

TEXAS ETHICS COMMISSION
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MEETING AGENDA

Date and Time:	9:00 a.m., Thursday, December 9, 2021
Location:	Room E1.014, Capitol Extension, Austin, Texas

**INFORMATION ON HOW TO VIEW AND/OR PARTICIPATE IN THE ONLINE
BROADCAST OF THIS MEETING WILL BE POSTED ON OUR WEBSITE ON THE
DAY OF THE MEETING HERE:**

https://www.ethics.state.tx.us/meetings/meetings_2020-2024.php#2021

1. Call to order; roll call.
2. **Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys, and Section 551.074, Government Code, Personnel Matters; Closed Meeting.**
 - A. Discussion of pending litigation to seek legal advice relating to the following:
 - i. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250th 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.
 - ii. Cause No. D-1-GN-15-004455: *Texas Ethics Commission v. Empower Texans, Inc. and Michael Quinn Sullivan*, in the 345th 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.
 - iii. Cause No. D-1-GN-21-003269, *Michael Quinn Sullivan v. Texas Ethics Commission*, in the 459th Judicial District Court in Travis County, Texas.
 - iv. Cause No. 21-00140: *Texas Ethics Commission v. Robert L. “Bob” Hall, III*, in the 294th Judicial District Court in Van Zandt County, Texas.

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

- B. Discussion of pending and contemplated litigation regarding the collection of imposed penalties.
 - C. Discussion of personnel matters.
 - D. Reconvene in open session.
- 3. Discussion regarding dates for next quarterly Commission meeting.
 - 4. Approve minutes for the following meetings:
 - o Executive Session – August 31, 2021, and
 - o Public Meeting – September 1, 2021.

ADMINISTRATIVE 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. The Black Women’s PAC, Tracy Scott, former treasurer (00082403)
 - 2. South Coast Republican Women, Jeannie Whittington, former treasurer (00083676)

ADVISORY OPINIONS

- 6. Reconsideration of Ethics Advisory Opinion No. EAO-568, adopted on September 1, 2021, and possible adoption of a revised advisory opinion regarding whether a judge may use political contributions to pay expenses related to home security systems and equipment.

This opinion construes section 253.035 of the Election Code.

- 7. Draft Advisory Opinion No. AOR-651: Whether an officer or employee of a district attorney’s office may use public funds to create items with logos that display the name and title of the officer and give the items to members of the public.

This opinion construes section 255.003 of the Election Code and section 39.02 of the Penal Code.

- 8. Draft Advisory Opinion No. AOR-653: Whether a candidate or officeholder may use political contributions to establish and control a general-purpose political committee, which then pays the candidate or officeholder a salary.

This opinion construes section 253.035 of the Election Code.

9. Draft Advisory Opinion No. AOR-655: Whether the revolving door law in section 572.054 of the Government Code would prohibit a former employee of a state agency from providing certain services.

This opinion construes section 572.054 of the Government Code.

RULEMAKING

Rule Adoption

10. Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 18.31, regarding the adjustments of reporting thresholds, and Ethics Commission Rules that are affected by the adoption of an amendment to 1 Tex. Admin. Code § 18.31, including §§ 20.62, 20.65, 20.217, 20.220, 20.221, 20.275, 20.301, 20.303, 20.313, 20.329, 20.333, 20.401, 20.405, 20.434, 20.435, 20.553, 20.555, 22.1, 22.7, 34.41, and 34.43.
11. Discussion and possible action on the adoption or proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 22.37, regarding cryptocurrency contributions.

OTHER MATTERS

12. Credit Card Reporting: Schedule F4 changes.
13. 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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ETHICS ADVISORY OPINION NO. 567

[DATE]

ISSUES

Whether a judge may use political contributions to pay expenses related to home security systems and equipment. (AOR-649)

SUMMARY

A judge may use political contributions to pay ordinary and necessary expenses incurred in connection with ensuring their home security.

FACTS

The requestor is a judicial officer seeking guidance on the use of campaign funds to pay for home security measures recommended by the Texas Office of Court Administration. The requestor notes that judicial officers are provided some security when physically within the Courthouse, but are generally unprotected in most other settings, particularly at home. This lack of security can have terrible consequences. The requestor cites the shooting of a Travis County district judge in 2015 as an example of the danger that judicial officers face.

The requestor provides a personal security assessment created by the Texas Office of Court Administration. The assessment describes the requestor's home and its various vulnerabilities. The report makes many recommendations for improving security at the requestor's home, including: (1) motion sensing lights at entrances to the home, walkways around the home, and the home's garage, (2) new perimeter doors, (3) secure locks and strike plates on doors, (4) security storm doors, (5) garage shields, (6) locks on some utility boxes, (7) security cameras, (8) motion sensors, (9) gate locks, and (10) a safe.

ANALYSIS

Legal standard:

Section 253.035(a) of the Texas Election Code prohibits a candidate or officeholder from converting political contributions to "personal use." Tex. Elec. Code § 253.035(a). "Personal use" is defined as a use that "primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(d).

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In Ethics Advisory Opinion 555, the Commission considered whether a judge may use political contributions to fund the production of an educational podcast. Tex. Ethics Comm'n Op. No. 555 (2020). The Commission concluded that the contemplated podcast would be “connected to the judge’s performance of official duties and activities.” *Id.* As a result, “ordinary and necessary expenses” related to the creation of the podcast could be paid for with political contributions. *Id.*

In Ethics Advisory Opinion 547, the Commission found that a candidate could use political contributions to pay childcare expenses. Though this use did “further some individual or family purposes,” the Commission noted that a use was not prohibited simply because it “may have some incidental benefits to the individual candidate.” Tex. Ethics Comm'n Op. No. 547 (2018) (quoting Tex. Ethics Comm'n Op. No. 149 (1993)). Instead, the Commission focused on whether or not the expenses would have been incurred but for the individual’s status as a candidate, and concluded that they would not. *Id.* (“According to the facts presented, the candidate began paying for childcare services only after becoming a candidate, and the candidate’s stated purpose in acquiring the childcare services is to allow or facilitate her participation in campaign events.”).

The Federal Election Commission has also addressed similar questions. In Advisory Opinion 2021-03, the FEC determined that the use of campaign funds for “bona fide, legitimate, professional personal security personnel against threats arising from the members’ status as officeholders is a permissible use of campaign funds” That opinion also noted that the FEC had previously and repeatedly authorized “the use of campaign funds to protect against threats to officeholders' personal safety, on the grounds that the need for such expenses would not exist without their status as Members of Congress.”

Judicial officers may use political contributions to pay ordinary and necessary expenses incurred in connection with ensuring the security of their homes:

Here, like in Ethics Advisory Opinion 547, the requestor’s stated purpose for making the expenditures is connected to the performance of her official duties and would not be necessary but for her status as an officeholder. As the requestor notes, judicial officers’ performance of their official duties and activities can threaten their physical safety in their own homes. If the requestor were not a judicial officer, she would not be exposed to the same dangers. Further, a judicial officer’s reasonable fear that their safety might be threatened could impact the way in which they execute their duties. Consequently, ordinary and necessary expenses incurred in connection with ensuring a judicial officer’s security while at home are connected with the performance of the officer’s duties or activities. Tex. Elec. Code § 253.035(d).

Though home security may provide an incidental benefit to the judicial officer or their family, the primary function of the use of political contributions is connected to the requestor’s execution of their public duty. *See Id.* We therefore conclude that the requestor’s use of political contributions to defray ordinary and necessary expenses related to home security measures would not violate section 253.035.

We stress that political contributions may only be used to defray “ordinary and necessary expenses.” Tex. Ethics Comm'n Op. No. 555 (2020). We decline to offer an opinion on whether or not the specific home-security measures identified in Texas Office of Court Administration’s

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assessment are ordinary and necessary. However, we would assume, in the absence of any countervailing evidence, that the Texas Office of Court Administration would not recommend something that is not ordinary or necessary.

Finally, we reiterate our previous warnings that even when a judge may use political contributions to pay for certain equipment, she may not then convert that equipment to personal use. Tex. Ethics Comm'n Op. No. 555 (2020) (citing Tex. Ethics Comm'n Op. No 25 (1992)). "Instead, the equipment would be subject to various provisions of Title 15 of the Election Code applicable to assets purchased with political contributions." *Id.* (citing Tex. Ethics Comm'n Op. No. 296 (1995) ("Items purchased with political contributions may not be converted to personal use at the end of an officeholder's tenure in office and would need to be disposed of in a manner consistent with Section 254.204 of the Election Code.")).

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**TEXAS ETHICS
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ETHICS ADVISORY OPINION NO. XXX

*December 9, 2021***ISSUE**

Whether an officer or employee of a district attorney's office may use public funds to create items with logos that display the name and title of the officer and distribute the items to the public. (AOR-651)

SUMMARY

Section 255.003(a) of the Texas Election Code does not apply to district attorneys because they are not officers or employees of political subdivisions.

Section 39.02(a) of the Penal Code prohibits the use of government resources to create promotional items with logos that display the name and title of the officer and distribute those items to the public.

FACTS

The requestor is an employee of a multi-county district attorney's office. His request asks the commission whether employees of the district attorney's office may use public funds to distribute items, including, but not limited to "pens, shirts, tote bags, stickers, etc.," displaying logos with the district attorney's name and title. He states, "These items would be distributed at all community functions that the DA and or a representative of the office attends . . . to those of all ages." Other items displaying the logos are "plastic badges that would be handed out to children during our school initiatives."

The requestor next asks whether public funds may be spent for "a car magnet that we would use to identify our investigator vehicles when attending functions outside of the office while on official office business." The requestor then asks whether he may use public funds to distribute brochures with the logos to anyone at any time "as they provide useful numbers for those who may have been or know someone who is or was a victim of crime" and "proper contacts [for] the resources they may need." The requestor states the district attorney and employees of the district attorney's office intend to "us[e] the items in our efforts to be visible in the community."

Each of the three logos submitted by the requestor includes the name and title of the district attorney. The first logo is a badge shaped as a seven-pointed star containing the name, title, and geographic district of the district attorney with a silhouette of a person holding a magnifying glass, under which is printed “Junior Investigator.” The second logo is the official seal of the district attorney with her name and title below it. The third logo is a lotus flower encircled with the name and title of the district attorney and imprinted with “Healing-Hope-Voice-Help-Strength” and an inscription characterizing the lotus flower (“rises and blossoms above the muddy waters and dark places”). In each logo, the name and title of the district attorney are in larger and bolder typeface than the other text.

ANALYSIS

Section 255.003(a) of the Election Code does not apply to district attorneys and their offices because they are not officers or employees of a political subdivision.

Section 255.003(a) of the Election Code prohibits officers and employees *of political subdivisions* from knowingly spending or authorizing the spending of public funds for political advertising. Tex. Elec. Code § 255.003(a). Therefore, the threshold question here is whether a district attorney is an officer or employee of a political subdivision. For the following reasons, we conclude that section 255.003(a) does not apply to district attorneys or their employees because they are neither officers nor employees of political subdivisions.

The Texas Election Code defines “political subdivision” to mean a county, city, or school district or any other governmental entity that (1) embraces a geographic area with a defined boundary, (2) exists for the purpose of discharging functions of government, and (3) possesses authority for subordinate self-government through officers selected by it. Tex. Elec. Code § 1.005(13). In Ethics Advisory Opinion No. 561, the Commission concluded that section 255.003(a) of the Election Code does not apply to state district judges because Texas judicial districts lack the authority for subordinate self-government through officers selected by it. Tex. Ethics Comm’n Op. No. 561 (2021). For the same reasons explained there, we conclude that section 255.003(a) does not apply to district attorneys.

Like district judges, district attorneys are officers of state government. The Government Code’s definition of “State prosecutor” includes each “district attorney.” Tex. Gov’t Code § 46.001(3). Further, the Government Code distinguishes state prosecutors from “County prosecutor[s],” which are defined as any “constitutional county attorney who does not have general felony jurisdiction and who is not a state prosecutor.” *Id.* at § 46.001(1). This distinction is further reflected in the source of funding for district attorneys’ salaries. District attorneys receive their salaries “from the state,” while county attorneys are “paid by the county.” *Compare* Tex. Gov’t Code § 46.003 *with* Tex. Gov’t Code § 46.0031.

Section 39.02(a)(2) of the Penal Code prohibits state officers and employees from using government resources for private campaign purposes.

Unlike section 255.003(a) of the Election Code, section 39.02(a)(2) of the Penal Code applies to all “public servant[s].” A public servant, as defined in the Penal Code, includes a public officer, among other enumerated persons, such as government employees and agents, jurors and grand jurors, notary publics, and candidates for nomination or elected public office. Tex. Penal Code § 1.07(a)(41).

District attorneys are not officers or employees of political subdivision, but they are public servants. Therefore, section 39.02(a)(2) of the Penal Code applies to district attorneys, prohibiting them from intentionally or knowingly misusing “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.”

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.

Texas Penal Code § 39.01(2).

In Ethics Advisory Opinion No. 550, the Commission concluded that “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. Ethics Comm’n Op. No. 550 (2019) (citing Tex. Const. art. III, §§ 51, 52(a)). And thus, “the use of government resources for an individual public servant’s private campaign purposes would be a misuse” for purposes of section 39.02(a) of the Penal Code. *Id.*

Section 39.02(a) of the Penal Code prohibits the use of government resources to create and distribute items that promote a public official.

This opinion addresses whether it is a “misuse” of public funds to affix a public official’s name and title to various items used for different purposes. Here, there can be no dispute that the funds involved are subject to section 39.02(a)(2); the requestor states that the funding “is drawn from a discretionary account for the DA’s office funded by revenue generated by forfeitures.” *See* Texas Penal Code § 39.02(a)(2) (applying to the use of any government resource “that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.”).

In our opinion, whether or not it is a “misuse” of these funds to create items with the logos considered here depends on the purpose for which the items are used. There are some uses that would be an appropriate use of public funds, such as affixing the official seal to a vehicle used for official purposes.

However, the requestor seeks instead to affix her name and title to various promotional items like pens and tote bags and give those items away to members of the public. The stated purpose is “community outreach,” and the requestor notes that the official just recently took office and is not up for re-election for several more years. But we note that each logo not only identifies the office, but also prominently includes the name of the current occupant of that office. This type of promotional item would lead one to believe that its purpose “was to support the incumbent,” regardless of the timing. *See* Tex. Ethics Comm’n Op. No. 559 (2021). Consequently, to use government resources for their creation and distribution would constitute a misuse under section 39.02(a) of the Penal Code.

The requestor next asks about using a car magnet that would identify investigator vehicles. Again, whether or not this is an appropriate use of government resources depends on the context. Using government funds to affix identifying information to a vehicle used for official business is not a misuse, but using the same funds to affix the same information to a vehicle used for campaign purposes is. The requestor states that the magnets would be used on investigator vehicles “when attending functions outside of the office while on official office business,” such as “escorting the DA to functions relating to the duties of the office, attending a law enforcement event, [and] attending a community event.” Assuming the truth of these hypothetical facts, we conclude that the creation and use of such a car magnet is not a misuse of government resources.

Finally, the requestor asks for an opinion on the use of government resources to create brochures to be distributed “to anyone at any time as they provide useful numbers to those who may have been or know someone who is or was a victim of crime.” According to the requestor, the brochures would “help those in need by giving them proper contacts to see the resources they may need.”

Our prior opinions on similar documents have typically focused on section 255.003(a), which does not apply to the requestor. However, those opinions focus primarily on whether the written communication is “informational” or whether its purpose appears to be to support the incumbent official. *See, e.g.* Tex. Ethics Comm’n Op. No. 560 (2021). We have said that “[a] significant factor in determining whether a particular communication supports or opposes” an official is “whether the communication provides information without promoting” the official. Tex. Ethics Comm’n Op. No. 562 (2021). Furthermore, “[t]he mere fact that the name of a public officer or the picture of a public officer appears in a [written communication] would not determine whether the communication constitutes political advertising.” Tex. Ethics Comm’n Op. No. 476 (2007). “However, the context and frequency with which the name or picture appears are relevant to making to making that determination.” *Id.*

Here, because the requestor did not provide a representative sample of the brochures for our inspection, we are unable to opine on the use of government resources to create and distribute the particular brochures. While the brochures may provide “useful numbers” and “proper contacts”

for “resources,” without evaluating the context and frequency of the appearance of the public officer’s name, we cannot conclude that the brochures would never constitute political advertising. *See* Tex. Ethics Comm’n Op. No. 559 (2021).



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TEXAS ETHICS
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ETHICS ADVISORY OPINION NO. XXX

December 9, 2021

ISSUE

Whether a candidate or officeholder may use her existing political contributions to establish a general-purpose political committee (GPAC), which she will control.

Whether a candidate or officeholder may receive a salary from a GPAC that the candidate or officeholder established or controls. (AOR-653)

SUMMARY

A candidate or officeholder may use her own political contributions to establish a GPAC and may control such a GPAC.

Political contributions “accepted” by a candidate-established or controlled GPAC are accepted by a person as a candidate or officeholder and therefore may not be converted to personal use by the controlling candidate or officeholder and may not be used to pay the controlling candidate or officeholder a salary.

Personal use restrictions notwithstanding, the Penal Code gift and honorarium restrictions would allow such employment under only a narrow set of facts, and such employment may violate the standards of conduct for a public servant.

FACTS

The requestor is a member of the legislature. The requestor plans to use her existing political contributions to establish a GPAC to support candidates and county political parties in state and local elections in Texas. The requestor plans to exercise control over the GPAC and act as its executive director. If the GPAC is able to garner sufficient support, the requestor also plans to draw a salary as executive director of the GPAC. The requestor asks whether drawing a salary from the GPAC would constitute a conversion of political contributions to personal use due to the use of her political contributions as seed money or due to her exercise of control over the GPAC.

ANALYSIS

Candidates and officeholders may establish and control GPACs.

The requestor's question focuses on conversion of political contributions to personal use, but to reach that question, the Commission must decide whether a candidate-established or controlled political committee can exist as a separate entity from the candidate's campaign when the candidate has control over the disposition of the political committee's funds.

"Political committee" means two or more persons acting in concert with a principal purpose of accepting political contributions or making political expenditures. The term does not include a group composed exclusively of two or more individual filers or political committees required to file reports under this title who make reportable expenditures for a joint activity. Tex. Elec. Code § 251.001(12).

Nothing in title 15 plainly prohibits candidates and officeholders from forming or establishing GPACs, and several provisions indicate that they may. For example, the definition of a political committee suggests a title 15 filer may form a GPAC so long as she is not acting in concert exclusively with other title 15 filers. Tex. Elec. Code § 251.001(12) (excluding "a group composed exclusively of *two or more individual filers* or political committees...") (emphasis added). In addition, section 252.003(a)(4)(A) provides that a GPAC "established or controlled by a candidate or an officeholder" may not accept certain corporate contributions, which implies that such a committee may exist.

In our opinion, a candidate or officeholder may establish and control a GPAC that is distinct from her campaign, provided the committee is formed with a principal purpose of supporting or opposing candidates other than the establishing or controlling candidate or officeholder, or measures. The candidate-established or controlled GPAC must also maintain formal separation from the campaign of the candidate or officeholder establishing or controlling it. The GPAC and candidate or officeholder must also give effect to intent of the donor when deciding the recipient of political contributions. *See* Tex. Elec. Code § 253.001 (prohibiting contributions in the name of another).

Political contributions accepted by a candidate-controlled GPAC are subject to the personal use restriction.

A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. Tex. Elec. Code § 253.035(a). Similarly, a specific-purpose political committee that accepts a political contribution may not convert the contribution to the personal use of a candidate, officeholder, or former candidate or officeholder. *Id.* § 253.035(b).¹ But the

¹ A "Specific-purpose committee" is defined as:
a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes:
(A) supporting or opposing one or more:
 (i) candidates, all of whom are identified and are seeking offices that are known; or
 (ii) measures, all of which are identified;
(B) assisting one or more officeholders, all of whom are identified; or

personal use prohibition normally does not apply to political contributions accepted by a general-purpose committee. *See id.* § 253.035.²

“Personal use” means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. *Id.* § 253.035(d). “Payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder” are not a personal use. *Id.*

A candidate or officeholder may make a contribution from political contributions to a general-purpose political committee. Tex. Ethics Comm’n Op. No. 47 (1992). However, a candidate may not pay herself a salary from contributions accepted as a candidate or officeholder, or by a specific-purpose committee. A salary is quintessentially personal compensation, to be used at the recipient’s personal discretion. A candidate’s time spent on a campaign or engaging in officeholder activities is not an expense that can be charged to the campaign. Therefore, a candidate or officeholder’s payment of a salary to herself would be a conversion to personal use.

In our opinion, political contributions putatively accepted by a candidate-controlled GPAC are, in effect accepted by a person “as a candidate or officeholder,” and subject to the personal use restriction. A candidate or officeholder cannot avoid personal use restrictions by labeling a political committee under her control a GPAC. Instead, when a candidate or officeholder controls the ultimate disposition of political contributions, the candidate or officeholder accepts the contributions as “a candidate or officeholder” even if she does so on behalf of a GPAC. *See* Tex. Elec. Code 253.035(a) (applying the personal use restriction to contributions accepted “as a candidate or officeholder”). Therefore, a candidate or officeholder may not accept a salary from a political committee she established or controls.

To hold otherwise would render the personal use restriction a nullity. A candidate or officeholder’s campaign is already able to carry out the functions of a GPAC by making political contributions to other candidates, officeholders, political committees, and political parties without forming a separate political committee. Tex. Ethics Op. No. 47 (1992). If candidate or officeholder-controlled GPACs were not subject to the personal use restriction, candidates and

(C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown.

Tex. Elec. Code § 251.001(13).

² A “general-purpose political committee” is defined as:

a political committee that has among its principal purposes:

(A) supporting or opposing:

(i) two or more candidates who are unidentified or are seeking offices that are unknown; or

(ii) one or more measures that are unidentified; or

(B) assisting two or more officeholders who are unidentified.

Id. § 251.001(14).

officeholders could free themselves of the personal use restriction simply by encouraging contributors to give to GPACs they control instead of their campaigns. Likewise, existing candidate-controlled specific-purpose committees would need only re-label themselves as GPACs and intend to make political contributions to others to avoid the personal use restriction. This cannot be the result the legislature intended when it applied the personal use restriction to political contributions “accepted as a candidate or officeholder.”

Payments to a state officer are subject to the Penal Code gift and honorarium restrictions.

As a general rule a legislator may accept a fee for work performed in a capacity other than as a legislator. Tex. Ethics Comm’n Op. No. 508 (2013) (citing Tex. Ethics Comm’n Op. No. 371 (1997)). However, a legislator is generally prohibited from soliciting, accepting, or agreeing to accept a benefit from any person unless a specific exception under section 36.10 of the Penal Code applies. Penal Code § 36.08(f). A “benefit” is “anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.” *Id.* § 36.01(3).

A fee or salary is a permissible “benefit,” when is given to a public servant for “legitimate consideration in a capacity other than as a public servant.” Penal Code § 36.10(a)(1); *See also* Tex. Ethics Comm’n Op. No. 192, n.3 (1994). “Legitimate consideration” is consideration “commensurate with the value of the services.” Tex. Ethics Comm’n Op. No. 358 (1997) (citing Tex. Ethics Comm’n Op. No. 41, at 1 n.1 (1992)). A public servant acts “in a capacity other than as a public servant” when it is “the services rendered and not the status of the public servant rendering the services that is of value to the person paying for the services.” *Id.*

Section 36.08 therefore does not prohibit a legislator from accepting compensation that is commensurate with the actual value of the services provided by the public servant if the services rendered, and not the status of the public servant rendering the services, are of value to the person paying for the services. Tex. Ethics Comm’n Op. Nos. 358 (1997), 41 (1992). Whether compensation reflects the actual value of services is a fact question requiring the consideration of all relevant circumstances. Tex. Ethics Comm’n Op. No. 508 (2013).

Here, questions of whether the compensation truly reflects the actual value of services provided are particularly acute because the legislator will both control the spending of the GPAC and be its employee. The substantial value a legislator brings to an entity that will rely on political contributions for its survival also presents a difficult fact question about whether the legislator’s skill and expertise or her status as an officeholder provides value to the GPAC. However, it is possible for a legislator to receive legitimate consideration in a capacity other than as a public service from a GPAC.

Legislators are also prohibited from accepting an honorarium for services that they would not have been asked to provide but for their official position. Tex. Penal Code § 36.07(a). For a legislator to accept compensation from a GPAC or any other person, the services must be provided in a capacity other than as a legislator, and his official position must not be a reason for his employment. *See, e.g.*, Tex. Ethics Comm’n Op. No. 508 (2013), 148 (1993). Whether the honorarium prohibition applies is also a fact question requiring a consideration of all relevant facts. *Id.*

It is difficult to separate a legislator's status as a public servant from her employment with the GPAC. The GPAC will depend on contributions from people who may have a mixed motive of contributing to the GPAC to get their preferred candidates elected and gaining favor with the legislator by contributing to her salary. Since the requestor's status as a legislator may play an integral role in the fundraising success of the GPAC, it is difficult to say that the legislator would have received a salary but for her status as a legislator. The legislator deciding to establish the GPAC and deciding to hire herself also complicates the question of whether she would have been hired but for her status as an officeholder. But again, compensation paid to a candidate or officeholder from a GPAC does not necessarily violate the honorarium prohibition.

A legislator's employment with a GPAC may violate the standards of conduct for a state officer.

Chapter 572 of the Government Code sets out standards of conduct applicable to all state officers, including legislators. Tex. Gov't Code § 572.051. One standard is that a state officer should not accept or solicit any gift, favor, or service that might reasonably tend to influence the officer in the discharge of official duties or that the officer knows or should know is being offered with the intent to influence the officer's official conduct. *Id.* at § 572.051(a)(1). Another standard is that a state officer should not accept other employment or compensation that could reasonably be expected to impair the officer's independence of judgment in the performance of the officer's official duties. *Id.* at § 572.051(a)(3). The legislature has not attached specific sanctions to violations of those standards beyond termination of an employee, which is not applicable here. *Id.* at § 571.051(b), (e).

Whether a state officer's particular activity is appropriate under these standards depends upon the officer's circumstances. *See* Tex. Ethics Comm'n Op. No. 358 (1997). The Commission has opined that it is a matter of personal ethics for each state officer to determine whether particular employment would violate that standard. Tex. Ethics Comm'n Op. Nos. 156 (1993), 41 (1992). However, a legislator depending on political contributions to a general-purpose committee for her livelihood certainly raises questions to the appropriateness of such employment. The GPAC will depend on political contributions to pay the legislator's salary. This puts the requestor in the position to rely on contributors to fund her campaign as well as her lifestyle. Such an arrangement leads to obvious and natural questions as to whether the employment may tend to influence the officer in the discharge of her official duties. *Id.* at § 572.051(a)(1), (3).

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ETHICS ADVISORY OPINION NO. ____

December 9, 2021

ISSUES

Whether the revolving door provision in Government Code section 572.054(b) prohibits a former employee of a regulatory agency who participated in canceling a request for proposal (“RFP”) during her state service from receiving compensation for assisting with a response to a reissued RFP for the same service or product. (AOR-655)

SUMMARY

Like separate contracts, separate RFPs leading to separate contracts are separate “matters” for purposes of the revolving door provision in Government Code section 572.054(b). However, the conclusion that a specific work activity constitutes “participation in” one matter does not necessarily preclude the conclusion that the same work also constitutes “participation in” another matter. When an officer or employee of an agency participates in the decision to cancel or rescind an RFP, and the agency subsequently reviews or analyzes that officer’s or employee’s work in connection with reissuing an RFP for the same service or product, the employee has participated in both the rescinded RFP and the reissued RFP for purposes of section 572.054(b).

FACTS

The requestor seeks an opinion from the Commission on the applicability of Section 572.054(b). She is a former employee of a regulatory agency who, during her state service, had oversight over a program serviced by a private company pursuant to a contract with the agency. The requestor was also involved in the development and issuance of the agency’s requests for proposal (“RFP”) soliciting bids to provide those services.

Near the conclusion of her state service, the requestor canceled the agency’s pending RFP for the renewal of this program over concerns regarding the scoring process. She then recused herself from any discussions about a subsequent RFP for the same services and resigned from the agency. The agency subsequently reissued an RFP for the same services, and the requestor now wishes to accept compensation in connection with helping a private company respond to that reissued RFP.

ANALYSIS

Section 572.054(b) prohibits former state officers and employees of regulatory agencies from receiving any compensation for services rendered on behalf of any person “regarding a particular matter in which the former officer or employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a

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matter within the officer's or employee's official responsibility." Tex. Gov't Code § 572.054(b). In short, this law prohibits a former state employee from working on a "matter" the former state employee "participated" in as an employee of the state agency.

The Government Code defines "particular matter" as a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding. Tex. Gov't Code § 572.054(h)(2). The Commission has previously opined that the "term 'particular matter' refers to a particular proceeding rather than to a particular subject matter" Similarly, it has opined that former state employees are not prohibited from working in subject areas or for employers with which they became familiar in the course of their state employment. *Id.* (citing Tex. Ethics Comm'n Op. No. 364 (1997)).

The requestor relies primarily on Ethics Advisory Opinion No. ("EAO") 397, which in part states that "[s]eparate contracts are separate 'matters' for purposes of the revolving door provision in Government Code section 572.054(b)." Tex. Ethics Comm'n Op. No. 397 (1998). The requestor asserts that because the Commission has concluded that separate contracts are separate matters, "it logically follows that the separate RFPs leading to those contracts are also separate matters." We agree.

However, Ethics Advisory Opinion No. 397 is also careful to clarify that "a conclusion that a particular work activity constitutes 'participation in' one matter ... does not necessarily preclude the conclusion that the same activity also constitutes 'participation in' another matter." *Id.* ("In circumstances in which two matters are interdependent pieces of a larger project, an agency employee's 'participation' in one of the matters would also constitute 'participation' in the other matter if the employee's work on the first matter is being reviewed or analyzed in the second matter."). Put simply, even though the RFPs constitute separate matters, the requestor may have participated in both.

The facts presented here are distinguishable from EAO 397. In that opinion, the "separate contracts" were for distinct, albeit related, services. The first contract—in which the former TxDOT employee participated in the procurement process—was for a private consultant to conduct a feasibility study. *Id.* The second contract was for a different private consultant to conduct an environmental study related to the same underlying project. While the Commission found that the former employee "[c]learly" participated in the matter of the feasibility study, he did not participate in the environmental study merely because the results of the feasibility study served as the basis for the environmental study. *Id.*

Here, on the other hand, the two RFPs are for the same service. More importantly, the second RFP exists because the first RFP was rescinded by the agency, and the requestor was responsible for making that decision. The requestor says that she recused herself from discussions about a future RFP. However, she was the individual who had oversight over the program at the time the RFP was rescinded in 2020. If her reasons for canceling the earlier RFP are reviewed or analyzed in connection with the agency's construction and evaluation of its replacement, then she has participated in both.

For those reasons, we confirm our prior conclusion that separate contracts constitute separate matters for purposes of section 572.054(b). And we extend that holding to conclude that separate

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RFPs leading to separate contracts constitute separate matters as well. However, we also reaffirm EAO 397 by concluding that participation in one matter does not necessary preclude the conclusion that the same activity also constitutes participation in another matter.

AGENDA 2, ITEMS 10 THROUGH 11, EXHIBIT A

Text of Proposed Amendments

The proposed new language is indicated by underlined text.

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

Chapter 18. GENERAL RULES CONCERNING REPORTS

§18.31. Adjustments to Reporting Thresholds.

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

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
253.031(b)	<u>PAC: Amount of contributions or expenditures permitted before TA is required</u> The amount of political contributions or political expenditures permitted by a political committee before a campaign treasurer appointment is required	\$500	<u>\$920</u> [\$910]
253.031(d)(2)	<u>CEC: Amount of contributions or expenditures permitted before TA is required</u> The amount of political contributions or political expenditures permitted by a county executive party of a political party before a campaign treasurer appointment is required	\$25,000	<u>\$34,220</u> [\$33,750]
253.032(a)	<u>Contribution by Out-of-state PAC: Threshold above which certain paperwork is required</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	\$500	<u>\$940</u> [\$930]
253.032(a)(1)	<u>Contribution to Out-of-state PAC: Threshold above which certain contribution information is required</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	\$100	\$190
253.032(e)	<u>Contribution by Out-of-state PAC: Threshold at or below which certain information is required</u> Threshold of contributions accepted from an out-of-state political committee at or below	\$500	<u>\$940</u> [\$930]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
	which certain information or a statement of organization must be included in a report		
254.031(a)(1)	Contributions: Threshold over which more information is required Threshold at which contributor information is required to be reported	\$50	\$90
254.031(a)(2)	Loans: Threshold over which more information is required Threshold at which lender information is required to be reported	\$50	\$90
254.031(a)(3)	Expenditures: Threshold over which more information is required Threshold at which information on the payee of a political expenditure is required to be reported	\$100	\$190
254.031(a)(5)	Contributions: Threshold at or below which more information is not required Threshold below which contributor information is not required to be reported	\$50	\$90
254.031(a)(5)	Expenditures: Threshold at or below which more information is not required Threshold below which payee information is not required to be reported	\$100	\$190
254.031(a)(9)	Interest, credits, refunds: Threshold over which more information is required Threshold at which the source of any credit, interest, return of deposit fee from political contributions or asset is required to be reported	\$100	\$120
254.031(a)(10)	Sale of political assets: Threshold over which proceeds must be reported Threshold at which the proceeds from sale of a political asset is required to be reported	\$100	\$120
254.031(a)(11)	Investment Gain: Threshold over which more information is required Threshold at which any gain from an investment purchased with political contributions is required to be reported	\$100	\$120
254.031(a)(12)	Contribution Gain: Threshold over which more information is required Threshold at which any other gain from political contribution is required to be reported	\$100	\$120
254.0311(b)(1)	Caucus, contributions from non-caucus members: Threshold over which more information is required Threshold at	\$50	\$90

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
	which contributor information for contributions from non-caucus members is required to be reported by a caucus		
254.0311(b)(2)	<u>Caucus, loans: Threshold over which more information is required</u> Threshold at which lender information is required to be reported by a caucus	\$50	\$90
254.0311(b)(3)	<u>Caucus, expenditures: Threshold over which more information is required</u> Threshold at which payee information for expenditures is required to be reported by a caucus	\$50	\$90
254.0311(b)(3)	Threshold below which payee information for expenditures is not required to be reported by a caucus	\$50	\$90
254.0311(b)(4)	<u>Caucus, contributions and expenditures: Threshold at or below which more information is not required</u> Threshold below which contributor and payee information is not required to be reported by a caucus	\$50	\$90
254.0312	<u>Contributions, Best Efforts: Threshold under which filer is not required to request contributor information to be in compliance</u> Threshold at which the best efforts rule requires one to make a written or oral request for contributor information in order to be considered in compliance when contributor information is missing	\$500	<u>\$720</u> [\$710]
254.036	<u>Electronic Filing Exemption: Threshold at or below which a filer may qualify</u> Threshold of political contributions and political expenditures below which a filer qualifies for the electronic filing exemption, if certain conditions are met	\$20,000	<u>\$28,800</u> [\$28,420]
254.038(a)	<u>Daily Reports by certain candidates and PACs: Contribution threshold triggering report</u> Contribution threshold triggering a Special Report Near Election by Certain Candidates and Political Committees during the 9 days before election	\$1,000	<u>\$1,890</u> [\$1,860]
254.039	<u>Daily Reports by GPACs: Contribution threshold triggering report</u> Contribution threshold triggering Special Report Near Election by GPACs during the 9 days before election	\$5,000	<u>\$6,450</u> [\$6,370]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.039	Daily reports by GPACs: DCE expenditure thresholds (single candidate/group of candidates) Direct Campaign expenditure thresholds triggering Special Report Near Election by GPACs (\$1,000 for single candidate or \$15,000 for group of candidates) during the 9 days before election	\$1,000/\$15,000	<u>\$1,890/\$28,330</u> [\$1,860/\$27,950]
254.0611(a)(2)	Judicial candidates, contributions: Threshold over which more information is required Threshold at which principal occupation/employer information for contributors to judicial filers is required to be reported	\$50	\$90
254.0611(a)(3)	Judicial candidates, asset purchase: Threshold over which more information is required Threshold at which the disclosure of an asset purchased with political contributions is required to be reported by judicial filers	\$500	<u>\$940</u> [\$930]
254.0612	Statewide executive and legislative candidates, contributions: Threshold over which more information is required Threshold at which principal occupation/employer information for contributors to statewide executive and legislative candidates is required to be reported	\$500	<u>\$940</u> [\$930]
254.095	Local officeholders, contributions: Threshold under which reporting is not required Threshold of political contributions or political contributions below which a report is not required for officeholders who do not file with the Commission, unless also a candidate	\$500	<u>\$940</u> [\$930]
254.151(6)	GPAC, contributions: Threshold over which more information is required Threshold at which the principal occupation for GPAC contributors is required to be reported	\$50	\$90
254.1541(a)	GPAC, higher itemization threshold: Threshold under which it applies Threshold of political contributions and political expenditures below which a GPAC has a \$100 contribution itemization threshold, rather than \$50	\$20,000	<u>\$27,380</u> [\$27,000]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.1541(b)	<u>GPACs that meet higher itemization threshold: Threshold over which more contributor information is required</u> Contribution reporting threshold for GPACs qualifying under section 254.1541 set to \$100	\$100	\$190
254.156(1)	<u>MPAC: Threshold over which contribution, lender and expenditure information is required</u> Threshold at which contributor, lender, and payee information is required for a political contribution, loan, or expenditure, respectively, to an MPAC	\$10	\$20
254.156(2)	<u>MPACs that meet higher itemization threshold: Threshold over which more contributor information is required</u> Threshold at which contribution information for MPACs qualifying under section 254.1541 is set to \$20	\$20	\$40
254.181 254.182 254.183	<u>Candidate or SPACs, modified reporting: Contribution or expenditure threshold at or below which filers may avoid pre-election reports</u> Threshold of political contributions and political expenditures below which a candidate or SPAC may elect to avoid certain pre-election filing requirements (modified reporting)	\$500	<u>\$940</u> [\$930]
254.261	<u>DCE filers: Threshold over which a report must be filed</u> Threshold at which a person making direct campaign expenditures in an election must disclose the expenditures, including payee information	\$100	\$140

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.003(1)	<u>Lobbyist, expenditures: Threshold over which registration is required</u> Threshold of expenditures over which a person must register as a lobbyist	\$500, by 1 Tex. Admin. Code §34.41	<u>\$820</u> [\$810]
305.003(2)	<u>Lobbyist, compensation: Threshold over which registration is required</u> Threshold of compensation or reimbursement over which a person must register as a lobbyist	\$1,000, by 1 Tex. Admin. Code §34.43	<u>\$1,640</u> [\$1,620]

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.004(7)	<u>Lobbying for political party: Threshold at or below which registration is not required</u> Threshold of expenditures and compensation below which a person lobbying on behalf of political party is excepted from the requirement to register as a lobbyist	\$5,000	<u>\$9,440</u> [\$9,320]
305.005(g)(2)	<u>Lobbyist: Compensation threshold</u> Threshold of category to report compensation less than \$10,000	\$10,000	<u>Less than \$18,890</u> [\$18,630]
305.005(g)(3)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$10,000 but less than \$25,000	\$25,000	<u>\$18,890 to less than \$47,220</u> [\$46,580]
305.005(g)(4)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$25,000 but less than \$50,000	\$50,000	<u>\$47,220 to less than \$94,440</u> [\$93,150]
305.005(g)(5)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$50,000 but less than \$100,000	\$100,000	<u>\$94,440 to less than \$188,890</u> [\$186,300]
305.005(g)(6)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$100,000 but less than \$150,000	\$150,000	<u>\$188,890 to less than \$283,330</u> [\$279,450]
305.005(g)(7)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$150,000 but less than \$200,000	\$200,000	<u>\$283,330 to less than \$377,770</u> [\$372,600]
305.005(g)(8)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$200,000 but less than \$250,000	\$250,000	<u>\$377,770 to less than \$472,220</u> [\$465,750]
305.005(g)(9)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$250,000 but less than \$300,000	\$300,000	<u>\$472,220 to less than \$566,660</u> [\$558,900]
305.005(g)(10)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$300,000 but less than \$350,000	\$350,000	<u>\$566,660 to less than \$661,100</u> [\$652,050]
305.005(g)(11)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report compensation of at least \$350,000 but less than \$400,000	\$400,000	<u>\$661,100 to less than \$755,540</u> [\$745,200]
305.005(g)(12)	<u>Lobbyist: Compensation threshold</u> Upper threshold of category to report	\$450,000	<u>\$755,540 to less than \$849,990</u> [\$838,350]

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
	compensation of at least \$400,000 but less than \$450,000		
305.005(g)(13)	Lobbyist: Compensation threshold Upper threshold of category to report compensation of at least \$450,000 but less than \$500,000	\$500,000	<u>\$849,990 to less than \$944,430</u> [\$931,500]
305.005(g-1)	Lobbyist: Compensation threshold Threshold of compensation or reimbursement at which a registrant must report the exact amount	\$500,000	<u>\$944,430 or more</u> [\$931,500]
305.0061(c)(3)	Lobbyist, legislative/executive branch member: Threshold over which gifts, awards and mementos must be disclosed Threshold over which the name of a legislator who is the recipient of a gift, a description of the gift, and amount of the gift is required to be disclosed	\$50	\$90
305.0061(e-1)	Lobbyist, food and beverage: Threshold at or below which it is considered a gift and reported as such Threshold below which an expenditure for food or beverages is considered a gift and reported as such	\$50	\$90
305.0063	Lobbyist, annual filer: Expenditure threshold at or below which filer may file annually Threshold of expenditures below which a registrant may file lobby activities reports annually instead of monthly	\$1,000	<u>\$1,890</u> [\$1,860]

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.022(a)(1)	PFS threshold: Threshold of category to report an amount less than \$5,000	less than \$5,000	less than <u>\$9,440</u> [\$9,320]
572.022(a)(2)	PFS threshold Threshold of category to report an amount of at least \$5,000 but less than \$10,000	\$5,000 to less than \$10,000	<u>\$9,440</u> [\$9,320] to less than <u>\$18,890</u> [\$18,630]
572.022(a)(3)	PFS threshold Threshold of category to report an amount of at least \$10,000 but less than \$25,000	\$10,000 to less than \$25,000	<u>\$18,890</u> [\$18,630] to less than <u>\$47,220</u> [\$46,580]
572.022(a)(4)	PFS threshold Threshold of category to report an amount of at least \$25,000 or more	\$25,000 or more	<u>\$47,220</u> [\$46,580] or more

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.005, 572.023(b)(1)	PFS, retainer: <u>Threshold over which filer with a substantial interest in a business entity must report more information</u> Threshold to disclose the source and category of amount of retainer received by a business entity in which the filer has a substantial interest; section 572.005 defines substantial interest, in part, as owning over \$25,000 of the fair market value of the business entity	\$25,000	<u>\$47,220</u> [\$46,580]
572.023(b)(4)	PFS, interest, dividends, royalties and rents: <u>Threshold over which information must be reported</u> Threshold over which income from interest, dividends, royalties, and rents is required to be reported	\$500	<u>\$940</u> [\$930]
572.023(b)(5)	PFS, loans: <u>Threshold over which information must be reported</u> Threshold over which the identity of each loan guarantor and person to whom filer owes liability on a personal note or lease agreement is required to be reported	\$1,000	<u>\$1,890</u> [\$1,860]
572.023(b)(7)	PFS, gifts: <u>Threshold over which information must be reported</u> Threshold of value over which the identity of the source of a gift and a gift description is required to be reported	\$250	\$470
572.023(b)(8)	PFS, income from trust: <u>Threshold over which information must be reported</u> Threshold over which the source and amount of income received as beneficiary of a trust asset is required to be reported	\$500	<u>\$940</u> [\$930]
572.023(b)(15)	PFS, government contracts: <u>Threshold of aggregate over which more information must be reported</u> if aggregate cost of goods or services sold under contracts exceeds \$10,000, PFS must identify each contract, and name of each party, with a governmental entity for sale of goods or services in amount of \$2,500 or more	Exceeds \$10,000	<u>Exceeds \$10,370</u> [\$10,220]
572.023(b)(15)(A)	PFS, government contracts: <u>Itemization threshold</u> itemization under (15) of contracts for sale of goods or services in the amount of \$2,500 or more to governmental entities	\$2,500 or more	<u>\$2,590</u> [\$2,560] or more

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.023(b)(16)(D)(i)	PFS, bond counsel fees paid to legislator: Threshold category of amount of bond counsel fees paid to legislator	less than \$5,000	less than <u>\$5,180</u> [\$5,110]
572.023(b)(16)(D)(ii)	PFS, bond counsel fees paid to legislator: Threshold category of amount of bond counsel fees paid to legislator	at least \$5,000 but less than \$10,000	at least <u>\$5,180</u> [\$5,110] but less than <u>\$10,370</u> [\$10,220]
572.023(b)(16)(D)(iii)	PFS, bond counsel fees paid to legislator: Threshold category of amount of bond counsel fees paid to legislator	at least \$10,000 but less than \$25,000	at least <u>\$10,370</u> [\$10,220] but less than <u>\$25,920</u> [\$25,550]
572.023(b)(16)(D)(iv)	PFS, bond counsel fees paid to legislator: Threshold category of amount of bond counsel fees paid to legislator	\$25,000 or more	<u>\$25,920</u> [\$25,550] or more
572.023(b)(16)(E)(i)	PFS, bond counsel fees paid to individual's firm: Threshold category of amount of bond counsel fees paid to individual's firm	less than \$5,000	less than <u>\$5,180</u> [\$5,110]
572.023(b)(16)(E)(ii)	PFS, bond counsel fees paid to individual's firm: Threshold category of amount of bond counsel fees paid to individual's firm	at least \$5,000 but less than \$10,000	at least <u>\$5,180</u> [\$5,110] but less than <u>\$10,370</u> [\$10,220]
572.023(b)(16)(E)(iii)	PFS, bond counsel fees paid to individual's firm: Threshold category of amount of bond counsel fees paid to individual's firm	at least \$10,000 but less than \$25,000	at least <u>\$10,370</u> [\$10,220] but less than <u>\$25,920</u> [\$25,550]
572.023(b)(16)(E)(iv)	PFS, bond counsel fees paid to individual's firm: Threshold category of amount of bond counsel fees paid to individual's firm	\$25,000 or more	<u>\$25,920</u> [\$25,550] or more

Speaker Election and Certain Ceremonial Reports: Section of Government Code	Threshold Type	Current Threshold Amount	Adjusted Amount
302.014(4)	Speaker: Expenditures over which more information must be reported Expenditure of campaign funds over \$10 must be disclosed, including	\$10	\$20

	payee's name and address and the purpose		
303.005(a)(1) – (10)	<u>Governor for a Day/Speaker's Day: Threshold over which more information must be reported</u> Thresholds applicable to contribution and expenditure disclosure requirements for a governor for a day or speaker's reunion day ceremony report	\$50	\$90

(b) The changes made by this rule apply only to conduct occurring on or after the effective date of this rule.

(c) The effective date of this rule is January 1, 2022[+].

(d) In this section:

- (1) “CEC” means county executive committee;
- (2) “DCE” means direct campaign expenditure-only filer;
- (3) “GPAC” means general-purpose political committee;
- (4) “MPAC” means monthly-filing general-purpose political committee;
- (5) “PAC” means political committee;
- (6) “PFS” means personal financial statement;
- (7) “SPAC” means specific-purpose political committee; and
- (8) “TA” means treasurer appointment.

Chapter 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

Subchapter B. GENERAL REPORTING RULES

§20.62. Reporting Staff Reimbursement.

(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$6,450 [~~\$6,370~~] during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:

- (1) the amount of political expenditures that in the aggregate exceed \$190 and that are made during the reporting period, the full name and address of the persons to

whom the expenditures are made and the dates and purposes of the expenditures;
and

(2) included with the total amount or a specific listing of the political expenditures of \$190 or less made during the reporting period.

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

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

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

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

§20.65. Reporting No Activity.

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

(b) This general rule does not apply to:

(1) special pre-election reports;

(2) special session reports; or

(3) a local officeholder who does not have a campaign treasurer appointment on file and who does not accept more than \$940 [~~\$930~~] in political contributions or make more than \$940 [~~\$930~~] in political expenditures during the reporting period.

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

Subchapter C. REPORTING REQUIREMENTS FOR A CANDIDATE

§20.217. Modified Reporting.

- (a) An opposed candidate who does not intend to accept more than \$940 [~~\$930~~] in political contributions or make more than \$940 [~~\$930~~] in political expenditures (excluding filing fees) in connection with any election in an election cycle may choose to file under the modified schedule.
- (b) Under the modified schedule, an opposed candidate is not required to file pre-election reports or a runoff report.
- (c) To select modified filing, a candidate must file a declaration of intent not to accept more than \$940 [~~\$930~~] in political contributions or make more than \$940 [~~\$930~~] in political expenditures (excluding filing fees) in connection with the election. The declaration must include a statement that the candidate understands that if either one of those limits is exceeded, the candidate will be required to file pre-election reports and, if necessary, a runoff report.
- (d) A declaration under subsection (c) of this section is filed with the candidate's campaign treasurer appointment.
- (e) To file under the modified schedule, a candidate must file the declaration required under subsection (c) of this section no later than the 30th day before the first election to which the declaration applies. A declaration filed under subsection (c) of this section is valid for one election cycle only.
- (f) If an opposed candidate exceeds either of the \$940 [~~\$930~~] limits, the candidate must file reports under §20.213 of this title (relating to Pre-election Reports) and §20.215 of this title (relating to Runoff Report).
- (g) If an opposed candidate exceeds either of the \$940 [~~\$930~~] limits after the 30th day before the election, the candidate must file a report not later than 48 hours after exceeding the limit. If this is the candidate's first report filed, the report covers a period that begins on the day the candidate's campaign treasurer appointment was filed. Otherwise the period begins on the first day after the period covered by the last report required by this subchapter (other than a special pre-election report or a special session report) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File). The period covered by the report continues through the day the candidate exceeded one of the limits for modified reporting.

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

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

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

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

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

(1) for each vendor whose aggregate campaign contributions equal or exceed \$620 [~~\$610~~] during the reporting period, a notation that:

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

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

(2) for each political committee directly established, administered, or controlled by a vendor whose aggregate campaign contributions equal or exceed \$620 [~~\$610~~] during the reporting period, a notation that the contributor was a political committee directly established, administered, or controlled by a vendor during the reporting period or during the 12 month period preceding the last day covered by the report.

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

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

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

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

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

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

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

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

(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which the contribution is reported the comptroller or committee must include the missing information on the next required campaign finance report.

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

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

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

(b) An opposed candidate for an office specified by §252.005(1), Election Code, who, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed \$1,890 [~~\$1,860~~] must file special pre-election reports.

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

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

(e) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the commission no later

than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

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

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

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

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

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

- (1) is required to file with an authority other than the commission;
- (2) does not have a campaign treasurer appointment on file; and
- (3) does not accept more than \$940 [~~\$930~~] in political contributions or make more than \$940 [~~\$930~~] in political expenditures during the reporting period.

Subchapter E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

§20.301. Thresholds for Campaign Treasurer Appointment.

(a) A specific-purpose committee may not accept political contributions exceeding \$920 [~~\$910~~] and may not make or authorize political expenditures exceeding \$920 [~~\$910~~] without filing a campaign treasurer appointment with the appropriate filing authority.

(b) A specific-purpose committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding \$920 [~~\$910~~] to support or oppose a candidate in a primary or general election for an office listed below unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day:

- (1) a statewide office;
- (2) a seat in the state legislature;

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

§20.303. Appointment of Campaign Treasurer.

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

(b) After a specific-purpose committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded \$920 [~~\$910~~] in political contributions or expenditures.

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

§20.313. Converting to a General-Purpose Committee.

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

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

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

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

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

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

(e) The notice required under subsection (b) of this section is in addition to the requirement that the new general-purpose committee file a campaign treasurer appointment with the commission before it exceeds \$920 [~~\$910~~] in political expenditures or \$920 [~~\$910~~] in political contributions as a general-purpose committee.

§20.329. Modified Reporting.

(a) A specific-purpose committee that would otherwise be required to file pre-election reports and a runoff report, if necessary, may choose to file under the modified schedule if the committee does not intend to accept more than \$940 [~~\$930~~] in political contributions

or make more than \$940 [~~\$930~~] in political expenditures (excluding filing fees) in connection with any election in an election cycle.

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

(c) To select modified filing, a specific-purpose committee must file a declaration of the committee's intent not to accept more than \$940 [~~\$930~~] in political contributions or make more than \$940 [~~\$930~~] in political expenditures (excluding filing fees) in connection with the election. The declaration must include a statement that the committee understands that if either one of those limits is exceeded, the committee's campaign treasurer will be required to file pre-election reports and, if necessary, a runoff report.

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

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

(f) Except as provided by subsection (g) of this section, a specific-purpose committee's campaign treasurer must file pre-election reports and, if necessary, a runoff report under the schedule set out in §20.325 of this title (relating to Pre-election Reports) and §20.327 of this title (relating to Runoff Report) if the committee exceeds either of the \$940 [~~\$930~~] limits for modified reporting.

(g) If a specific-purpose committee exceeds either of the \$940 [~~\$930~~] limits for modified reporting after the 30th day before the election, the committee's campaign treasurer must file a report not later than 48 hours after exceeding the limit.

(1) The period covered by a 48-hour report shall begin either on the day the committee's campaign treasurer appointment was filed (if it is the committee's first report of contributions and expenditures) or on the first day after the period covered by the last report (other than a special pre-election report or special session report) filed under this subchapter, as applicable.

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

(h) A specific-purpose committee that exceeds either of the \$940 [~~\$930~~] limits for modified reporting after the 30th day before the election and on or before the 10th day before the election must file a report under §20.325(f) of this title (relating to Pre-Election Reports), in addition to any required special pre-election reports.

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

- (a) As provided by subsection (b) of this section, certain specific-purpose committees must file reports about certain contributions accepted during the period that begins on the ninth day before an election and ends at noon on the day before an election. Reports under this section are known as "special pre-election" reports.
- (b) A campaign treasurer for a specific-purpose committee for supporting or opposing a candidate for an office specified by §252.005(1), Election Code, that, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed \$1,890 [~~\$1,860~~] must file special pre-election reports.
- (c) Except as provided in subsection (e) of this section, the campaign treasurer of a specific-purpose committee must file a report so that the report is received by the commission no later than the first business day after the committee accepts a contribution from a person that triggers the requirement to file the special pre-election report.
- (d) If, during the reporting period for special pre-election contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during the period, the campaign treasurer for the committee must file an additional special pre-election report for each such contribution. Except as provided in subsection (e) of this section, each such special pre-election report must be filed so that it is received by the commission no later than the first business day after the committee accepts the contribution.
- (e) The campaign treasurer of a specific-purpose committee must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceed the threshold for special pre-election reports.
- (f) A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

Subchapter F. REPORTING REQUIREMENTS FOR A GENERAL PURPOSE COMMITTEE

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

- (a) A general-purpose committee may not accept political contributions exceeding \$920 [~~\$910~~] and may not make or authorize political expenditures exceeding \$920 [~~\$910~~] without filing a campaign treasurer appointment with the commission.

(b) Unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day, a general-purpose committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding \$920 [~~\$910~~] to support or oppose a candidate in a primary or general election for the following:

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

§20.405. Campaign Treasurer Appointment for a General-Purpose [~~Political~~] Committee.

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

(b) After a general-purpose committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded \$920 [~~\$910~~] in political contributions or expenditures.

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

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

(a) This section and Election Code §254.1541 apply only to a general-purpose committee with less than \$27,380 [~~\$27,000~~] in one or more accounts maintained by the committee in which political contributions are deposited, as of the last day of the preceding reporting period for which the committee was required to file a report.

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

(c) A report by a campaign treasurer of a general-purpose committee to which this section and Election Code §254.154 apply shall include the information required by §20.433 of this title (Contents of General-Purpose Committee Sworn Report of Contributions and

Expenditures), except that the campaign treasurer may choose a threshold reporting amount for political contributions of \$190 instead of the threshold reporting amount of \$90 set out in §20.433(a)(11) and (a)(20)(B) of this title.

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

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

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

(1) makes direct campaign expenditures supporting or opposing a single candidate that in the aggregate exceed \$1,890 [~~\$1,860~~] or a group of candidates that in the aggregate exceed \$28,330 [~~\$27,950~~] during the reporting period for special pre-election reports; or

(2) accepts political contributions from a person that in the aggregate exceed \$6,450 [~~\$6,370~~] during the reporting period for special pre-election reports.

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

(c) Except as provided by subsection (d) of this section, a report under this section must be received by the commission no later than the first business day after the contribution is accepted or the expenditure is made.

(d) A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, must be received by the commission no later than 5 p.m. of the first business day after the contribution is accepted or the expenditure is made.

(e) Expenditures and contributions reported under this section must be reported again in the next applicable sworn report of contributions and expenditures.

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

§20.553. Campaign Treasurer Appointment Not Required for County Executive Committee Accepting Contributions or Making Expenditures under Certain Amount.

(a) A county executive committee accepting political contributions or making political expenditures totaling \$34,220 [~~\$33,750~~] or less in a calendar year is not required to:

(1) appoint a campaign treasurer before accepting political contributions or making political expenditures; or

(2) file the reports required by Subchapter F of this chapter (relating to Reporting Requirements for a General-Purpose Committee).

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

§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.

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

(b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceed \$34,220 [~~\$33,750~~] in a calendar year shall file:

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

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

(c) Contributions accepted from corporations and labor organizations under §253.104 of the Election Code and reported under Subchapter H of this chapter (relating to Accepting and Reporting Contributions from Corporations and Labor Organizations) do not count against the \$34,220 [~~\$33,750~~] thresholds described in subsection (b) of this section.

(d) A county executive committee that filed a campaign treasurer appointment may file a final report, which will notify the commission that the county executive committee does not intend to file future reports unless it exceeds one of the \$34,220 [~~\$33,750~~] thresholds. The final report may be filed:

(1) beginning on January 1 and by the January 15 filing deadline if the committee has exceeded one of the \$34,220 [~~\$33,750~~] thresholds in the previous calendar year; or

(2) at any time if the committee has not exceeded one of the \$34,220 [~~\$33,750~~] thresholds in the calendar year.

Chapter 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

§22.1. Certain Campaign Treasurer Appointments Required before Political Activity Begins.

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

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

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

(b) A political committee may not accept political contributions exceeding \$920 [~~\$910~~] and may not make or authorize political expenditures exceeding \$920 [~~\$910~~] without filing a campaign treasurer appointment with the appropriate filing authority.

(c) Unless the committee's campaign treasurer appointment was filed not later than the 30th day before the appropriate election day, a political committee may not knowingly make or authorize campaign contributions or campaign expenditures exceeding \$920 [~~\$910~~] to support or oppose a candidate in a primary or general election for the following:

(1) a statewide office;

(2) a seat in the state legislature;

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

(4) a multi-county district office; or

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

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

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

(a) For each reporting period during which a candidate, officeholder, or political committee accepts a contribution or contributions from an out-of-state political committee totaling more than \$940, [~~\$930~~], the candidate, officeholder, or political committee must comply with subsections (b) and (c) of this section.

(b) The candidate, officeholder, or political committee covered by subsection (a) of this section must first obtain from the out-of-state committee one of the following documents before accepting the contribution that causes the total received from the out-of-state committee to exceed \$940 [~~\$930~~] during the reporting period:

(1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$190 to the out-of-state political committee during the 12 months immediately preceding the date of the contribution; or

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

(c) The document obtained pursuant to subsection (b) of this section shall be included as part of the report that covers the reporting period in which the candidate, officeholder, or political committee accepted the contribution that caused the total accepted from the out-of-state committee to exceed \$940. [~~\$930~~]

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

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

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

(e) A candidate, officeholder, or political committee that accepts a contribution or contributions totaling \$940 [~~\$930~~] or less from an out-of-state political committee shall include as part of the report covering the reporting period in which the contribution or contributions are accepted either:

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

(2) the following information:

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

(B) the address of the committee;

(C) the telephone number of the committee;

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

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

(i) the individual's full name;

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

(iii) the individual's telephone number.

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

Chapter 34. REGULATION OF LOBBYISTS

Subchapter B. REGISTRATION REQUIRED

§34.41. Expenditure Threshold.

(a) A person must register under Government Code, §305.003(a)(1), if the person makes total expenditures of more than \$820 [~~\$810~~] in a calendar quarter, not including expenditures for the person's own travel, food, lodging, or membership dues, on activities described in Government Code, §305.006(b), to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action.

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

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

§34.43. Compensation and Reimbursement Threshold.

(a) A person must register under Government Code, §305.003(a)(2), if the person receives, or is entitled to receive under an agreement under which the person is retained or employed, more than \$1,640 [~~\$1,620~~] in a calendar quarter in compensation and reimbursement, not including reimbursement for the person's own travel, food, lodging, or membership dues, from one or more other persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

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

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

AGENDA 2, ITEMS 10 THROUGH 11, EXHIBIT B

**§22.37. Cryptocurrency Contributions.
Text of Proposed New Rule**

The proposed new language is indicated by underlined text.

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

2 **§22.37. Cryptocurrency Contributions.**

3 (a) Candidates, officeholders, political committees, and legislative caucuses may accept
4 cryptocurrency contributions.

5 (b) Cryptocurrency contributions are considered “in-kind” contributions.

6 ~~(e) Cryptocurrency may not be used to make expenditures. A candidate, officeholder, political~~
7 ~~committee, or caucus must sell cryptocurrency and deposit the proceeds from the sale into an~~
8 ~~account before making an expenditure from a cryptocurrency contribution.~~

9 ~~(cd)~~ A candidate, officeholder, or political committee must report a gain from the sale of
10 cryptocurrency contributions on the appropriate schedule if the gain exceeds the reporting
11 threshold set by Section 254.031(a)(9) of the Election Code and amended by Commission Rule
12 18.31.

13 ~~(de)~~ The value of a cryptocurrency contribution is the fair market value of the cryptocurrency
14 upon receipt.

15 ~~(ef)~~ A candidate, officeholder, political committee, or caucus who accepts cryptocurrency
16 contributions has the obligation to determine the legality of the cryptocurrency contributions. For
17 a cryptocurrency contribution to be legal and eligible, a candidate, officeholder, political
18 committee, or caucus must obtain the following information before accepting the contribution:

19 (1) The contributor’s full name;

20 (2) The contributor’s physical address;

21 (3) The contributor’s current employer;

22 (4) An affirmation that the contributor is in-fact the owner of the cryptocurrency being
23 donated;

24 (5) An affirmation that the contributor is not a foreign national who has not been granted
25 permanent residence in the United States; and

26

27 (6) An affirmation that the contributor is not a corporation or labor organization.

EXPENDITURES MADE BY CREDIT CARD

SCHEDULE F4

If the requested information is not applicable, **DO NOT** include this page in the report.

EXPENDITURE CATEGORIES FOR BOX 10(a)

- | | | | |
|--|-------------------------------|--------------------------------|--|
| Advertising Expense | Event Expense | Loan Repayment/Reimbursement | Solicitation/Fundraising Expense |
| Accounting/Banking | Fees | Office Overhead/Rental Expense | Transportation Equipment & Related Expense |
| Consulting Expense | Food/Beverage Expense | Polling Expense | Travel In District |
| Contributions/Donations Made By | Gift/Awards/Memorials Expense | Printing Expense | Travel Out Of District |
| Candidate/Officeholder/Political Committee | Legal Services | Salaries/Wages/Contract Labor | Other (enter a category not listed above) |

The Instruction Guide explains how to complete this form.

USE A NEW PAGE FOR EACH CREDIT CARD ISSUER

1 Total pages Schedule F4:	2 FILER NAME	3 Filer ID (Ethics Commission Filers)
4 CREDIT CARD ISSUER	Name of financial institution	5 TOTAL OF UNITEMIZED EXPENDITURES CHARGED TO THIS CREDIT CARD \$
6 PAYMENT	(a) Amount Charged \$	(b) Date Expenditure Charged
7 PAYEE	(a) Payee name	(b) Payee address; City, State, Zip Code
8 PURPOSE OF EXPENDITURE <input type="checkbox"/> Political <input type="checkbox"/> Non-Political	(a) Category (See Categories listed at the top of this schedule)	(b) Description
	(c) <input type="checkbox"/> Check if travel outside of Texas. Complete Schedule T. <input type="checkbox"/> Check if Austin, TX, officeholder living expense	
9 Complete <u>ONLY</u> if direct expenditure to benefit C/OH	Candidate / Officeholder name	Office Sought Office Held
6 PAYMENT	(a) Amount Charged \$	(b) Date Expenditure Charged
7 PAYEE	(a) Payee name	(b) Payee address; City, State, Zip Code
8 PURPOSE OF EXPENDITURE <input type="checkbox"/> Political <input type="checkbox"/> Non-Political	(a) Category (See Categories listed at the top of this schedule)	(b) Description
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8 PURPOSE OF EXPENDITURE <input type="checkbox"/> Political <input type="checkbox"/> Non-Political	(a) Category (See Categories listed at the top of this schedule)	(b) Description
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9 Complete <u>ONLY</u> if direct expenditure to benefit C/OH	Candidate / Officeholder name	Office Sought Office Held

ATTACH ADDITIONAL COPIES OF THIS SCHEDULE AS NEEDED