



TEXAS ETHICS COMMISSION MEETING MINUTES

Public Meeting Minutes

June 11, 2015, 9:50 a.m.

Capitol Extension, Room E1.014

Austin, Texas 78701



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

COMMISSIONERS NOT PRESENT: None.

STAFF PRESENT: Anitra Abdullah-Levy, Natalia Luna Ashley, Amy Barden, Joe Brocado, Margie Castellanos, Robbie Douglas, Katie Drummond, Nick Espinosa, Dora Gonzales, Jessie Haug, Cristina Hernandez, Samantha Hill, Jessica Hurtado, Jose Lerma, Bobby Mannas, Mike McElhaney, John Moore, Chris Ruby, Patti Shannon, Ian M. Steusloff, Jim Tinley and Patty Williams.

MINUTES

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

Agenda Item 1: Call to order; roll call.

The meeting was called to order by Chair Hobby. Natalia Luna Ashley, Executive Director, called the roll. All Commissioners were present. Chair Hobby and Commissioner Clancy paid tribute to Commissioner Clancy's father, who passed away recently. A moment of silence was observed in his honor.

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

Trey Trainor, representing Texas Right to Life, spoke before the Commission.

Agenda Item 3: Approve minutes for the following meetings:

- Workshop on New Electronic Filing System – April 16, 2015;
- Executive session (discussion of pending lawsuits) – April 16, 2015; and
- AM public meeting – April 16, 2015.

Motion by Commissioner Delco to approve the meeting minutes for the April 16, 2015 Commission meetings; second by Commissioner Ramsay. **Motion passed by a vote of eight ayes.**

Agenda Item 4: Briefing and discussion on the new Electronic Filing Application, including training sessions and status of webinar preparations.

Commissioner Akin recognized Commission staff that were involved in the release of the new Electronic Filing Application and training. Eric Dietz with RFD & Associates, Inc., gave an overview of the project's status; Tom Lynch, also with RFD & Associates, Inc., provided assistance. The mobile portion of the Campaign Finance application is scheduled for release on July 17, 2015. The Lobby and Personal Financial Statements portions of the application are scheduled for release on August 13, 2015. Natalia Luna Ashley, Executive Director, discussed the training sessions. Twenty-two training sessions have already been held, and two more are scheduled. Training has occurred in nine different cities. Webinars will start next week. Some instructional videos are already on the Commission's website and more are planned. Chair Hobby stated that the new application will allow for random audits, as is required by statute. No action was taken.

Commissioner Ramsay left the dais briefly during Agenda Item 5.

Agenda Item 5: Briefing, discussion and possible action regarding ethics legislation impacting the laws under the Commission's jurisdiction and the budget impacting the Commission in the 2015 legislative session.

Chair Hobby spoke on this agenda item. Natalia Luna Ashley, Executive Director, briefed the Commission on the budget for the Commission given by the legislature. The legislature funded 3.4 new positions as well as several other requested items. Vice Chair Untermeyer and Commissioner Clancy responded with questions and comments. No action was taken.

Agenda Item 6: Discussion of Opinion Request Nos. AOR-596 and AOR-597: Application of Chapter 305 of the Government Code to an attorney's activities in response to certain invitations from members of the legislative branch to discuss pending legislation on behalf of the attorney's clients.

Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Joe Nixon and Trey Trainor addressed the Commission. Vice Chair Untermeyer, Chair Hobby and Commissioners Long and Ramsay responded with questions and comments. Motion by Commissioner Akin to table discussion on this agenda item and instruct Commission staff to draft alternatives to amend the affected Commission rule; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

Chair Hobby left the dais briefly during Agenda Item 7.

Agenda Item 7: Discussion of Opinion Request No. AOR-599: Whether a general-purpose committee may use political contributions accepted from a corporation to compensate a person for providing lobbying services to the corporation.

Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Hobby and Vice Chair Untermeyer responded with questions and comments. Motion by Vice Chair Untermeyer to adopt AOR-599 with no changes; second by Commissioner Harrison. Motion passed by eight ayes. **AOR-599 is adopted.**

Commissioner Ramsay left the dais briefly during Agenda Item 8.

Agenda Item 8: Discussion of Opinion Request No. AOR-598: Regarding the permissibility and reporting requirements of a general-purpose committee using a political contribution accepted from a corporation to make a contribution to a political party's principal committee.

Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Hobby and Natalia Luna Ashley, Executive Director, responded with comments. Motion by Vice Chair Untermeyer to adopt AOR-598 with no changes; second by Commissioner Delco. Motion passed by eight ayes. **AOR-598 is adopted.**

Short break.

Agenda Item 9: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.59 (Reporting Expenditure by Credit Card), relating to reporting expenditures by credit card.

Natalia Luna Ashley, Executive Director, briefed the Commission on this agenda item. Chair Hobby and Commissioner Harrison responded with comments. Motion by Commissioner Harrison to adopt the amendment to Texas Ethics Commission Rules § 20.59; second by Commissioner Long. **Motion passed by a vote of eight ayes.**

For the remaining Agenda Items 10 through 16, the following represents the actions taken by the Ethics Commission in the order they occurred during the meeting.

Agenda Item 12: Briefing, discussion, and possible action on appeals to determinations made under Texas Ethics Commission Rules §§ 18.25 and 18.26 relating to administrative waiver or reduction of a fine.

Chair Hobby commented on how the new rules on Administrative Waivers and Reductions that were adopted at the February 2015 Commission meeting are working.

Items under Agenda Item 12 are listed in the order they were heard.

**4. Laura S. Nicol (00066584)
Treasurer, Texas Democratic Women of the Harris County Metro Area**

Report: 8-day pre-election report due October 27, 2014

Penalty: \$8,100 – reduction to \$1,100

Appeal Received: May 21, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Ms. Kim Hoezl, President of the Texas Democratic Women of the Harris County Metro Area, was sworn in and gave testimony. Chair Hobby, Commissioner Harrison and Natalia Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Harrison to waive the late-filing penalty; second by Commissioner Delco. **Motion to waive the late-filing penalty passed by a vote of eight ayes on Agenda Item 12, number 4.**

**5. Andrew D. Vaughn (00069413)
Candidate, District Judge**

Report:semiannual report due July 15, 2014

Penalty: \$10,000 – no waiver

Appeal Received: May 8, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Mr. Vaughn addressed the Commission. Chair Hobby and Commissioners Clancy and Long responded with questions and comments. Motion by Commissioner Clancy that, provided the previous \$500 late-filing penalty is paid today, the current late-filing penalty for the report at issue will be reduced to \$500, to be paid within 120 days; second by Commissioner Long. **Motion to reduce the late-filing penalty passed by a vote of eight ayes on Agenda Item 12, number 5.**

Vice Chair Untermeyer left the dais briefly during Agenda Item 12, number 1.

**1. Patrick L. Peavy (00069898)
Candidate, State Representative**

Report:semiannual report due July 15, 2014

Penalty: \$1,500 (increased at the December 2014 meeting) – no waiver

Appeal Received: April 30, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby and Commissioners Akin and Long responded with questions and comments. Motion by Commissioner Akin to reduce the late-filing penalty to \$500 if paid within 30 days; second by Commissioner Harrison. **Motion to reduce the late-filing penalty passed by a vote of seven ayes on Agenda Item 12, number 1. Vice Chair Untermeyer was off the dais during the vote.**

**2. Ric Godinez (00017166)
Chair, Hidalgo County Democratic Party (P)**

Report:semiannual political party report due July 15, 2014

Penalty: \$500

Appeal Received: April 8, 2015

Report:50-day pre-election political party report due September 15, 2014

Penalty: \$500

Appeal Received: April 8, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Chair Hobby and Commissioners Akin, Clancy, Delco and Harrison responded with questions and comments. Motion by Commissioner Long to accept the determination made under administrative rules and leave the penalty at \$500 per report; second by Commissioner Untermeyer. **Motion to accept the determination made under administrative rules passed by a vote of eight ayes on Agenda Item 12, number 2.**

**3. Alan J. Guttman (00034140)
Candidate, State Representative**

Report: 30-day pre-election report due October 6, 2014

Penalty: \$500 – reduction to \$200

Appeal Received: April 28, 2015

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Commissioner Long responded with questions. Motion by Commissioner Long to accept the determination made under administrative rules and leave the penalty at \$200; second by Commissioner Akin. **Motion to accept the determination made under administrative rules passed by a vote of eight ayes on Agenda Item 12, number 3.**

Agenda Item 11: Briefing, discussion, and possible action regarding the level of disclosure of political expenditures to political consultants.

Commissioner Clancy briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer and Natalia Ashley, Executive Director, responded with comments. Ms. Ashley stated that this topic would be put on the August Commission agenda and it would be posted for comment on the Commission's website under Hot Topics. No action was taken.

Agenda Item 10: Public discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to Texas Ethics Commission Rules § 20.1 (Definitions), adding a definition for "In Connection with a Campaign", for purposes of Election Code § 251.001(7), relating to the definition of campaign expenditure.

Chris Gober addressed the Commission on this agenda item.

Chair Hobby announced that the Commission would recess for lunch until 12:50 p.m. and stated that discussion would continue on Agenda Item 10 when the Commission reconvened.

Reconvened at 12:56 p.m. Chair Hobby announced that discussion on Agenda Item 10 would continue.

Trey Trainor addressed the Commission on this agenda item. Ian Steusloff, Assistant General Counsel, briefed the Commission on this agenda item. Chair Hobby, Vice Chair Untermeyer, Commissioners Clancy, Harrison, Long, and Ramsay, and Natalia Ashley, Executive Director, responded with questions and comments.

Motion by Commissioner Harrison to accept the changes suggested by the Center for Competitive Politics to 20.1(21)(C); second by Commissioner Akin. **Motion passed by a vote of eight ayes.**

Motion by Commissioner Clancy to accept the changes suggested by Center for Competitive Politics to 20.1(A)(iv) and 20.1(B)(iv), as modified; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

Motion by Commissioner Akin to republish in the Texas Register for comment the amendment to the rule to include the changes discussed; second by Commissioner Harrison. **Motion passed by a vote of eight ayes.**

Agenda Item 13: Briefing, discussion, and possible action to waive or reduce late-filing penalties in connection with certain corrected reports or to determine whether certain corrected reports as originally filed substantially complied with the applicable law for the following entities:

**1. Texas Home School Coalition Association (00070169)
Entity Filing Direct Expenditure Reports**

Report: 8-day pre-election report due October 27, 2014
Penalty: \$1,900
Recommendation: No waiver

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Trey Trainor, representing Texas Home School Coalition Association, addressed the Commission. Chair Hobby, Commissioners Akin, Clancy, and Long, and Natalia Ashley, Executive Director, responded with questions and comments. Motion by Commissioner Clancy to accept staff's recommendation; second by Commissioner Harrison. **Motion to approve staff's recommendation passed by a vote of seven ayes (Chair Hobby voted no) on Agenda Item 13, number 1.**

**2. Marisa Marquez (00062161) - RECONSIDERATION
State Representative**

Report: 8-day pre-election report due February 24, 2014
Penalty: \$1,000 (reduced from \$10,000 at the February 2015 meeting)
Recommendation: No Recommendation

Amy Barden, Senior Legal Assistant, briefed the Commission on this agenda item. Motion by Commissioner Long to affirm the Commission's previous decision to reduce the penalty to \$1,000; second by Chair Hobby. **Motion to approve the Commission's previous decision to reduce the penalty to \$1,000 passed by a vote of eight ayes on Agenda Item 13, number 2.**

Agenda Item 14: Comments by the Executive Director.

Natalia Luna Ashley, Executive Director, introduced new employees, Jose Lerma in Computer Services, Katie Drummond, attorney in Legal, and Samantha Hill, analyst in Disclosure Filings.

Ms. Ashley stated that 56 Sworn Complaints have been received since the last Commission meeting, 69 Sworn Complaints have been resolved since the last Commission meeting, and the Commission currently has approximately 190 pending Sworn Complaints. The next major filing deadline is the July semi-annual report and the Commission will be open early and late to answer questions, as usual.

Agenda Item 15: Comments by the Commissioners.

Commissioner Harrison corrected a statement made earlier regarding the amount of time between a primary and primary run-off election. Commissioner Clancy requested that comments by Commissioners be moved to the front of the agenda.

Agenda Item 16: Adjourn.

Motion by Vice Chair Untermeyer to adjourn; second by Commissioner Delco. **Motion passed by unanimous consent.**

Meeting adjourned at 2:45 p.m.