~~\$500~~] limits, the candidate must file  
4 reports under §20.213 of this title (relating to Pre-election Reports) and §20.215 of this title  
5 (relating to Runoff Report).

6 (g) If an opposed candidate exceeds either of the \$900 [~~\$500~~] limits after the 30th day  
7 before the election, the candidate must file a report not later than 48 hours after exceeding  
8 the limit. If this is the candidate's first report filed, the report covers a period that begins on  
9 the day the candidate's campaign treasurer appointment was filed. Otherwise the period  
10 begins on the first day after the period covered by the last report required by this subchapter  
11 (other than a special pre-election report or a special session report) or Subchapter D of this  
12 chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a  
13 Campaign Treasurer Appointment on File). The period covered by the report continues  
14 through the day the candidate exceeded one of the limits for modified reporting.

15 **§20.219. Content of Candidate's Sworn Report of Contributions and Expenditures.**

16 Semiannual reports, pre-election reports, and runoff reports must cover reportable activity  
17 during the reporting period and must include the following information:

- 18 (1) the candidate's full name;
- 19 (2) the candidate's address;
- 20 (3) the office sought by the candidate, if known;
- 21 (4) the identity and date of the election for which the report is filed, if known;
- 22 (5) the campaign treasurer's name;
- 23 (6) the campaign treasurer's telephone number;
- 24 (7) the campaign treasurer's residence or business street address;
- 25 (8) for each political committee from which the candidate received notice under  
26 §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of  
27 this title (relating to Notice to Candidate or Officeholder):
  - 28 (A) the committee's full name;
  - 29 (B) the committee's address;
  - 30 (C) identification of the political committee as a general-purpose or a  
31 specific-purpose committee;

1 (D) the full name of the committee's campaign treasurer; and

2 (E) the address of the committee's campaign treasurer;

3 (9) on a separate page, the following information for each expenditure from political  
4 contributions made to a business in which the candidate has a participating interest  
5 of more than 10%, holds a position on the governing body of the business, or serves  
6 as an officer of the business:

7 (A) the full name of the business to which the expenditure was made;

8 (B) the address of the person to whom the expenditure was made;

9 (C) the date of the expenditure;

10 (D) the purpose of the expenditure; and

11 (E) the amount of the expenditure;

12 (10) for each person from whom the candidate accepted a political contribution  
13 (other than a pledge, loan, or a guarantee of a loan) of more than \$90 [~~\$50~~] in value  
14 or political contributions (other than pledges, loans, or guarantees of loans) that total  
15 more than \$90 [~~\$50~~] in value:

16 (A) the full name of the person making the contribution;

17 (B) the address of the person making the contribution;

18 (C) the total amount of contributions;

19 (D) the date each contribution was accepted; and

20 (E) a description of any in-kind contribution;

21 (11) for each person from whom the candidate accepted a pledge or pledges to  
22 provide more than \$90 [~~\$50~~] in money or goods or services worth more than \$90  
23 [~~\$50~~]:

24 (A) the full name of the person making the pledge;

25 (B) the address of the person making the pledge;

26 (C) the amount of each pledge;

27 (D) the date each pledge was accepted; and

28 (E) a description of any goods or services pledged; and

1 (F) the total of all pledges accepted during the period for \$90 [~~\$50~~] and less  
2 from a person, except those reported under subparagraphs (A)-(E) of this  
3 paragraph;

4 (12) for each person making a loan or loans to the candidate for campaign purposes  
5 if the total amount loaned by the person during the period is more than \$90: [~~\$50~~]

6 (A) the full name of the person or financial institution making the loan;

7 (B) the address of the person or financial institution making the loan;

8 (C) the amount of the loan;

9 (D) the date of the loan;

10 (E) the interest rate;

11 (F) the maturity date;

12 (G) the collateral for the loan, if any; and

13 (H) if the loan has guarantors:

14 (i) the full name of each guarantor;

15 (ii) the address of each guarantor;

16 (iii) the principal occupation of each guarantor;

17 (iv) the name of the employer of each guarantor; and

18 (v) the amount guaranteed by each guarantor;

19 (13) the total amount of loans accepted during the period for \$90 [~~\$50~~] and less from  
20 persons other than financial institutions engaged in the business of making loans for  
21 more than one year, except for a loan reported under paragraph (12) of this section;

22 (14) for political expenditures made during the reporting period that total more than  
23 \$180 [~~\$100~~] to a single payee, other than expenditures reported under paragraph (9)  
24 of this section:

25 (A) the full name of the person to whom each expenditure was made;

26 (B) the address of the person to whom the expenditure was made;

27 (C) the date of the expenditure;

28 (D) the purpose of the expenditure; and

29 (E) the amount of the expenditure;

1 (15) for each political expenditure of any amount made out of personal funds for  
2 which reimbursement from political contributions is intended:

3 (A) the full name of the person to whom each expenditure was made;

4 (B) the address of the person to whom the expenditure was made;

5 (C) the date of the expenditure;

6 (D) the purpose of the expenditure;

7 (E) a declaration that the expenditure was made out of personal funds;

8 (F) a declaration that reimbursement from political contributions is intended;  
9 and

10 (G) the amount of the expenditure;

11 (16) for each non-political expenditure made from political contributions, other than  
12 expenditures reported under paragraph (9) of this section:

13 (A) the date of each expenditure;

14 (B) the full name of the person to whom the expenditure was made;

15 (C) the address of the person to whom the expenditure was made;

16 (D) the purpose of the expenditure; and

17 (E) the amount of the expenditure;

18 (17) for each other candidate or officeholder who benefits from a direct campaign  
19 expenditure made by the candidate during the reporting period:

20 (A) the name of the candidate or officeholder; and

21 (B) the office sought or held by the candidate or officeholder;

22 (18) for each political contribution from an out-of-state political committee, the  
23 information required by §22.7 of this title (relating to Contribution from Out-of-  
24 State Committee);

25 (19) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee  
26 resulting from the use of a political contribution or an asset purchased with a  
27 political contribution that is received during the reporting period and the amount of  
28 which exceeds \$130; [~~\$100~~];

29 (20) any proceeds of the sale of an asset purchased with a political contribution that  
30 is received during the reporting period and the amount of which exceeds \$130;  
31 [~~\$100~~];

1 (21) any other gain from a political contribution that is received during the reporting  
2 period and the amount of which exceeds \$130; [~~\$100~~];

3 (22) any investment purchased with a political contribution that is received during  
4 the reporting period and the amount of which exceeds \$130; [~~\$100~~];

5 (23) the full name and address of each person from whom an amount described by  
6 paragraph (19), (20), (21), or (22) of this section is received, the date the amount is  
7 received, and the purpose for which the amount is received;

8 (24) the following total amounts:

9 (A) the total principal amount of all outstanding loans as of the last day of  
10 the reporting period;

11 (B) the total amount or an itemized listing of political contributions (other  
12 than pledges, loans, or guarantees of loans) of \$90 [~~\$50~~] and less;

13 (C) the total amount of all political contributions (other than pledges, loans,  
14 or guarantees of loans);

15 (D) the total amount or an itemized listing of the political expenditures of  
16 \$180 [~~\$100~~] and less; and

17 (E) the total amount of all political expenditures; and

18 (25) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the  
19 accompanying report is true and correct and includes all information required to be  
20 reported by me under Title 15, Election Code."

21 **§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.**

22 (a) For purposes of this section and §2155.003(e) of the Government Code, the term  
23 "vendor" means:

24 (1) a person, who during the comptroller's term of office, bids on or receives a  
25 contract under the comptroller's purchasing authority that was transferred to the  
26 comptroller by §2151.004 of the Government Code; and

27 (2) an employee or agent of a person described by subsection (a)(1) of this section  
28 who communicates directly with the chief clerk, or an employee of the Texas  
29 Comptroller of Public Accounts who exercises discretion in connection with the  
30 vendor's bid or contract, about a bid or contract.

31 (b) Each report filed by the comptroller or a specific-purpose committee created to support  
32 the comptroller, shall include:

1 (1) for each vendor whose aggregate campaign contributions equal or exceed \$590  
2 [~~\$500~~] during the reporting period, a notation that:

3 (A) the contributor was a vendor during the reporting period or during the 12  
4 month period preceding the last day covered by the report; and

5 (B) if the vendor is an individual, includes the name of the entity that employs  
6 or that is represented by the individual; and

7 (2) for each political committee directly established, administered, or controlled by  
8 a vendor whose aggregate campaign contributions equal or exceed \$590 [~~\$500~~]  
9 during the reporting period, a notation that the contributor was a political committee  
10 directly established, administered, or controlled by a vendor during the reporting  
11 period or during the 12 month period preceding the last day covered by the report.

12 (c) The comptroller, or a specific-purpose committee created to support the comptroller, is  
13 considered to be in compliance with this section if:

14 (1) each written solicitation for a campaign contribution includes a request for the  
15 information required by subsection (b) of this section; and

16 (2) for each contribution that is accepted for which the information required by this  
17 section is not provided at least one oral or written request is made for the missing  
18 information. A request under this subsection:

19 (A) must be made not later than the 30th day after the date the contribution  
20 is received;

21 (B) must include a clear and conspicuous statement requesting the  
22 information required by subsection (b) of this section;

23 (C) if made orally, must be documented in writing; and

24 (D) may not be made in conjunction with a solicitation for an additional  
25 campaign contribution.

26 (d) The comptroller, or a specific-purpose committee created to support the comptroller,  
27 must report the information required by subsection (b) of this section that is not provided  
28 by the person making the political contribution and that is in the comptroller's or  
29 committee's records of political contributions or previous campaign finance reports  
30 required to be filed under Title 15 of the Election Code filed by the comptroller or  
31 committee.

32 (e) If the comptroller, or a specific-purpose committee created to support the comptroller,  
33 receives the information required by this section after the filing deadline for the report on

1 which the contribution is reported the comptroller or committee must include the missing  
2 information on the next required campaign finance report.

3 (f) The disclosure required under subsection (b) of this section applies only to a contributor  
4 who was a vendor or a political committee directly established, administered, or controlled  
5 by a vendor on or after September 1, 2007.

6 **§20.221. Special Pre-Election Report by Certain Candidates.**

7 (a) As provided by subsection (b) of this section, certain candidates must file reports about  
8 certain contributions accepted during the period that begins on the ninth day before an  
9 election and ends at noon on the day before an election. Reports under this section are  
10 known as "special pre-election" reports.

11 (b) An opposed candidate for an office specified by §252.005(1), Election Code, who,  
12 during the period described in subsection (a) of this section, accepts one or more political  
13 contributions from a person that in the aggregate exceed \$1,800 [~~\$1,000~~] must file special  
14 pre-election reports.

15 (c) Except as provided in subsection (e) of this section, a candidate must file a special pre-  
16 election report so that the report is received by the commission no later than the first  
17 business day after the candidate accepts a contribution from a person that triggers the  
18 requirement to file the special pre-election report.

19 (d) If, during the reporting period for special pre-election contributions, a candidate  
20 receives additional contributions from a person whose previous contribution or  
21 contributions have triggered the requirement to file a special pre-election report during that  
22 period, the candidate must file an additional special pre-election report for each such  
23 contribution. Except as provided in subsection (e) of this section, each such special pre-  
24 election report must be filed so that it is received by the commission no later than the first  
25 business day after the candidate accepts the contribution.

26 (e) A candidate must file a special pre-election report that is exempt from electronic filing  
27 under §254.036(c), Election Code, so that the report is received by the commission no later  
28 than 5 p.m. of the first business day after the candidate accepts a contribution from a person  
29 that triggers the requirement to file the special pre-election report.

30 (f) A candidate must file a special pre-election report for each person whose contribution  
31 or contributions made during the period for special pre-election reports exceed the  
32 threshold for special pre-election reports.

33 (g) A candidate must also report contributions reported on a special pre-election report on  
34 the next semiannual, pre-election, or runoff report filed, as applicable.

1           **Subchapter D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER**  
2           **WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON**  
3           **FILE**

4           **§20.275. Exception from Filing Requirement for Certain Local Officeholders.**

5           An officeholder is not required to file a semiannual report of contributions and expenditures  
6           if the officeholder:

- 7           (1) is required to file with an authority other than the commission;
- 8           (2) does not have a campaign treasurer appointment on file; and
- 9           (3) does not accept more than \$900 [~~\$500~~] in political contributions or make more  
10          than \$900 [~~\$500~~] in political expenditures during the reporting period.

11          **§20.279. Contents of Officeholder's Sworn Report of Contributions and**  
12          **Expenditures.**

13          An officeholder's semiannual report of contributions and expenditures required by this  
14          subchapter must cover reportable activity during the reporting period and must include the  
15          following information:

- 16          (1) the officeholder's full name;
- 17          (2) the officeholder's address;
- 18          (3) the office held by the officeholder;
- 19          (4) for each political committee from which the officeholder received notice under  
20          §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of  
21          this title (relating to Notice to Candidate or Officeholder):
- 22                  (A) the committee's full name;
- 23                  (B) the committee's address;
- 24                  (C) identification of the political committee as a general-purpose or a  
25                  specific-purpose committee;
- 26                  (D) the full name of the committee's campaign treasurer; and
- 27                  (E) the address of the committee's campaign treasurer;
- 28          (5) on a separate page, the following information for each expenditure from political  
29          contributions made to a business in which the officeholder has a participating

1 interest of more than 10%, holds a position on the governing body of the business,  
2 or serves as an officer of the business:

3 (A) the full name of the business to which the expenditure was made;

4 (B) the address of the business to which the expenditure was made;

5 (C) the date of the expenditure;

6 (D) the purpose of the expenditure; and

7 (E) the amount of the expenditure;

8 (6) for each person from whom the officeholder accepted a political contribution  
9 (other than a pledge, loan, or a guarantee of a loan) of more than \$90 [~~\$50~~] in value  
10 or political contributions (other than pledges, loans, or guarantees of loans) that total  
11 more than \$90 [~~\$50~~] in value:

12 (A) the full name of the person making the contribution;

13 (B) the address of the person making the contribution;

14 (C) the total amount of contributions;

15 (D) the date each contribution was accepted; and

16 (E) a description of any in-kind contribution;

17 (7) for each person from whom the officeholder accepted a pledge or pledges to  
18 provide more than \$90 [~~\$50~~] in money or goods or services worth more than \$90:  
19 [~~\$50~~]

20 (A) the full name of the person making the pledge;

21 (B) the address of the person making the pledge;

22 (C) the amount of each pledge;

23 (D) the date each pledge was accepted; and

24 (E) a description of any goods or services pledged;

25 (8) the total of all pledges accepted during the period for \$90 [~~\$50~~] and less from a  
26 person, except those reported under paragraph (7) of this section;

27 (9) for each person making a loan or loans to the officeholder for officeholder  
28 purposes, if the total amount loaned by the person during the period is more than  
29 \$90: [~~\$50~~]

30 (A) the full name of the person or financial institution making the loan;

1 (B) the address of the person or financial institution making the loan;

2 (C) the amount of the loan;

3 (D) the date of the loan;

4 (E) the interest rate;

5 (F) the maturity date;

6 (G) the collateral for the loan, if any; and

7 (H) if the loan has guarantors:

8 (i) the full name of each guarantor;

9 (ii) the address of each guarantor;

10 (iii) the principal occupation of each guarantor;

11 (iv) the name of the employer of each guarantor; and

12 (v) the amount guaranteed by each guarantor;

13 (10) the total amount of loans accepted during the period for \$90 [~~\$50~~] and less from  
14 persons other than financial institutions engaged in the business of making loans for  
15 more than one year, except those reported under paragraph (9) of this section;

16 (11) for political expenditures made during the reporting period that total more than  
17 \$180 [~~\$100~~] to a single payee, other than expenditures reported under paragraph (5)  
18 of this section:

19 (A) the full name of the person to whom each expenditure was made;

20 (B) the address of the person to whom the expenditure was made;

21 (C) the date of the expenditure;

22 (D) the purpose of the expenditure; and

23 (E) the amount of the expenditure;

24 (12) for each political expenditure of any amount made out of personal funds for  
25 which reimbursement from political contributions is intended:

26 (A) the full name of the person to whom each expenditure was made;

27 (B) the address of the person to whom the expenditure was made;

28 (C) the date of each expenditure;

29 (D) the purpose of the expenditure;

- 1 (E) a declaration that the expenditure was made from personal funds;
- 2 (F) a declaration that reimbursement from political contributions is intended;
- 3 and
- 4 (G) the amount of the expenditure;
- 5 (13) for each non-political expenditure made from political contributions, other than
- 6 expenditures reported under paragraph (5) of this section:
- 7 (A) the date of each expenditure;
- 8 (B) the full name of the person to whom the expenditure was made;
- 9 (C) the address of the person to whom the expenditure was made;
- 10 (D) the purpose of the expenditure; and
- 11 (E) the amount of the expenditure;
- 12 (14) for each candidate or other officeholder who benefits from a direct campaign
- 13 expenditure made by the officeholder during the reporting period:
- 14 (A) the name of the candidate or officeholder; and
- 15 (B) the office sought or held by the candidate or officeholder;
- 16 (15) for each political contribution from an out-of-state political committee, the
- 17 information required by §22.7 of this title (relating to Contribution from Out-of-
- 18 State Committee);
- 19 (16) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee
- 20 resulting from the use of a political contribution or an asset purchased with a
- 21 political contribution that is received during the reporting period and the amount of
- 22 which exceeds \$130; [~~\$100~~];
- 23 (17) any proceeds of the sale of an asset purchased with a political contribution that
- 24 is received during the reporting period and the amount of which exceeds \$130;
- 25 [~~\$100~~];
- 26 (18) any other gain from a political contribution that is received during the reporting
- 27 period and the amount of which exceeds \$130; [~~\$100~~];
- 28 (19) any investment purchased with a political contribution that is received during
- 29 the reporting period and the amount of which exceeds \$130; [~~\$100~~];
- 30 (20) the full name and address of each person from whom an amount described by
- 31 paragraph (16), (17), (18), or (19) of this section is received, the date the amount is
- 32 received, and the purpose for which the amount is received;

1 (21) the following total amounts:

2 (A) the total principal amount of all outstanding loans as of the last day of  
3 the reporting period;

4 (B) the total amount or an itemized listing of political contributions (other  
5 than pledges, loans, or guarantees of loans) of \$90 [~~\$50~~] and less;

6 (C) the total amount of all political contributions (other than pledges, loans,  
7 or guarantees of loans);

8 (D) the total amount or an itemized listing of the political expenditures of  
9 \$130 [~~\$100~~] and less; and

10 (E) the total amount of all political expenditures; and

11 (22) an affidavit, executed by the officeholder, stating: "I swear, or affirm, that the  
12 accompanying report is true and correct and includes all information required to be  
13 reported by me under Title 15, Election Code."

#### 14 **Subchapter E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE**

##### 15 **§20.301. Thresholds for Campaign Treasurer Appointment.**

16 (a) A specific-purpose committee may not accept political contributions exceeding \$870  
17 [~~\$500~~] and may not make or authorize political expenditures exceeding \$870 [~~\$500~~]  
18 without filing a campaign treasurer appointment with the appropriate filing authority.

19 (b) A specific-purpose committee may not knowingly make or authorize campaign  
20 contributions or campaign expenditures exceeding \$870 [~~\$500~~] to support or oppose a  
21 candidate in a primary or general election for an office listed below unless the committee's  
22 campaign treasurer appointment was filed not later than the 30th day before the appropriate  
23 election day:

24 (1) a statewide office;

25 (2) a seat in the state legislature;

26 (3) a seat on the State Board of Education;

27 (4) a multi-county district office; or

28 (5) a judicial district office filled by voters of only one county.

29

1 **§20.303. Appointment of Campaign Treasurer.**

2 (a) A specific-purpose committee may appoint a campaign treasurer at any time before  
3 exceeding the thresholds described in §20.301(a) of this title (relating to Thresholds for  
4 Campaign Treasurer Appointment).

5 (b) After a specific-purpose committee appoints a campaign treasurer, the campaign  
6 treasurer must comply with all the requirements of this subchapter, even if the committee  
7 has not yet exceeded \$870 [~~\$500~~] in political contributions or expenditures.

8 (c) With the exception of the campaign treasurer appointment, the individual named as a  
9 committee's campaign treasurer is legally responsible for filing all reports of the specific-  
10 purpose committee, including a report following the termination of his or her appointment  
11 as campaign treasurer.

12 **§20.313. Converting to a General-Purpose Committee.**

13 (a) A specific-purpose committee that changes its operation and becomes a general-purpose  
14 committee is subject to the requirements applicable to a general-purpose committee as of  
15 the date it files its campaign treasurer appointment as a general-purpose committee with  
16 the commission.

17 (b) The campaign treasurer of a specific-purpose committee that becomes a general-  
18 purpose committee must deliver written notice of its change in status to the authority with  
19 whom the committee was required to file as a specific-purpose committee.

20 (c) The notice required under subsection (b) of this section is due no later than the next  
21 deadline for filing a report under this subchapter that:

22 (1) occurs after the committee's change in status; and

23 (2) would be applicable to the political committee if it were still a specific-purpose  
24 committee.

25 (d) The notice must state that future reports will be filed with the commission.

26 (e) The notice required under subsection (b) of this section is in addition to the requirement  
27 that the new general-purpose committee file a campaign treasurer appointment with the  
28 commission before it exceeds \$870 [~~\$500~~] in political expenditures or \$870 [~~\$500~~] in  
29 political contributions as a general-purpose committee.

30 ~~[(f) As provided by §20.401 of this title (relating to Thresholds for Appointment of~~  
31 ~~Campaign Treasurer by a General Purpose Committee), the new general purpose~~  
32 ~~committee may not make political expenditures totaling more than \$500 unless the~~  
33 ~~committee has accepted political contributions from at least 10 people and has filed its~~

1 campaign treasurer appointment as a general purpose committee not later than the 60th day  
2 before the date the expenditure is made that causes the committee's total expenditures to  
3 exceed \$500.]

4 **§20.329. Modified Reporting.**

5 (a) A specific-purpose committee that would otherwise be required to file pre-election  
6 reports and a runoff report, if necessary, may choose to file under the modified schedule if  
7 the committee does not intend to accept more than \$900 [~~\$500~~] in political contributions  
8 or make more than \$900 [~~\$500~~] in political expenditures (excluding filing fees) in  
9 connection with any election in an election cycle.

10 (b) Under the modified schedule, the campaign treasurer of a specific-purpose committee  
11 is not required to file pre-election reports or a runoff report.

12 (c) To select modified filing, a specific-purpose committee must file a declaration of the  
13 committee's intent not to accept more than \$900 [~~\$500~~] in political contributions or make  
14 more than \$900 [~~\$500~~] in political expenditures (excluding filing fees) in connection with  
15 the election. The declaration must include a statement that the committee understands that  
16 if either one of those limits is exceeded, the committee's campaign treasurer will be  
17 required to file pre-election reports and, if necessary, a runoff report.

18 (d) A declaration under subsection (c) of this section is filed with the committee's campaign  
19 treasurer appointment.

20 (e) To file under the modified schedule, a specific-purpose committee must file the  
21 declaration required under subsection (c) of this section no later than the 30th day before  
22 the first election to which the declaration applies. A declaration filed under subsection (c)  
23 of this section is valid for one election cycle only.

24 (f) Except as provided by subsection (g) of this section, a specific-purpose committee's  
25 campaign treasurer must file pre-election reports and, if necessary, a runoff report under  
26 the schedule set out in §20.325 of this title (relating to Pre-election Reports) and §20.327  
27 of this title (relating to Runoff Report) if the committee exceeds either of the \$900 [~~\$500~~]  
28 limits for modified reporting.

29 (g) If a specific-purpose committee exceeds either of the \$900 [~~\$500~~] limits for modified  
30 reporting after the 30th day before the election, the committee's campaign treasurer must  
31 file a report not later than 48 hours after exceeding the limit.

32 (1) The period covered by a 48-hour report shall begin either on the day the  
33 committee's campaign treasurer appointment was filed (if it is the committee's first  
34 report of contributions and expenditures) or on the first day after the period covered

1 by the last report (other than a special pre-election report or special session report)  
2 filed under this subchapter, as applicable.

3 (2) The period covered by a 48-hour report shall continue through the day the  
4 committee exceeded one of the limits for modified reporting.

5 (h) A specific-purpose committee that exceeds either of the \$900 [~~\$500~~] limits for modified  
6 reporting after the 30th day before the election and on or before the 10th day before the  
7 election must file a report under §20.325(f) of this title (relating to Pre-Election Reports),  
8 in addition to any required special pre-election reports.

9 **§20.331. Contents of Specific-Purpose Committee Sworn Report of Contributions and**  
10 **Expenditures.**

11 Semiannual reports, pre-election reports, and runoff reports must cover reportable activity  
12 during the reporting period and must include the following information:

- 13 (1) the full name of the specific-purpose committee;
- 14 (2) the address of the specific-purpose committee;
- 15 (3) the full name of the specific-purpose committee's campaign treasurer;
- 16 (4) the residence or business street address of the specific-purpose committee's  
17 campaign treasurer;
- 18 (5) the committee campaign treasurer's telephone number;
- 19 (6) the identity and date of the election for which the report is filed, if applicable;
- 20 (7) for each candidate supported or opposed by the specific-purpose committee:
  - 21 (A) the full name of the candidate;
  - 22 (B) the office sought by the candidate; and
  - 23 (C) an indication of whether the committee supports or opposes the  
24 candidate;
- 25 (8) for each officeholder assisted by the specific-purpose committee:
  - 26 (A) the full name of the officeholder;
  - 27 (B) the office held by the officeholder; and
  - 28 (C) an indication of whether the committee supports or opposes the  
29 officeholder;
- 30 (9) for each measure supported or opposed by the specific-purpose committee:

1 (A) a description of the measure; and

2 (B) an indication of whether the committee supports or opposes the measure;

3 (10) for each political expenditure by the committee that was made as a political  
4 contribution to a candidate, officeholder, or another political committee and that  
5 was returned to the specific-purpose committee during the reporting period:

6 (A) the amount returned;

7 (B) the full name of the person to whom the expenditure was originally made;

8 (C) the address of the person to whom the expenditure was originally made;  
9 and

10 (D) the date the expenditure was returned to the specific-purpose committee;

11 (11) on a separate page, the following information for each expenditure from  
12 political contributions made to a business in which the candidate has a participating  
13 interest of more than 10%, holds a position on the governing body of the business,  
14 or serves as an officer of the business:

15 (A) the full name of the business to which the expenditure was made;

16 (B) the address of the business to which the expenditure was made;

17 (C) the date of the expenditure;

18 (D) the purpose of the expenditure; and

19 (E) the amount of the expenditure;

20 (12) if the specific-purpose committee supports or opposes measures exclusively,  
21 for each contribution accepted from a labor organization or corporation, as defined  
22 by §20.1 of this title (relating to Definitions):

23 (A) the date each contribution was accepted;

24 (B) the full name of the corporation or labor organization making the  
25 contribution;

26 (C) the address of the corporation or labor organization making the  
27 contribution;

28 (D) the amount of the contribution; and

29 (E) a description of any in-kind contribution;

30 (13) for each person from whom the specific-purpose committee accepted a political  
31 contribution (other than a pledge, loan, or a guarantee of a loan) of more than \$90

1           [\$50] in value or political contributions (other than pledges, loans, or guarantees of  
2 loans) that total more than \$90 [~~\$50~~] in value:

- 3           (A) the full name of the person;
- 4           (B) the address of the person;
- 5           (C) the total amount of contributions;
- 6           (D) the date each contribution was accepted; and
- 7           (E) a description of any in-kind contribution;

8           (14) for each person from whom the specific-purpose committee accepted a pledge  
9 or pledges to provide more than \$90 [~~\$50~~] in money or to provide goods or services  
10 worth more than \$90: [~~\$50~~]

- 11           (A) the full name of the person making a pledge;
- 12           (B) the address of the person making a pledge;
- 13           (C) the amount of the pledge;
- 14           (D) the date each pledge was accepted; and
- 15           (E) a description of any goods or services pledged;

16           (15) the total of all pledges accepted during the period for \$90 [~~\$50~~] and less from  
17 a person, except those reported under paragraph (14) of this section;

18           (16) for each person making a loan or loans to the specific-purpose committee for  
19 campaign or officeholder purposes if the total amount loaned by the person during  
20 the period is more than \$90: [~~\$50~~]

- 21           (A) the full name of the person or financial institution making the loan;
- 22           (B) the address of the person or financial institution making the loan;
- 23           (C) the amount of the loan;
- 24           (D) the date of the loan;
- 25           (E) the interest rate;
- 26           (F) the maturity date;
- 27           (G) the collateral for the loan, if any; and
- 28           (H) if the loan has guarantors:

- 29           (i) the full name of each guarantor;

- 1 (ii) the address of each guarantor;
- 2 (iii) the principal occupation of each guarantor;
- 3 (iv) the name of the employer of each guarantor; and
- 4 (v) the amount guaranteed by each guarantor;
- 5 (17) the total amount of loans accepted during the period for \$90 [~~\$50~~] and less from
- 6 persons other than financial institutions engaged in the business of making loans for
- 7 more than one year, except those reported under paragraph (16) of this section;
- 8 (18) for political expenditures made during the reporting period that total more than
- 9 \$180 [~~\$100~~] to a single payee:
- 10 (A) the full name of the person to whom each expenditure was made;
- 11 (B) the address of the person to whom the expenditure was made;
- 12 (C) the date of the expenditure;
- 13 (D) the purpose of the expenditure; and
- 14 (E) the amount of the expenditure;
- 15 (19) for each direct campaign expenditure benefiting a candidate or officeholder,
- 16 except for a direct campaign expenditure made by a committee supporting only one
- 17 candidate or officeholder:
- 18 (A) the name of the candidate or officeholder; and
- 19 (B) the office sought or held by the candidate or officeholder;
- 20 (20) for each non-political expenditure made from political contributions, other than
- 21 expenditures reported under paragraph (11) of this section:
- 22 (A) the date of each expenditure;
- 23 (B) the full name of the person to whom the expenditure was made;
- 24 (C) the address of the person to whom the expenditure was made;
- 25 (D) the purpose of the expenditure; and
- 26 (E) the amount of the expenditure;
- 27 (21) for each political contribution accepted from an out-of-state political
- 28 committee, the information required by §22.7 of this title (relating to Contribution
- 29 from Out-of-State Committee);

1 (22) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee  
2 resulting from the use of a political contribution or an asset purchased with a  
3 political contribution that is received during the reporting period and the amount of  
4 which exceeds \$130; [~~\$100~~];

5 (23) any proceeds of the sale of an asset purchased with a political contribution that  
6 is received during the reporting period and the amount of which exceeds \$130;  
7 [~~\$100~~];

8 (24) any other gain from a political contribution that is received during the reporting  
9 period and the amount of which exceeds \$130; [~~\$100~~];

10 (25) any investment purchased with a political contribution that is received during  
11 the reporting period and the amount of which exceeds \$130; [~~\$100~~];

12 (26) the full name and address of each person from whom an amount described by  
13 paragraph (22), (23), (24), or (25) of this section is received, the date the amount is  
14 received, and the purpose for which the amount is received;

15 (27) the following total amounts:

16 (A) the total principal amount of all outstanding loans as of the last day of  
17 the reporting period;

18 (B) the total amount or an itemized listing of political contributions (other  
19 than pledges, loans, or guarantees of loans) of \$90 [~~\$50~~] and less;

20 (C) the total amount of all political contributions (other than pledges, loans,  
21 or guarantees of loans);

22 (D) the total amount or an itemized listing of the political expenditures of  
23 \$180 [~~\$100~~] and less; and

24 (E) the total amount of all political expenditures; and

25 (28) an affidavit, executed by the campaign treasurer, stating: "I swear, or affirm,  
26 that the accompanying report is true and correct and includes all information  
27 required to be reported by me under Title 15, Election Code."

28 **§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.**

29 (a) As provided by subsection (b) of this section, certain specific-purpose committees must  
30 file reports about certain contributions accepted during the period that begins on the ninth  
31 day before an election and ends at noon on the day before an election. Reports under this  
32 section are known as "special pre-election" reports.

- 1 (b) A campaign treasurer for a specific-purpose committee for supporting or opposing a  
2 candidate for an office specified by §252.005(1), Election Code, that, during the period  
3 described in subsection (a) of this section, accepts one or more political contributions from  
4 a person that in the aggregate exceed \$1,790 [~~\$1,000~~] must file special pre-election reports.
- 5 (c) Except as provided in subsection (e) of this section, the campaign treasurer of a specific-  
6 purpose committee must file a report so that the report is received by the commission no  
7 later than the first business day after the committee accepts a contribution from a person  
8 that triggers the requirement to file the special pre-election report.
- 9 (d) If, during the reporting period for special pre-election contributions, a committee  
10 receives additional contributions from a person whose previous contribution or  
11 contributions have triggered the requirement to file a special pre-election report during the  
12 period, the campaign treasurer for the committee must file an additional special pre-  
13 election report for each such contribution. Except as provided in subsection (e) of this  
14 section, each such special pre-election report must be filed so that it is received by the  
15 commission no later than the first business day after the committee accepts the  
16 contribution.
- 17 (e) The campaign treasurer of a specific-purpose committee must file a special pre-election  
18 report for each person whose contribution or contributions made during the period for  
19 special pre-election reports exceed the threshold for special pre-election reports.
- 20 (f) A campaign treasurer of a specific-purpose committee must also report contributions  
21 reported on a special pre-election report on the next semiannual, pre-election, or runoff  
22 report filed, as applicable.

23 **Subchapter D. REPORTING REQUIREMENTS FOR A GENERAL PURPOSE**  
24 **COMMITTEE**

25 **§20.401. Thresholds for Appointment of Campaign Treasurer by a General-Purpose**  
26 **Committee.**

- 27 (a) A general-purpose committee may not accept political contributions exceeding \$870  
28 [~~\$500~~] and may not make or authorize political expenditures exceeding \$870 [~~\$500~~]  
29 without filing a campaign treasurer appointment with the commission.
- 30 (b) Unless the committee's campaign treasurer appointment was filed not later than the 30th  
31 day before the appropriate election day, a general-purpose committee may not knowingly  
32 make or authorize campaign contributions or campaign expenditures exceeding \$870  
33 [~~\$500~~] to support or oppose a candidate in a primary or general election for the following:
- 34 (1) a statewide office;

- 1 (2) a seat in the state legislature;
- 2 (3) a seat on the State Board of Education;
- 3 (4) a multi-county district office; or
- 4 (5) a judicial district office filled by voters of only one county.

5 ~~[(c) A general purpose committee may not make or authorize political expenditures~~  
6 ~~totaling more than \$500 unless the committee has:~~

- 7 ~~(1) filed its campaign treasurer appointment not later than the 60th day before the~~  
8 ~~date the expenditure is made that causes the total expenditures to exceed \$500; and~~
- 9 ~~(2) received contributions from at least 10 persons.~~

10 ~~(d) Subsection (c) of this section does not apply to a general purpose committee that~~  
11 ~~accepts contributions from a multi-candidate political committee (as defined by the Federal~~  
12 ~~Election Campaign Act) that is registered with the Federal Election Commission, provided~~  
13 ~~that the general purpose committee is in compliance with §22.7 of this title (relating to~~  
14 ~~Contribution from Out of State Committee).]~~

15 **§20.405. Campaign Treasurer Appointment for a General-Purpose [Political]**  
16 **Committee.**

17 (a) A general-purpose committee may appoint a campaign treasurer at any time before  
18 exceeding the thresholds described in §20.401(a) of this title (relating to Thresholds for  
19 Appointment of Campaign Treasurer by a General-Purpose Committee).

20 (b) After a general-purpose committee appoints a campaign treasurer, the campaign  
21 treasurer must comply with all the requirements of this subchapter, even if the committee  
22 has not yet exceeded \$870 [~~\$500~~] in political contributions or expenditures.

23 (c) With the exception of the campaign treasurer appointment, the individual named as a  
24 committee's campaign treasurer is legally responsible for filing all reports of the general-  
25 purpose committee, including a report following the termination of his or her appointment  
26 as campaign treasurer.

27 **§20.431. Monthly Reporting.**

28 (a) A monthly report filed by a general-purpose committee shall include the information  
29 required by §20.433 of this title (relating to Contents of General-Purpose Committee Sworn  
30 Report of Contributions and Expenditures), except that the threshold reporting amount of  
31 \$90 [~~\$50~~] set out in §20.433(11) - (16), and (20) of this title (relating to Contents of  
32 General-Purpose Committee Sworn Report of Contributions and Expenditures) does not

1 apply to a general-purpose committee reporting monthly. For a general-purpose committee  
2 reporting monthly, the threshold reporting amount under §20.433(11) - (16) and (20) of  
3 this title is \$20, [~~\$10,~~] except as provided by §20.434 of this title (relating to Alternate  
4 Reporting Requirements for Certain General-Purpose Committees).

5 (b) A monthly report is due not later than the fifth day of the month following the end of  
6 the period covered by the report. A monthly report covering the month preceding an  
7 election in which the committee is involved must be received by the authority with whom  
8 the report is required to be filed no later than the fifth day of the month following the end  
9 of the period covered by the report.

10 (c) Except for the first monthly report filed, a monthly report covers a period that begins  
11 on the 26th day of one month and ends on the 25th day of the next month.

12 (d) The beginning day for the first monthly report filed by a general-purpose committee  
13 shall be as follows.

14 (1) For a general-purpose committee that has been filing on the regular schedule and  
15 chooses monthly filing between January 1 and January 15 of a particular year, the  
16 first report will cover a period that begins on January 1 of that year.

17 (2) For a general-purpose committee that elected to file monthly at the time it filed  
18 its campaign treasurer appointment, the period covered by the first monthly report  
19 depends on the day of the month that the campaign treasurer was appointed.

20 (A) If the general-purpose committee filed its campaign treasurer  
21 appointment before the 25th of the month, the first report will cover a period  
22 that begins on the day the appointment was filed and ends on the 25th day of  
23 the same month.

24 (B) If the general-purpose committee filed its campaign treasurer  
25 appointment on or after the 25th of the month, the first report will cover the  
26 period that begins on the day the appointment is filed and ends on the 25th  
27 day of the next month.

28 **§20.433. Contents of General-Purpose Committee Sworn Report of Contributions**  
29 **and Expenditures.**

30 Semiannual reports, pre-election reports, and runoff reports must cover reportable activity  
31 during the reporting period and must include the following information:

32 (1) the full name of the general-purpose committee;

33 (2) the address of the general-purpose committee;

- 1 (3) the full name of the general-purpose committee's campaign treasurer;
- 2 (4) the residence or business street address of the general-purpose committee's  
3 campaign treasurer;
- 4 (5) the committee campaign treasurer's telephone number;
- 5 (6) the identity and date of the election for which the report is filed, if applicable;
- 6 (7) the full name of each identified candidate or measure or classification by party  
7 of candidates supported or opposed by the general-purpose committee and an  
8 indication of whether the general-purpose committee supports or opposes each  
9 listed candidate, measure, or classification by party of candidates;
- 10 (8) the full name of each identified officeholder or classification by party of  
11 officeholders assisted by the general-purpose committee;
- 12 (9) if the general-purpose committee supports or opposes measures exclusively, for  
13 each contribution accepted from a corporation as defined by §20.1 of this title  
14 (relating to Definitions):
- 15 (A) the date each contribution was accepted;
- 16 (B) the full name of the corporation or labor organization making the  
17 contribution;
- 18 (C) the address of the corporation or labor organization making the  
19 contribution;
- 20 (D) the amount of the contribution; and
- 21 (E) a description of any in-kind contribution;
- 22 (10) for each political expenditure by the general-purpose committee that was made  
23 as a political contribution to a candidate, officeholder, or another political  
24 committee and that was returned to the general-purpose committee during the  
25 reporting period:
- 26 (A) the amount returned;
- 27 (B) the full name of the person to whom the expenditure was originally made;
- 28 (C) the address of the person to whom the expenditure was originally made;  
29 and
- 30 (D) the date the expenditure was returned to the general-purpose committee;
- 31 (11) for each person from whom the general-purpose committee accepted a political  
32 contribution other than a pledge or a loan of more than \$90 [~~\$50~~] in value, or

1 political contributions other than pledges or loans that total more than \$90 [~~\$50~~] in  
2 value (or more than \$20 [~~\$10~~] for a general-purpose committee reporting monthly):

- 3 (A) the date each contribution was accepted;
- 4 (B) the full name of the person making the contribution;
- 5 (C) the address of the person making the contribution;
- 6 (D) the principal occupation of the person making the contribution;
- 7 (E) the amount of the contribution; and
- 8 (F) a description of any in-kind contribution;

9 (12) for each person from whom the general-purpose committee accepted a pledge  
10 or pledges to provide more than \$90 [~~\$50~~] in money or to provide goods or services  
11 worth more than \$90 [~~\$50~~] (more than \$20 [~~\$10~~] for a general-purpose committee  
12 reporting monthly):

- 13 (A) the full name of the person making the pledge;
- 14 (B) the address of the person making the pledge;
- 15 (C) the principal occupation of the person making the pledge;
- 16 (D) the amount of each pledge;
- 17 (E) the date each pledge was accepted; and
- 18 (F) a description of any goods or services pledged;

19 (13) the total of all pledges accepted during the period for \$90 [~~\$50~~] and less from  
20 a person, except for those reported under paragraph (12) of this section;

21 (14) for each person making a loan or loans to the general-purpose committee for  
22 campaign purposes if the total amount loaned by the person during the period is  
23 more than \$90 [~~\$50~~] (more than \$20 [~~\$10~~] for a general-purpose committee  
24 reporting monthly):

- 25 (A) the full name of the person or financial institution making the loan;
- 26 (B) the address of the person or financial institution making the loan;
- 27 (C) the amount of the loan;
- 28 (D) the date of the loan;
- 29 (E) the interest rate;
- 30 (F) the maturity date;

1 (G) the collateral for the loan, if any; and

2 (H) if the loan has guarantors:

3 (i) the full name of each guarantor;

4 (ii) the address of each guarantor;

5 (iii) the principal occupation of each guarantor;

6 (iv) the name of the employer of each guarantor; and

7 (v) the amount guaranteed by each guarantor;

8 (15) the total amount of loans accepted during the period for \$90 [~~\$50~~] and less from  
9 persons other than financial institutions engaged in the business of making loans for  
10 more than one year, except for those reported under paragraph (14) of this section;

11 (16) for political expenditures made during the reporting period that total more than  
12 \$180 [~~\$100~~] (more than \$20 [~~\$10~~] for a general-purpose committee reporting  
13 monthly) to a single payee:

14 (A) the full name of the person to whom each expenditure was made;

15 (B) the address of the person to whom the expenditure was made;

16 (C) the date of the expenditure;

17 (D) the purpose of the expenditure;

18 (E) the amount of the expenditure; and

19 (F) indication for an expenditure paid in full or in part from corporations or  
20 labor organizations that it was paid from such sources.

21 (17) for each non-political expenditure made from political contributions:

22 (A) the date of each expenditure;

23 (B) the full name of the person to whom the expenditure was made;

24 (C) the address of the person to whom the expenditure was made;

25 (D) the purpose of the expenditure;

26 (E) the amount of the expenditure; and

27 (F) indication for an expenditure paid in full or in part from corporations or  
28 labor organizations that it was paid from such sources.

1 (18) for each candidate or officeholder who benefits from a direct campaign  
2 expenditure made by the committee:

3 (A) the name of the candidate or officeholder; and

4 (B) the office sought or held by the candidate or officeholder;

5 (19) for each political contribution from an out-of-state political committee, the  
6 information required by §22.7 of this title (relating to Contribution from Out-of-  
7 State Committee);

8 (20) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee  
9 resulting from the use of a political contribution or an asset purchased with a  
10 political contribution that is received during the reporting period and the amount of  
11 which exceeds \$130; [~~\$100~~];

12 (21) any proceeds of the sale of an asset purchased with a political contribution that  
13 is received during the reporting period and the amount of which exceeds \$130;  
14 [~~\$100~~];

15 (22) any other gain from a political contribution that is received during the reporting  
16 period and the amount of which exceeds \$130; [~~\$100~~];

17 (23) any investment purchased with a political contribution that is received during  
18 the reporting period and the amount of which exceeds \$130; [~~\$100~~];

19 (24) the full name and address of each person from whom an amount described by  
20 paragraph (20), (21), (22), or (23) of this section is received, the date the amount is  
21 received, and the purpose for which the amount is received;

22 (25) the following total amounts:

23 (A) the total principal amount of all outstanding loans as of the last day of  
24 the reporting period;

25 (B) the total amount or an itemized listing of political contributions (other  
26 than pledges, loans, or guarantees of loans) of \$90 [~~\$50~~] and less (\$20 [~~(\$10)~~]  
27 and less for a general-purpose committee reporting monthly);

28 (C) the total amount of all political contributions (other than pledges, loans,  
29 or guarantees of loans);

30 (D) the total amount or an itemized listing of the political expenditures of  
31 \$180 [~~\$100~~] and less (\$20 [~~(\$10)~~] and less for a general-purpose committee  
32 reporting monthly); and

33 (E) the total amount of all political expenditures; and

1 (26) an affidavit, executed by the campaign treasurer, stating: "I swear, or affirm,  
2 that the accompanying report is true and correct and includes all information  
3 required to be reported by me under Title 15, Election Code."

4 **§20.434. Alternate Reporting Requirements for General-Purpose Committees.**

5 (a) This section and Election Code §254.1541 apply only to a general-purpose committee  
6 with less than \$25,860 [~~\$20,000~~] in one or more accounts maintained by the committee in  
7 which political contributions are deposited, as of the last day of the preceding reporting  
8 period for which the committee was required to file a report.

9 (b) The alternative reporting requirement in Election Code §254.1541 applies only to  
10 contributions.

11 (c) A report by a campaign treasurer of a general-purpose committee to which this section  
12 and Election Code §254.154 apply shall include the information required by §20.433 of  
13 this title (Contents of General-Purpose Committee Sworn Report of Contributions and  
14 Expenditures), except that the campaign treasurer may choose a threshold reporting amount  
15 for political contributions of \$180 [~~\$100~~] instead of the threshold reporting amount of \$90  
16 [~~\$50~~] set out in §20.433(a)(11) and (a)(20)(B) of this title.

17 (d) A monthly report by a campaign treasurer of a general-purpose committee to which this  
18 section and Election Code §254.154 apply shall include the information required by  
19 §20.433 of this title (Contents of General-Purpose Committee Sworn Report of  
20 Contributions and Expenditures), except that the campaign treasurer may choose a  
21 threshold reporting amount for political contributions of \$40 [~~\$20~~] instead of the threshold  
22 reporting amount of \$20 [~~\$10~~] set out in §20.433(a)(11) and (a)(20)(B) of this title.

23 **§20.435. Special Pre-Election Reports by Certain General-Purpose Committees.**

24 (a) In addition to other reports required by this chapter, a general-purpose committee must  
25 file a special pre-election report if the committee is involved in an election and if it:

26 (1) makes direct campaign expenditures supporting or opposing a single candidate  
27 that in the aggregate exceed \$1,790 [~~\$1,000~~] or a group of candidates that in the  
28 aggregate exceed \$26,780 [~~\$15,000~~] during the reporting period for special pre-  
29 election reports; or

30 (2) accepts political contributions from a person that in the aggregate exceed \$6,090  
31 [~~\$5,000~~] during the reporting period for special pre-election reports.

32 (b) The period for special pre-election reports begins on the ninth day before election day  
33 and ends at noon on the day before election day.

- 1 (c) Except as provided by subsection (d) of this section, a report under this section must be  
2 received by the commission no later than the first business day after the contribution is  
3 accepted or the expenditure is made.
- 4 (d) A special pre-election report that is exempt from electronic filing under §254.036(c),  
5 Election Code, must be received by the commission no later than 5 p.m. of the first business  
6 day after the contribution is accepted or the expenditure is made.
- 7 (e) Expenditures and contributions reported under this section must be reported again in  
8 the next applicable sworn report of contributions and expenditures.

9 **Subchapter I. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY**  
10 **EXECUTIVE COMMITTEE**

11 **§20.553. Campaign Treasurer Appointment Not Required for County Executive**  
12 **Committee Accepting Contributions or Making Expenditures under Certain**  
13 **Amount. [~~Totaling \$25,000 or Less.~~]**

14 (a) A county executive committee accepting political contributions or making political  
15 expenditures totaling \$32,320 [~~\$25,000~~] or less in a calendar year is not required to:

- 16 (1) appoint a campaign treasurer before accepting political contributions or making  
17 political expenditures; or
- 18 (2) file the reports required by Subchapter F of this chapter (relating to Reporting  
19 Requirements for a General-Purpose Committee).

20 (b) A county executive committee described in subsection (a) of this section is required to  
21 comply with §20.551 of this title (relating to Obligation To Maintain Records).

22 **§20.555. County Executive Committee Accepting Contributions or Making**  
23 **Expenditures That Exceed Certain Amount. [~~\$25,000.~~]**

24 (a) A county executive committee described by subsection (b) of this section is subject to  
25 the requirements of Subchapter F of this chapter (relating to Reporting Requirements for a  
26 General-Purpose Committee), except where those rules conflict with this subchapter. In the  
27 case of conflict, this subchapter prevails over Subchapter F of this chapter.

28 (b) A county executive committee that accepts political contributions or that makes  
29 political expenditures that, in the aggregate, exceed \$32,320 [~~\$25,000~~] in a calendar year  
30 shall file:

1 (1) a campaign treasurer appointment with the commission no later than the 15th  
2 day after the date that amount is exceeded; and

3 (2) the reports required by Subchapter F of this chapter (relating to Reporting  
4 Requirements for a General-Purpose Committee). The first report filed must include  
5 all political contributions accepted and all political expenditures made before the  
6 county executive committee filed its campaign treasurer appointment.

7 (c) Contributions accepted from corporations and labor organizations under §253.104 of  
8 the Election Code and reported under Subchapter H of this chapter (relating to Accepting  
9 and Reporting Contributions from Corporations and Labor Organizations) do not count  
10 against the \$32,320 [~~\$25,000~~] thresholds described in subsection (b) of this section.

11 (d) A county executive committee that filed a campaign treasurer appointment may file a  
12 final report, which will notify the commission that the county executive committee does  
13 not intend to file future reports unless it exceeds one of the \$32,320 [~~\$25,000~~] thresholds.  
14 The final report may be filed:

15 (1) beginning on January 1 and by the January 15 filing deadline if the committee  
16 has exceeded one of the \$32,320 [~~\$25,000~~] thresholds in the previous calendar year;  
17 or

18 (2) at any time if the committee has not exceeded one of the \$32,320 [~~\$25,000~~]  
19 thresholds in the calendar year.

## 20 **Chapter 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**

### 21 **§22.1. Certain Campaign Treasurer Appointments Required before Political Activity** 22 **Begins.**

23 (a) An individual must file a campaign treasurer appointment with the proper authority  
24 before accepting a campaign contribution or making or authorizing a campaign  
25 expenditure.

26 (1) An officeholder may accept an officeholder contribution and make or authorize  
27 an officeholder expenditure without a campaign treasurer appointment on file.

28 (2) An officeholder who does not have a campaign treasurer appointment on file  
29 may not accept a campaign contribution or make or authorize a campaign  
30 expenditure.

31 (b) A political committee may not accept political contributions exceeding \$870 [~~\$500~~]  
32 and may not make or authorize political expenditures exceeding \$870 [~~\$500~~] without filing  
33 a campaign treasurer appointment with the appropriate filing authority.

1 ~~[(e) A general purpose committee may not make or authorize political expenditures~~  
2 ~~totaling more than \$500 unless the committee has:~~

3 ~~(1) filed its campaign treasurer appointment not later than the 60th day before the date the~~  
4 ~~expenditure is made that causes the total expenditures to exceed \$500; and~~

5 ~~(2) received contributions from at least 10 persons.~~

6 ~~(d) Subsection (e) of this section does not apply to a general purpose committee that~~  
7 ~~accepts contributions from a multi-candidate political committee (as defined by the Federal~~  
8 ~~Election Campaign Act) that is registered with the Federal Election Commission, provided~~  
9 ~~that the general purpose committee is in compliance with §22.7 of this title (relating to~~  
10 ~~Contribution from Out of State Committee).]~~

11 (c) [(e)] Unless the committee's campaign treasurer appointment was filed not later than  
12 the 30th day before the appropriate election day, a political committee may not knowingly  
13 make or authorize campaign contributions or campaign expenditures exceeding \$870  
14 [\$500] to support or oppose a candidate in a primary or general election for the following:

15 (1) a statewide office;

16 (2) a seat in the state legislature;

17 (3) a seat on the State Board of Education;

18 (4) a multi-county district office; or

19 (5) a judicial district office filled by voters of only one county.

20 (d) [(f)] This section does not apply to the county executive committee of a political party  
21 except as provided in Chapter 20, Subchapter I of this title (relating to Rules Applicable to  
22 a Political Party's County Executive Committee).

## 23 **§22.6. Reporting Direct Campaign Expenditures.**

24 (a) Section 254.261 of the Election Code applies to a person who, not acting in concert  
25 with another person, makes one or more direct campaign expenditures that exceed \$130  
26 [\$100] in an election from the person's own property.

27 (b) For purposes of Section 254.261 of the Election Code, "acting in concert" means acting  
28 in cooperation or consultation with another, or under an express or implied agreement, to  
29 pursue a common activity. Evidence of acting in concert can be provided by showing that  
30 persons are:

31 (1) using the same consultants;

32 (2) using the same person to purchase media;

- 1 (3) sharing mailing lists;
- 2 (4) sharing email lists;
- 3 (5) sharing telephone lists;
- 4 (6) exchanging drafts or final proofs of political advertising;
- 5 (7) meeting with a candidate, or a candidate's agent or staff regarding campaign
- 6 communications, including but not limited to talking points, campaign themes,
- 7 campaign communication schedules, and campaign events;
- 8 (8) sharing research on candidates or measures; or
- 9 (9) sharing polling data.

10 **§22.7. Contribution from Out-of-State Committee.**

11 (a) For each reporting period during which a candidate, officeholder, or political committee  
12 accepts a contribution or contributions from an out-of-state political committee totaling  
13 more than \$900, [~~\$500~~] the candidate, officeholder, or political committee must comply  
14 with subsections (b) and (c) of this section.

15 (b) The candidate, officeholder, or political committee covered by subsection (a) of this  
16 section must first obtain from the out-of-state committee one of the following documents  
17 before accepting the contribution that causes the total received from the out-of-state  
18 committee to exceed \$900 [~~\$500~~] during the reporting period:

19 (1) a written statement, certified by an officer of the out-of-state political committee,  
20 listing the full name and address of each person who contributed more than \$180  
21 [~~\$100~~] to the out-of-state political committee during the 12 months immediately  
22 preceding the date of the contribution; or

23 (2) a copy of the out-of-state political committee's statement of organization filed  
24 as required by law with the Federal Election Commission and certified by an officer  
25 of the out-of-state committee.

26 (c) The document obtained pursuant to subsection (b) of this section shall be included as  
27 part of the report that covers the reporting period in which the candidate, officeholder, or  
28 political committee accepted the contribution that caused the total accepted from the out-  
29 of-state committee to exceed \$900. [~~\$500~~]

30 (d) A candidate, officeholder, or political committee that:

31 (1) receives contributions covered by subsection (a) of this section from the same  
32 out-of-state committee in successive reporting periods; and

1 (2) complies with subsection (b)(2) of this section before accepting the first  
2 contribution triggering subsection (a) of this section, may comply with subsection  
3 (c) of this section in successive reporting periods by submitting a copy of the  
4 certified document obtained before accepting the first contribution triggering  
5 subsection (a) of this section, rather than by obtaining and submitting an original  
6 certified document for each reporting period, provided the document has not been  
7 amended since the last submission.

8 (e) A candidate, officeholder, or political committee that accepts a contribution or  
9 contributions totaling \$900 [~~\$500~~] or less from an out-of-state political committee shall  
10 include as part of the report covering the reporting period in which the contribution or  
11 contributions are accepted either:

12 (1) a copy of the out-of-state committee's statement of organization filed as required  
13 by law with the Federal Election Commission and certified by an officer of the out-  
14 of-state committee; or

15 (2) the following information:

16 (A) the full name of the committee, and, if the name is an acronym, the words  
17 the acronym represents;

18 (B) the address of the committee;

19 (C) the telephone number of the committee;

20 (D) the name of the person appointing the campaign treasurer; and

21 (E) the following information for the individual appointed campaign  
22 treasurer and assistant campaign treasurer:

23 (i) the individual's full name;

24 (ii) the individual's residence or business street address; and

25 (iii) the individual's telephone number.

26 (f) This section does not apply to a contribution from an out-of-state political committee if  
27 the committee filed a campaign treasurer appointment with the commission before making  
28 the contribution.

29

1 **Chapter 34. REGULATION OF LOBBYISTS**

2 **Subchapter B. REGISTRATION REQUIRED**

3 **§34.41. Expenditure Threshold.**

4 (a) A person must register under Government Code, §305.003(a)(1), if the person makes  
5 total expenditures of more than \$780 [~~\$500~~] in a calendar quarter, not including  
6 expenditures for the person's own travel, food, lodging, or membership dues, on activities  
7 described in Government Code, §305.006(b), to communicate directly with one or more  
8 members of the legislative or executive branch to influence legislation or administrative  
9 action.

10 (b) An expenditure made by a member of the judicial, legislative, or executive branch of  
11 state government or an officer or employee of a political subdivision of the state acting in  
12 his or her official capacity is not included for purposes of determining whether a person is  
13 required to register under Government Code, §305.003(a)(1).

14 (c) An expenditure made in connection with an event to promote the interests of a  
15 designated geographic area or political subdivision is not included for purposes of  
16 determining whether a person has crossed the registration threshold in Government Code,  
17 §305.003(a)(1), if the expenditure is made by a group that exists for the limited purpose of  
18 sponsoring the event or by a person acting on behalf of such a group.

19 **§34.43. Compensation and Reimbursement Threshold.**

20 (a) A person must register under Government Code, §305.003(a)(2), if the person receives,  
21 or is entitled to receive under an agreement under which the person is retained or employed,  
22 more than \$1,560 [~~\$1000~~] in a calendar quarter in compensation and reimbursement, not  
23 including reimbursement for the person's own travel, food, lodging, or membership dues,  
24 from one or more other persons to communicate directly with a member of the legislative  
25 or executive branch to influence legislation or administrative action.

26 (b) For purposes of Government Code, §305.003(a)(2), and this chapter, a person is not  
27 required to register if the person spends not more than 40 hours for which the person is  
28 compensated or reimbursed during a calendar quarter engaging in lobby activity, including  
29 preparatory activity as described by §34.3 of this title.

30 (c) For purposes of Government Code, §305.003(a)(2), and this chapter, a person shall  
31 make a reasonable allocation of compensation between compensation for lobby activity  
32 and compensation for other activities.

DRAFT 2

EXHIBIT A

Text of Proposed New Rule

The proposed new language is indicated by underlined text.

1                    **Subchapter C. INVESTIGATION AND PRELIMINARY REVIEW**

2                    **§12.86. Motions for Continuance.**

3                    (a) Contents of a motion for continuance. A request to postpone a preliminary review  
4                    hearing must be in writing and include the specific reasons and supporting evidence for  
5                    the continuance and the dates of any previous motions for continuance.

6                    (b) Date of filing. Motions for continuance must be received by the Commission no later  
7                    than 21 days before the date of the proceeding or must provide good cause with  
8                    supporting evidence for presenting the motion after that time. If the presiding officer  
9                    finds good cause has been demonstrated, the presiding officer may consider a motion that  
10                   is not timely filed.

11                   (c) Responses to motions for continuance. Responses to motions for continuance must be  
12                   in writing and include the date the complaint was filed and the number of previous  
13                   requests to postpone filed in the case. Unless otherwise ordered or allowed by the  
14                   presiding officer, responses to motions for continuance must be made no later than seven  
15                   business days after receipt of the motion.

16                   (d) Rulings on motions for continuance. A motion for continuance is not granted until it  
17                   has been ruled on by the presiding officer, even if the motion is uncontested or agreed. A  
18                   case is subject to default under §12.23 of this chapter for a party's failure to appear at a  
19                   scheduled hearing in which a motion for continuance has not been ruled on by the  
20                   presiding officer.

## EXHIBIT A

## Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

1 **§12.174. Summary Disposition.**

2  
3 (a) Granting of summary disposition. Summary disposition shall be granted on all or part  
4 of a complaint's allegations if the allegations, the motion for summary disposition, and the  
5 summary disposition evidence show that there is no genuine issue as to any material fact  
6 and that the moving party is entitled to a decision in its favor as a matter of law on all or  
7 some of the issues expressly set out in the motion. Summary disposition is not permitted  
8 based on the ground that there is no evidence of one or more essential elements of a claim  
9 or defense on which the opposing party would have the burden of proof at the formal  
10 hearing.

11  
12 (b) Deadlines. Unless otherwise ordered by the presiding officer:

13  
14 (1) A party may file a motion for summary disposition at any time after the  
15 commission orders a formal hearing, but the motion must be filed at least 45 days  
16 before a scheduled hearing on the merits.

17  
18 (2) The response and opposing summary disposition evidence shall be filed no later  
19 than 15 days after the filing of the motion.

20  
21 (c) Contents of Motion. A motion for summary disposition shall include the contents listed  
22 below. A motion may be denied for failure to comply with these requirements.

23  
24 (1) The motion shall state the specific issues upon which summary disposition is  
25 sought and the specific grounds justifying summary disposition.

26  
27 (2) The motion shall also separately state all material facts upon which the motion  
28 is based. Each material fact stated shall be followed by a clear and specific reference  
29 to the supporting summary disposition evidence.

30  
31 (3) The first page of the motion shall contain the following statement in at least 12-  
32 point, bold-face type: "Notice to parties: This motion requests the commission to

1 decide some or all of the issues in this case without holding an evidentiary hearing  
2 on the merits. You have 15 days after the filing of the motion to file a response. If  
3 you do not file a response, this case may be decided against you without an  
4 evidentiary hearing on the merits.

5  
6 (d) Responses to motions.

7  
8 (1) A party may file a response and summary disposition evidence to oppose a  
9 motion for summary disposition.

10  
11 (2) The response shall include all arguments against the motion for summary  
12 disposition, any objections to the form of the motion, and any objections to the  
13 summary disposition evidence offered in support of the motion.

14  
15 (e) Summary disposition evidence.

16  
17 (1) Summary disposition evidence may include deposition transcripts; interrogatory  
18 answers and other discovery responses; pleadings; admissions; affidavits; materials  
19 obtained by discovery; matters officially noticed; stipulations; authenticated or  
20 certified public, business, or medical records; and other admissible evidence. No  
21 oral testimony shall be received at a hearing on a motion for summary disposition.

22  
23 (2) Summary disposition may be based on uncontroverted written testimonial  
24 evidence of an interested witness, or of an expert witness as to subject matter  
25 concerning which the presiding officer must be guided solely by the opinion  
26 testimony of experts, if the evidence is clear, positive and direct, otherwise credible  
27 and free from contradictions and inconsistencies, and could have been readily  
28 controverted.

29  
30 (3) All summary disposition evidence offered in support of or in opposition to a  
31 motion for summary disposition shall be filed with the motion or response. Copies  
32 of relevant portions of materials obtained by discovery that are relied upon to  
33 support or oppose a motion for summary disposition shall be included in the  
34 summary disposition evidence.

1 (f) Proceedings on motions.

2  
3 (1) The presiding officer may order a hearing on a motion for summary disposition  
4 and the commission may rule on the motion without a hearing.

5  
6 (2) The affirmative vote of six commissioners is necessary to grant summary  
7 disposition finding a violation by a preponderance of the evidence.

8  
9 (3) If summary disposition is granted on all contested issues in a case, the record  
10 shall close on the date ordered by the presiding officer or on the later of the filing  
11 of the last summary disposition arguments or evidence, the date the summary  
12 disposition response was due, or the date a hearing was held on the motion. The  
13 commission shall issue a final decision and written report, including a statement of  
14 reasons, findings of fact, and conclusions of law in support of the summary  
15 disposition rendered.

16  
17 (4) If summary disposition is granted on some but not all of the contested issues in  
18 a case, the commission shall not take evidence or hear further argument upon the  
19 issues for which summary disposition has been granted. The commission shall issue  
20 an order:

21  
22 (A) specifying the facts about which there is no genuine issue;

23  
24 (B) specifying the issues for which summary disposition has been  
25 granted; and

26  
27 (C) directing further proceedings as necessary. If an evidentiary hearing  
28 is held on the remaining issues, the facts and issues resolved by summary  
29 disposition shall be deemed established, and the hearing shall be  
30 conducted accordingly. After the evidentiary hearing is concluded, the  
31 commission shall include in the final decision a statement of reasons,  
32 findings of fact, and conclusions of law in support of the partial summary  
33 disposition rendered.

## EXHIBIT A

## Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

The deleted language is indicated by [~~striketrough~~] text.

1                   **Chapter 18. GENERAL RULES CONCERNING REPORTS**

2    **§18.9. Corrected/Amended Reports.**

3    (a) A filer may correct/amend a report filed with the commission or a local filing authority  
4    at any time.

5    (b) A corrected/amended report must clearly identify how the corrected/amended report is  
6    different from the report being corrected/amended.

7    (c) A filer who files a corrected/amended report must submit an affidavit identifying the  
8    information that was corrected/amended.

9    (d) A corrected/amended report filed with the commission after the original report is due  
10 is subject to a late fine as provided by §18.13 of this title. [~~is not subject to a late fine if~~  
11 ~~filed in accordance with §571.0771 or §305.033(f) of the Government Code or §254.0405~~  
12 ~~of the Election Code, as applicable.~~]

13 (e) Subsection (d) does not apply to:

14       (1) a lobby registration or report, other than an activities report, that is  
15 corrected/amended not later than the 14th business day after the date the filer  
16 became aware of the errors or omissions in the original registration or report;

17       (2) a semiannual report that is corrected/amended before the eighth day after the  
18 original report was filed;

19       (3) a semiannual report that is corrected/amended on or after the eighth day after the  
20 original report was filed if:

21           (A) the correction/amendment is made before a sworn complaint is filed with  
22 regard to the subject of the correction/amendment; and

23           (B) the original report was made in good faith and without an intent to  
24 mislead or misrepresent the information contained in the report;

25       (4) an 8-day pre-election report that is corrected/amended in accordance with §18.10  
26 of this title;

1 (5) a report other than an 8-day pre-election report that is corrected/amended not  
2 later than the 14th business day after the date the filer learns the report as originally  
3 filed is inaccurate or incomplete if:

4 (A) the errors or omissions were made in good faith; and

5 (B) the filer files an affidavit stating that the errors or omissions in the  
6 original report were made in good faith.

7 (f) In this section, “8-day pre-election report” has the same meaning assigned by §18.10(c)  
8 of this title.

9 (g) [(e)] Except as provided by subsections (b) and (c), this section does not apply to a civil  
10 penalty assessed through the [corrected/amended report filed under §571.069, Government  
11 Code, or a corrected/amended report filed in response to a] sworn complaint or facial  
12 compliance review process.

13 **§18.10. Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-**  
14 **election Report.**

15 (a) A corrected/amended 8-day pre-election report substantially complies with the  
16 applicable law and will not be assessed a late fine under §18.9 of this title if:

17 (1) The original report was filed in good faith and the corrected/amended report  
18 was filed not later than the 14th business day after the date the filer learned of  
19 the errors or omissions; and

20 (2) The only corrections/amendments needed were to correct the following types  
21 of errors or omissions:

22 (A) a technical, clerical, or *de minimis* error, including a typographical  
23 error, that is not misleading and does not substantially affect disclosure;

24 (B) an error in or omission of information that is solely required for the  
25 commission’s administrative purposes, including a report type or filer  
26 identification number;

27 (C) an error that is minor in context and that, upon correction/amendment,  
28 does not result in changed monetary amounts or activity disclosed,  
29 including a descriptive change or a change to the period covered by the  
30 report;

1 (D) one or more errors in disclosing contributions that, in total:

2 (i) do not exceed \$2,000; or

3 (ii) do not exceed the lesser of 10% of the total contributions on  
4 the corrected/amended report or \$10,000;

5 (E) one or more errors in disclosing expenditures that, in total:

6 (i) do not exceed \$2,000; or

7 (ii) do not exceed the lesser of 10% of the total expenditures on  
8 the corrected/amended report or \$10,000;

9 (F) one or more errors in disclosing loans that, in total:

10 (i) do not exceed \$2,000; or

11 (ii) do not exceed the lesser of 10% of the amount originally  
12 disclosed or \$10,000; or

13 (G) an error in the amount of total contributions maintained that:

14 (i) does not exceed \$250; or

15 (ii) does not exceed the lesser of 10% of the amount originally  
16 disclosed or \$2,500.

17 (b) The executive director shall determine whether an 8-day pre-election report as  
18 originally filed substantially complies with applicable law by applying the criteria provided  
19 in this section.

20 (c) In this section, “8-day pre-election report” means a report due eight days before an  
21 election filed in accordance with the requirements of §20.213(d), 20.325(e), or 20.425(d)  
22 of this title (relating to a candidate, a specific-purpose committee, or a general-purpose  
23 committee, respectively) and §254.064(c), 254.124(c), or 254.154(c) of the Election Code  
24 (relating to a candidate, a specific-purpose committee, or a general-purpose committee,  
25 respectively).

26 **§18.11 Guidelines for Waiver or Reduction of a Late Fine for a Corrected/Amended**  
27 **8-day Pre-election Report.**

28 (a) A filer who has filed a corrected/amended 8-day pre-election report may request the  
29 executive director to waive or reduce a late fine assessed under §18.9 of this title by  
30 submitting an affidavit to the executive director. The executive director shall waive a late

1 fine if the report meets the criteria in subsection (b) of this section and shall reduce a late  
2 fine if the report meets the criteria in subsection (c) of this section.

3 (b) A late fine for a correction/amendment to an 8-day pre-election report shall be waived  
4 if:

5 (1) The corrected report was filed not later than the fourth day after the original  
6 report due date;

7 (2) The only correction/amendment by a candidate or officeholder was to add to  
8 or delete from the outstanding loans total an amount of loans made from personal  
9 funds;

10 (3) The only correction/amendment by a political committee was to add the  
11 name of each candidate supported or opposed by the committee, when each  
12 name was originally disclosed on the appropriate schedule for disclosing  
13 political expenditures; or

14 (4) The only correction/amendment was to disclose the actual amount of a  
15 contribution or expenditure, when:

16 (A) the amount originally disclosed was an overestimation;

17 (B) the difference between the originally disclosed amount and the actual  
18 amount did not vary by more than 10%; and

19 (C) the original report clearly included an explanation of the estimated  
20 amount disclosed and the filer's intention to file a correction/amendment  
21 as soon as the actual amount was known.

22 (c) A late fine for a correction/amendment to an 8-day pre-election report that does not  
23 meet the criteria for a waiver under subsection (b) of this section shall be reduced as  
24 follows:

25 (1) If the corrected/amended report was filed more than four days after the original  
26 report due date but was filed before the election day, the late fine is reduced to \$500;

27 (2) If the corrected/amended report was filed after the election and the amount of  
28 the incorrectly reported or unreported activity was more than 10% of the total  
29 amount disclosed on the corrected/amended report but did not exceed the lesser of  
30 25% of the total amount of activity, or \$5,000, the late fine is reduced to \$1,000; or

31 (3) If the amount of the incorrectly reported or unreported activity was more than  
32 40% of the total amount disclosed in the corrected/amended report and the

1 corrected/amended report was filed over a year after the election, the late fine is  
2 reduced to 10% of the amount at issue.

3 (d) A late fine that is reduced under this section will revert to the full amount originally  
4 assessed if the reduced fine is not paid on or before the 30th calendar day after the date of  
5 the notice informing the filer of the reduction.

6 (e) A filer may appeal a determination made under this section by submitting a request in  
7 writing to the commission.

8 (1) The request for appeal should state the filer's reasons for requesting an appeal,  
9 provide any additional information needed to support the request, and state whether  
10 the filer would like the opportunity to appear before the commission and offer  
11 testimony regarding the appeal.

12 (2) After hearing a request for appeal, the commission may affirm the determination  
13 made under this section or make a new determination based on facts presented in  
14 the appeal.

15 (f) This section does not apply to a civil penalty assessed through the sworn complaint  
16 process or facial compliance review process.

## EXHIBIT A

## Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

The deleted text is indicated by [~~striketrough~~] text.

- 1                                   **Chapter 12. SWORN COMPLAINTS**
- 2                                   **Subchapter A. GENERAL PROVISIONS AND PROCEDURES**
- 3    **12.29. Subpoenas.**
- 4    (a) A subpoena issued under section 571.137 of the Government Code shall specify the
- 5    date, time, place, and manner for execution of the subpoena.
- 6
- 7    (b) A subpoena issued under section 571.137 of the Government Code that requires a
- 8    person to provide testimony shall be served on that person at least 10 business days before
- 9    the date the subpoena is to be executed.
- 10   (c) A subpoena and proof of service shall be filed with the commission within three days
- 11   of its service on a witness. The presiding officer may exclude from consideration any
- 12   documents or testimony obtained by a subpoena that is not timely filed with the
- 13   commission.
- 14   (d) A subpoena issued by a respondent's counsel under section 571.125(f) (concerning the
- 15   issuance of a subpoena for a witness in a preliminary review hearing) or 571.130(f)
- 16   (concerning the issuance of a subpoena for a witness in a formal hearing) of the
- 17   Government Code may compel only the attendance of a witness at preliminary review
- 18   hearing or formal hearing, as applicable.

EXHIBIT A

Text of Proposed Rulemaking

The deleted language is indicated by ~~strikethrough~~ text.

Chapter 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

Subchapter A. GENERAL RULES

§20.1. Definitions.

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

...

~~[(5) Direct campaign expenditure. A campaign expenditure that does not constitute a contribution by the person making the expenditure. A campaign expenditure is not a contribution from the person making the expenditure if:~~

~~(A) it is made without the prior consent or approval of the candidate or officeholder on whose behalf the expenditure was made; or~~

~~(B) it is made in connection with a measure, but is not a political contribution to a political committee supporting or opposing the measure.]~~

...

~~[(8) In kind contribution. A contribution of goods, services, or any other thing of value, except money, and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make such a contribution. The term does not include a direct campaign expenditure.]~~

...

~~[(14) Political committee. Two or more persons that have as a principal purpose accepting political contributions or making political expenditures to support or oppose candidates, officeholders, or measures. The term does not include a group composed exclusively of two or more individual filers or political committees required to file reports under Election Code, Title 15 (concerning Regulating Political Funds and Campaigns), who make reportable expenditures for a joint activity such as a fundraiser or an advertisement.]~~

Commented [IS1]: Corresponding definition is enacted by House Bill 2586, Section 1

Commented [IS2]: Corresponding definition is enacted by House Bill 2586, Section 1

Commented [IS3]: Corresponding definition is enacted by House Bill 2586, Section 1

1 **CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**

2 ~~§22.5. Contributions to Direct Campaign Expenditure Only Committees.~~

**Commented [IS4]:** Corresponding definition is enacted by House Bill 3580, Section 1

3 ~~(a) Before accepting a political contribution from corporations or labor organizations, a~~  
4 ~~political committee that intends to act exclusively as a “direct campaign expenditure only~~  
5 ~~committee” must file with the commission an affidavit stating the following:~~

6 ~~(1) the committee intends to act exclusively as a direct campaign expenditure only~~  
7 ~~committee; and~~

8 ~~(2) the committee will not use its political contributions to make political~~  
9 ~~contributions to any candidate for elective office, officeholder, or political~~  
10 ~~committee that makes a political contribution to a candidate or officeholder.~~

11 ~~(b) A political committee’s acceptance of a political contribution from a corporation or~~  
12 ~~labor organization does not constitute a violation of §253.003(b) or §253.094(a) of the~~  
13 ~~Election Code if, before accepting the contribution, the committee files with the~~  
14 ~~commission an affidavit described under subsection (a) of this section.~~

15 ~~(c) A corporation or labor organization may not make a political contribution to a “direct~~  
16 ~~campaign expenditure only committee” before the committee has filed with the~~  
17 ~~commission an affidavit described under subsection (a) of this section.~~

18 ~~(d) A corporation’s or labor organization’s making of a political contribution to a political~~  
19 ~~committee that has filed an affidavit described under subsection (a) of this section does not~~  
20 ~~constitute a violation of §253.094(a) of the Election Code.~~

21 ~~(e) This section does not apply to a contribution made or accepted under §253.096 or~~  
22 ~~§253.104 of the Election Code and an expenditure made under §253.100 of the Election~~  
23 ~~Code.]~~

24 **§22.6. Reporting Direct Campaign Expenditures.**

**Commented [IS5]:** Corresponding definition is enacted by House Bill 2586, Section 2

25 (a) Section 254.261 of the Election Code applies to a person who, not acting in concert  
26 with another person, makes one or more direct campaign expenditures that exceed \$100 in  
27 an election from the person’s own property.

28 [(b) For purposes of Section 254.261 of the Election Code, “acting in concert” means acting  
29 in cooperation or consultation with another, or under an express or implied agreement, to  
30 pursue a common activity. Evidence of acting in concert can be provided by showing that  
31 persons are:

32 (1) using the same consultants;

33 (2) using the same person to purchase media;

- 1       ~~(3) sharing mailing lists;~~
- 2       ~~(4) sharing email lists;~~
- 3       ~~(5) sharing telephone lists;~~
- 4       ~~(6) exchanging drafts or final proofs of political advertising;~~
- 5       ~~(7) meeting with a candidate, or a candidate's agent or staff regarding campaign~~  
6       ~~communications, including but not limited to talking points, campaign themes,~~  
7       ~~campaign communication schedules, and campaign events;~~
- 8       ~~(8) sharing research on candidates or measures; or~~
- 9       ~~(9) sharing polling data.]~~



EXHIBIT A

Text of Proposed Rulemaking

The proposed new language is indicated by underlined text.  
The deleted language is indicated by [~~striketrough~~] text.

**Chapter 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES**

**Subchapter A. GENERAL RULES**

**§20.1. Definitions.**

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

...

(25) Hybrid PAC—A political committee that has filed a campaign treasurer appointment that includes an affidavit stating that:

(1) the committee is not established or controlled by a candidate or an officeholder; and

(2) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

(A) a candidate for elective office;

(B) an officeholder; or

(C) a political committee that has not filed an affidavit in accordance with this section.

**§22.35. Corporate Contributions to Certain Political Committees.**

A hybrid PAC that accepts a monetary contribution from a corporation or labor organization (as authorized by §253.097 of the Election Code), a political committee that accepts a monetary contribution from a corporation or labor organization for making direct campaign expenditures (as authorized by §253.105 of the Election Code), or a general-purpose committee that accepts a monetary contribution for the committee’s establishment

1 or administration or the solicitation of political contributions (as authorized by §253.100  
2 of the Election Code):

3 (1) shall maintain the contribution in a separate segregated account; and

4 (2) shall not use the contribution to make a political contribution to:

5 (A) a candidate for elective office;

6 (B) an officeholder; or

7 (C) a political committee that is not a hybrid PAC.

8 **CHAPTER 24. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**  
9 **APPLICABLE TO CORPORATIONS AND LABOR ORGANIZATIONS**

10 **§24.18. Designation of Contribution for Administrative Purposes.**

11 Any of the following will serve to designate a corporate expenditure as restricted to the  
12 establishment, administration, maintenance, or operation of a general-purpose committee  
13 that is not a hybrid PAC:

14 (1) A contemporaneous written instruction that the expenditure is restricted to the  
15 administration, maintenance, or operation of the committee accepting the  
16 expenditure;

17 (2) The negotiable instrument conveying the contribution contains language  
18 indicating that the entity is a corporation, including but not limited to "Inc.,"  
19 "Incorporated," "Corp.," or "Corporation;" [∅]

20 (3) The general-purpose committee accepting the contribution reports the  
21 contribution as monetary contribution or monetary support from a corporation or  
22 labor organization on the committee's campaign finance report; or

23 (4) The general-purpose committee accepting the contribution deposits the  
24 contribution into a separate segregated account for corporate contributions.

25 **§24.19. Affidavit Required by a Political Committee Making a Direct Campaign**  
26 **Expenditure from a Political Contribution Accepted from a Corporation or Labor**  
27 **Organization.**

28 A political committee must include in its campaign treasurer appointment the affidavit  
29 described by section 252.003(a)(4) (relating to Contents of Appointment by General-  
30 Purpose Committee) or 252.0031(a)(2) (relating to Contents of Appointment by Specific-  
31 Purpose Committee) of the Election Code, as applicable, before using a political  
32 contribution from a corporation or labor organization to make a direct campaign

- 1 expenditure in connection with a campaign for an elective office. This requirement also
- 2 applies to a political committee that files an affidavit under section 253.105 of the Election
- 3 Code (relating to Contributions to Direct Expenditure Only Committees).

EXHIBIT A

Text of Proposed Rulemaking

The deleted language is indicated by [strikethrough] text.

**Chapter 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**

~~§22.33. Expenditure Limits of the Judicial Campaign Fairness Act.~~

~~For purposes of the expenditure limits prescribed by §253.168 of the Election Code:~~

~~(1) an officeholder expenditure is attributed to the next election in which the officeholder is a candidate that occurs after the expenditure is made; and~~

~~(2) a campaign expenditure is attributed to the election for which the expenditure is made.]~~

**Chapter 27. JUDICIAL CAMPAIGN FAIRNESS ACT**

**Subchapter A. GENERAL RULES**

~~§27.1. Applicability.~~

~~This chapter applies only to a candidate, officeholder, political committee, political contribution, or political expenditure to which the Judicial Campaign Fairness Act, Subchapter F, Chapter 253, Election Code, applies.]~~

**Chapter 27. JUDICIAL CAMPAIGN FAIRNESS ACT**

**Subchapter C. GENERAL REPORTING RULES**

~~§27.101. When a Declaration of Compliance or Declaration of Intent Is Required.~~

~~(a) "Declaration" means a declaration of compliance or declaration of intent required to be filed under §253.164, Election Code.~~

~~(b) A person is required to file a declaration only when:~~

~~(1) the person becomes a candidate for a judicial office at a time when the person is not already a candidate for another judicial office, or~~

1           ~~(2) the person changes their intent to comply or not comply with the voluntary~~  
2           ~~expenditure limits as stated in their most recently filed declaration.~~

3           ~~(c) A candidate for a judicial office who decides to seek a different judicial office that~~  
4           ~~requires the candidate to transfer their campaign treasurer appointment to another filing~~  
5           ~~authority under §20.206 of this title shall also file with the other authority:~~

6           ~~(1) a copy of the candidate's declaration certified by the authority with whom it was~~  
7           ~~originally filed, or~~

8           ~~(2) a new declaration, if the candidate changes their intent to comply or not comply~~  
9           ~~with the voluntary expenditure limits as stated in their most recently filed~~  
10           ~~declaration.~~

11           ~~(d) A declaration remains in effect for the judicial office sought by a candidate at the time~~  
12           ~~it is filed. If a candidate for a judicial office decides to seek a different judicial office, the~~  
13           ~~declaration that is in effect remains in effect for the subsequent judicial office.]~~