



## TEXAS ETHICS COMMISSION MEETING MINUTES

### Public Meeting Minutes

February 16, 2023, 9:03 a.m.

10<sup>th</sup> Floor, Sam Houston State Building  
Austin, Texas 78701



**COMMISSIONERS PRESENT:** Mary K. “Katie” Kennedy, Chair; Randall H. Erben, Vice Chair; Chad M. Craycraft, Chris Flood, Patrick W. Mizell, Joseph Slovacek, and Steven D. Wolens.

**COMMISSIONERS NOT PRESENT:** Richard S. Schmidt.

**STAFF PRESENT:** Brandon Barrett, Joe Brocato, Margie Castellanos, Carmen Dalpiaz, Betty Gallegos, David Guilianelli, Jessie Haug, Cristina Hernandez, Jordan Hunn, J.R. Johnson, Natalie McDermon, Amy Padilla, Mark Pillsbury, Margaret Sanchez, Patti Shannon, Jim Tinley, and Bill Wilson.

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### MINUTES

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 Kennedy. J.R. Johnson, Executive Director, called the roll. All Commissioners were present except Commissioner Schmidt, who was absent due to a previous commitment.

**Agenda Item 2: Discussion of, and possible action on, any unfinished business from the Executive Session or Public Meeting held on February 15, 2023.**

No action was taken.

**Agenda Item 3: Discussion regarding dates for next quarterly Commission meeting.**

Chair Kennedy led the discussion on the next Commission meeting dates. Commissioners Craycraft, Flood, Slovacek and Wolens responded with questions and comments. The tentative dates for the next Commission meetings are June 27-28, 2023. No action was taken.

**Agenda Item 4: Approve minutes for the following meetings:**

- Executive Session on December 13, 2022; and
- Public Meeting on December 14, 2022.

Chair Kennedy briefed the Commission on this agenda item. Motion by Vice Chair Erben to approve the minutes in Agenda Item 4; second by Commissioner Flood. **Motion passed by a vote of seven ayes.**

**Agenda Item 5: Discussion and possible action on the adoption or proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 22.37, regarding virtual currency contributions.**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Vice Chair Erben, Commissioners Craycraft and Wolens, J.R. Johnson, Executive Director, and Mr. Tinley responded with questions and comments. No action was taken.

**Agenda Item 6: Discussion and possible action on the proposal and publication in the Texas Register of the repeal and amendments to 1 Tex. Admin. Code §§ 18.21, 18.23, 18.24, 18.25 and 18.26, regarding the administrative waiver or reduction of civil penalties for late filing.**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Motion by Commissioner Flood to publish Agenda Item 6 for public comment; second by Vice Chair Erben. **Motion passed by a vote of seven ayes.**

**Agenda Item 7: Discussion and possible action on the proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 18.13, regarding a fine for a late report.**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy and Mr. Tinley responded with questions and comments. Motion by Commissioner Flood to publish Agenda Item 7 for public comment; second by Commissioner Craycraft. **Motion passed by a vote of seven ayes.**

**Agenda Item 8:** Discussion and possible action on the proposed and publication in the Texas Register of the repeal of 1 Tex. Admin. Code § 28.3, regarding the termination of a speaker candidate's candidacy.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy responded with comments. Motion by Commissioner Flood to publish Agenda Item 8 for public comment; second by Vice Chair Erben. **Motion passed by a vote of seven ayes.**

**Agenda Item 9:** Discussion and possible action on the proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 40.3 regarding the definition of "home address" as it relates to personal financial disclosures.

Chair Kennedy and Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy, Commissioners Craycraft and Wolens, J.R. Johnson, Executive Director, and Mr. Tinley responded with questions and comments. Motion by Commissioner Flood to publish Agenda Item 9 for public comment, as amended; second by Vice Chair Erben. **Motion passed by a vote of seven ayes.**

**Agenda Item 10:** Draft Advisory Opinion No. AOR-674: Whether Section 253.007 of the Election Code prohibits a former member of the Legislature from engaging in activity that would require registration under Chapter 305 if the former member contributed money from his political funds to a general-purpose political committee more than two years before being required to register. Whether certain political contributions of expenditures made under Section 253.006(3) of the Election Code constitute a violation of Section 253.004 of the Election Code.

Vice Chair Erben recused himself from this agenda item and left the dais. Jim Tinley, General Counsel, briefed the Commission on this agenda item. Ross Fischer addressed the Commission. Chair Kennedy, Commissioners Mizell, Slovacek and Wolens, and Mr. Tinley responded with questions and comments. Motion by Commissioner Craycraft to adopt AOR-674; second by Commissioner Slovacek. **Roll was called; motion passed by a vote of six ayes. AOR-674 is adopted.**

**Vice Chair Erben returned to the dais.**

**Agenda Item 11:** Draft Advisory Opinion No. AOR-678: Whether the revolving door law prohibition in Section 572.069 of the Government Code would prohibit a former employee of a state agency from accepting certain employment.

Jim Tinley, General Counsel, briefed the Commission on this agenda item. Chair Kennedy and Mr. Tinley responded with questions and comments. Motion by Commissioner Craycraft to adopt AOR-678; second by Commissioner Flood. **Motion passed by a vote of seven ayes. AOR-678 is adopted.**

**Agenda Item 12:** **Draft Advisory Opinion No. AOR 679-CI: A former member of the Texas Legislature retires at the end of a legislative session. Before the next legislative session, the former legislator: (1) uses title 15 campaign contributions to make a political contribution to legislative candidates; (2) subsequently uses personal funds to reimburse the campaign for the same amount of the contributions; and (3) registers to lobby. May the former legislator lobby members of the Legislature during the two-year period after making the political contribution?**

**May the former legislator cure a violation of Section 253.007 or reduce the two-year waiting period imposed by Section 253.007 by reimbursing his or her campaign with personal funds in an amount that equals the political contributions made?**

**Pursuant to Section 571.173, Government Code, the commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue for a violation of law administered and enforced by the commission. What does “the amount at issue” mean for purposes of imposing a penalty for a violation of Section 253.007, Election Code? Does it mean: (1) the amount of political contributions at issue, (2) the maximum amount of income indicated on the person's lobby registration statement, or (3) something else?**

Chair Kennedy and J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Ross Fischer addressed the Commission. Chair Kennedy, Vice Chair Erben, Commissioners Flood, Mizell, Slovacek and Wolens, Mr. Johnson and Jim Tinley, General Counsel, responded with questions and comments. Motion by Commissioner Flood to adopt AOR-679-CI, as amended; second by Commissioner Mizell. **Roll was called; motion passed by a vote of seven ayes. AOR-679-CI is adopted.**

**Agenda Item 13:** **Discussion and possible action on appeals of determinations made under Ethics Commission Rules §§ 18.11, 18.25 and 18.26 relating to administrative waiver or reduction of a fine.**

Jim Tinley, General Counsel, briefed the Commission on this agenda item. No action was taken.

**Agenda Item 14:** **Briefing and discussion of legislation in the 2023 legislative session, including status of Ethics Commission legislative recommendations and discussion and possible action regarding improvements to the Commission’s electronic filing software.**

J.R. Johnson, Executive Director, briefed the Commission on this agenda item. Chair Kennedy and Vice Chair Erben responded with questions and comments. No action was taken.

**Agenda Item 15: Discussion and possible appointment of a Nominating Committee of Commissioners for the positions of Chair and Vice Chair of the Texas Ethics Commission.**

Chair Kennedy briefed the Commission on this agenda item. Motion by Commissioner Craycraft to appoint Commissioners Craycraft and Wolens to a nominating committee for the positions of Chair and Vice Chair of the Texas Ethics Commission; second by Commissioner Flood. **Motion passed by a vote of seven ayes.**

**Agenda Item 17: Adjourn.**

**Commission meeting adjourned by unanimous consent.**

Meeting adjourned at 10:32 am.