

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

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

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

EXECUTIVE SESSION AGENDA

Date and Time: 9:00 a.m., Friday, June 19, 2020
Via teleconference

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#2020

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.**
3. Discussion of pending litigation to seek legal advice relating to the following:
 - A. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 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.
 - B. Cause No. D-1-GN-14-001252: *Empower Texans, Inc. and Michael Quinn Sullivan v. State of Texas Ethics Commission; Natalia Luna Ashley, in her capacity as Executive Director of the Texas Ethics Commission; Tom Ramsay, individually and in his capacity as Commissioner; et al.*; in the 53rd Judicial District Court of Travis County, Texas; and related case, Cause No. 03-17-00770-CV: *Empower Texans, Inc., and Michael Quinn Sullivan v. Tom Ramsay in his individual capacity, et al.*; in the Third Court of Appeals, Austin, Texas.

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

C. 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.

4. Discussion of personnel matters.
5. **Reconvene in open session.**
6. 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.

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

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

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

PUBLIC MEETING AGENDA

Date and Time: 9:30 a.m., Friday, June 19, 2020
Via teleconference

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#2020

1. Call to order; roll call.
2. Election of Chair and Vice Chair of the Texas Ethics Commission.
3. Discussion regarding dates for next quarterly Commission meeting.
4. Approve minutes for the following meetings:
 - Executive Session – February 27, 2020;
 - Public Meeting – February 27, 2020; and
 - Public Meeting – February 28, 2020.

ADMINISTRATIVE WAIVERS, REDUCTIONS, APPEALS OF FINES

5. Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive filers:
 1. Matthew S. Beebe (00067964)
 2. Michael E. Cooper (00081681)
 3. Teodulo Lucio Lopez (00082820)
 4. Marilyn S. Mayse (00080059)
 5. Jennifer N. Ramos (00082591)
 6. Brittney R. Smith (00082414)

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

7. Kory D. Watkins (00081678)
 8. Amarillo Federation of Teachers Committee on Political Education, treasurer Laura J. Abernathy (00059080)
 9. Texas Card Players Association PAC, treasurer William Elliott, Jr. (00065814)
 10. Texans for Rural Values, treasurer Josh Lyrock (00083116)
 11. Texas Plumbers Association, treasurer Mike J. Warner (00083188)
6. 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. Raya Guruswamy (00043028)
 2. Grace Rose Gonzales (00084297)
 3. Ryan McConnico (00082344)
 4. Paul Stafford (00069699)

ADVISORY OPINIONS

7. Discussion and possible action regarding the extension of deadlines to issue advisory opinions under Section 571.092 of the Government Code.
8. Draft Advisory Opinion No. AOR-632: Whether a contribution from a federal political committee to a federal “Super PAC” is a political expenditure made “in connection with elections voted on in Texas.”

This opinion construes Section 251.001(15) of the Election Code and Section 20.13(c) of the Ethics Commission Rules.

9. Draft Advisory Opinion No. AOR-633: Whether a judge may use political contributions to pay for equipment and services in connection with producing an educational podcast for practicing lawyers.

This opinion construes Section 253.035 of the Election Code.

10. Draft Advisory Opinion No. AOR-635: Whether a registered lobbyist can be “present” at an event via videoconference technology.

This opinion construes Sections 305.006(f) or 305.024(a), of the Government Code.

11. Reconsideration of Ethics Advisory Opinion No. EAO-550, adopted on June 28,

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

2019, and possible adoption of a revised advisory opinion regarding whether a public officer may use government resources for political advertising.

This opinion construes Section 39.02 of the Penal Code and Section 255.003(a) of the Election Code.

RULEMAKING

Rule Adoption

12. Discussion and possible action on the adoption or proposal and publication in the Texas Register of an amendment to 1 Tex. Admin. Code § 12.29 and new 1 Tex. Admin. Code § 12.30, regarding the issuance of subpoenas by a respondent's attorney.
13. Discussion and possible action on the adoption or proposal and publication in the Texas Register of: (1) amendments to 1 Tex. Admin. Code §§ 20.1 and 24.18, regarding hybrid political committees and the designation of corporate political contributions for administrative purposes; and (2) new 1 Tex. Admin. Code §§ 22.35 and 24.19, regarding political contributions to political committees by corporations and labor organizations, and the affidavit by a direct campaign expenditure only political committee that accepts contributions from corporations or labor organizations.
14. Discussion and possible action on the adoption or proposal and publication in the Texas Register of amendments to 1 Tex. Admin. Code §§ 8.1 through 8.21 and new 1 Tex. Admin. Code § 8.18, regarding advisory opinion request procedures.
15. Discussion and possible action on the adoption or proposal and publication in the Texas Register of amendments to 1 Tex. Admin. Code §§ 12.83 and 12.84 regarding sworn complaint procedures.
16. Discussion and possible action on the adoption or proposal and publication in the Texas Register of new 1 Tex. Admin. Code § 12.34 regarding agreed orders.

Rule Publication

17. Discussion and possible action on the proposal and publication in the Texas Register of amendments 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, 20.219, 20.220, 20.221, 20.275, 20.279, 20.301, 20.303, 20.313,

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

20.329, 20.331, 20.333, 20.401, 20.405, 20.433, 20.434, 20.435, 20.553, 20.555, 22.1, 22.6, 22.7, 34.41, and 34.43.

OTHER POLICY MATTER

18. Discussion and possible appointment of a Subcommittee of Commissioners to consider recommendations for statutory changes to the 87th Legislature as required by Tex. Gov't Code § 571.073.
19. 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:

DRAFT

ETHICS ADVISORY OPINION NO. ____

*[DATE]***ISSUE**

Whether a contribution from a federal political committee to a federal “Super PAC”¹ is a political expenditure made “in connection with elections voted on in Texas.”² (AOR-632)

SUMMARY

In our opinion, a contribution from a federal political committee to a federal Super PAC is a political expenditure made in connection with elections voted on in Texas only if the federal political committee intends for the contribution to be used to support or oppose a candidate or measure in an election voted on in Texas. Conversely, a contribution to a Super PAC for a general or unspecified purpose is not a political expenditure made in connection with elections voted on in Texas.

FACTS

The requestor of this opinion is a federal political committee (“the committee”) that files reports with the Federal Election Commission (“the FEC”). The committee states that it makes contributions to state and local candidates in Texas as an out-of-state political committee and that it complies with reporting requirements under the Texas Election Code and Ethics Commission Rules by sending a letter to the Texas Ethics Commission (“the Commission”) specifying where the committee’s reports may be found.³ The committee would like to make contributions to certain federal political committees, informally known as Super PACs, which are required to file reports

¹ The FEC describes a “Super PAC,” which is also known as an “independent expenditure only committee,” as, in part, a political committee that makes only independent expenditures that may solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. *See* Fed. Election Comm’n Advisory Opinion 2010-11 (July 22, 2010).

² *See* 1 Tex. Admin. Code § 20.13(c)(2).

³Section 254.1581 of the Texas Election Code requires an out-of-state political committee that accepts political contributions and makes political expenditures to file with the Commission a copy of reports filed with the FEC or other filing authority, as applicable. Tex. Elec. Code § 254.1581. Section 20.13 of the Ethics Commission Rules states that an out-of-state political committee that files electronically in another jurisdiction may comply with Section 254.1581 of the Texas Election Code by sending a letter to the Commission specifying where its electronic reports may be found on the other filing authority’s website. 1 Tex. Admin. Code § 20.13(a).

DRAFT

with the FEC and are functionally identical to direct campaign expenditure-only committees under Title 15 of the Texas Election Code.⁴ The committee states that it does not know with certainty whether or how much of its contributions to a Super PAC will be spent on elections voted on in Texas. The recipient Super PACs may support or oppose candidates in only one election or in multiple elections and states. The recipient Super PACs may focus on Presidential candidates in elections that will be voted on in all 50 states or on United States House and Senate candidates in elections that will be voted on in any state.

The committee states that it has no control over a Super PAC's use of any contribution from the committee and receives no binding assurance on how or where a Super PAC will spend the contributions. The committee acknowledges that it may have an expectation as to what a Super PAC is likely to do based on past actions or public statements, but states that those expectations are neither enforceable nor certain to be fulfilled. The committee asserts that its contributions to Super PACs should not be considered political expenditures made in connection with elections voted on in Texas for purposes of calculating whether the committee is an out-of-state political committee.

ANALYSIS

The question addressed by this advisory opinion is whether a contribution from a federal political committee to a federal Super PAC—which could ultimately make political expenditures to support or oppose Texas candidates or measures—is considered a political expenditure made “in connection with elections ... voted on in Texas.”⁵ This question concerns the definition of “out-of-state political committee” and how a contribution made by the committee to a Super PAC affects the committee's status as an out-of-state political committee.⁶ A political committee's status as an out-of-state political committee determines whether the committee may accept political contributions or make political expenditures in connection with a state or local election in Texas without appointing a campaign treasurer who is required to file campaign finance reports under Title 15 of the Texas Election Code.

⁴ A direct campaign expenditure-only committee is a political committee authorized to accept political contributions from corporations and labor organizations under Section 253.105(a) of the Texas Election Code if the committee: (1) is not established or controlled by a candidate or officeholder; (2) makes or intends to make direct campaign expenditures; (3) does not make political contributions to a candidate, an officeholder, a specific-purpose committee established or controlled by a candidate or officeholder, or a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and (4) has filed an affidavit with the commission stating the committee's intention to operate as described by Subdivisions (2) and (3). *See* Tex. Elec. Code § 253.105(a).

⁵ *See* 1 Tex. Admin. Code § 20.13(c).

⁶ In order to maintain out-of-state status, a political committee must make 80% or more of its total political expenditures “in connection with elections not voted on in Texas.” 1 TEX. ADMIN. CODE § 20.13(c).

DRAFT

Requirements for Out-of-state Political Committees

Generally, a political committee must file a campaign treasurer appointment before accepting more than \$870 in political contributions, or making or authorizing more than \$870 in political expenditures, in connection with a state or local elective office or a measure in Texas.⁷ Once a political committee files a campaign treasurer appointment, the person appointed as campaign treasurer must subsequently file campaign finance reports to disclose the political committee's political contributions and political expenditures.⁸

However, an out-of-state political committee is not required to file a campaign treasurer appointment under Title 15 of the Texas Election Code.⁹ Section 251.001(15) of the Texas Election Code defines an "out-of-state political committee" as:

[A] political committee that:

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

Tex. Elec. Code § 251.001(15).

Section 20.13(c) of the Ethics Commission Rules paraphrases the Texas Election Code using similar language, stating that a political committee is an out-of-state political committee only if

⁷ Tex. Elec. Code § 253.031(b); 1 Tex. Admin. Code §§ 18.31(a), 20.301(a), 20.401(a) (before January 1, 2020, the threshold requiring a campaign treasurer appointment was \$500). *See also* Tex. Ethics Comm'n Op. No. 513 (2013) (Title 15 of the Texas Election Code regulates political contributions and political expenditures made in connection with a state or local office or a measure in Texas) (citing additional opinions).

⁸ *See generally* Tex. Elec. Code Ch. 254.

⁹ Tex. Elec. Code §§ 251.005(a), 253.031(e). If an out-of-state political committee decides to file a campaign treasurer appointment, the out-of-state political committee becomes subject to the requirements of Title 15 to the same extent as a political committee that is not an out-of-state political committee. *Id.* § 251.005(b). If an out-of-state political committee performs an activity that removes the committee from out-of-state status, the committee must file a campaign treasurer appointment before exceeding \$870 in political contributions or political expenditures in connection with a state or local election in Texas. *See id.* §§ 251.005(c), 253.031(b).

DRAFT

80% or more of its total political expenditures during the past 12 months were made in connection with elections not voted on in Texas.¹⁰

Contributions to Super PACs

The committee states that it has been acting as an out-of-state political committee that makes contributions to candidates in Texas and other states. Except for its contributions to Super PACs, we assume that the committee would otherwise qualify as an out-of-state political committee. The question here is whether the committee's contributions to Super PACs, which may ultimately use the contributions to make expenditures in connection with elections voted on in Texas, are political expenditures made in connection with elections voted on in Texas for purposes of determining whether the committee is an out-of-state political committee.

Neither Title 15 of the Texas Election Code nor the Ethics Commission Rules clarifies when a political expenditure is "inside this state," as provided by Section 251.001(15) of the Texas Election Code, or "in connection with elections ... voted on in Texas," as provided by Section 20.13(c) of the Ethics Commission Rules. The Commission has not addressed this question before.

In our opinion, whether the committee's political contribution to a Super PAC is a political expenditure in connection with elections voted on in Texas depends not on how the recipient Super PAC ultimately uses the contribution, but rather on the committee's intent in making the contribution.

The laws of other jurisdictions have recognized that contributions to political committees may be "earmarked" for a particular use.¹¹ In our opinion, a political committee would intend that a contribution to a Super PAC be used in connection with elections voted on in Texas if the committee were to earmark or otherwise designate the contribution to be used in connection with an election voted on in Texas.

¹⁰ Section 20.13(c) of the Ethics Commission Rules uses the phrase "political expenditures . . . in connection with elections not voted on in Texas" to interpret Section 251.001(15) of the Texas Election Code, which uses the phrase "political expenditures in any combination of elections outside this state and federal offices not voted on in this state." See 1 Tex. Admin. Code § 20.13(c); Tex. Elec. Code § 251.001(15). For purposes of this opinion, we use the phrase provided in the rule.

¹¹ Under federal law, "earmarked" means "a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee." 11 C.F.R. § 110.6(b)(1). Similarly, under Montana law, an "earmarked contribution" is "a contribution made with the express, implied, oral, written, direct, or indirect designation or instruction, that all or part of it be transferred to or expended on behalf of a specified candidate, ballot issue committee, political party committee, independent committee or petition for nomination. An earmarked contribution is the same as a designated contribution." Mont. Admin. R. 44.11.404(1). For additional definitions of "earmark," see Cal. Gov't Code § 85704(b); Colo. Rev. Stat. § 1-45-103(7.5); Wash. Rev. Code § 42.17A.460.

DRAFT

Examples of such an earmarking or designation include: (1) the committee contributes to a Super PAC in response to a solicitation from the Super PAC for a contribution to be used to support or oppose a candidate or measure in an election voted on in Texas; or (2) the committee contributes to a Super PAC subject to a condition or agreement between the committee and the Super PAC, or subsequently agrees with the Super PAC after the contribution is made, that all or a portion of the contribution would be used to support or oppose a candidate or measure in an election voted on in Texas.

Conversely, a contribution not earmarked or designated to be used by the Super PAC to support or oppose a candidate or measure in an election voted on in Texas, such as a contribution to a Super PAC for a general or unspecified purpose, is not a political expenditure made in connection with an election voted on in Texas.

DRAFT

ETHICS ADVISORY OPINION NO. ____

[DATE]

ISSUE

Whether a judge may use political contributions to pay for equipment and services in connection with producing an educational podcast for practicing lawyers. (AOR-633)

SUMMARY

A judge may use political contributions to pay ordinary and necessary expenses incurred in connection with producing an educational podcast for practicing lawyers.

FACTS

The requestor is a judicial officer who wants to produce a podcast. The requestor asks us to assume that the podcast would be “an educational podcast, geared towards helping lawyers who regularly practice in courts, and informing them of recent developments in the courts.”

To create the podcast, the requestor states that he would need to pay for certain equipment and services, including audio equipment for recording the podcast and a service for hosting the podcast on the Internet. In his request, the requestor identifies specific equipment, including brand and model information, and states that he has “thoroughly reviewed the subject, consulted with several podcasters and found” that equipment would be appropriate for starting “a small scale podcast.” The requestor asks whether he may use campaign funds to pay for that equipment and those services.

ANALYSIS

Title 15 of the Texas Election Code prohibits candidates and officeholders 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). “Personal use” does not include “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.” *Id.* § 253.035(d)(1).

In a previous opinion, we stated that it would not be a personal use for a judicial officeholder to use political contributions to pay ordinary and necessary travel expenses to teach at a legal

DRAFT

conference. Tex. Ethics Comm'n Op. No. 536 (2016). That opinion rested on the particular facts presented to us, including that the conference was intended to assist and educate attorneys on issues concerning the law. *Id.* Given those facts, we stated that a judge's attendance to teach at such a conference would be connected to the judge's performance of official duties or activities, and thus a judge may use political contributions to "defray ordinary and necessary expenses incurred" in connection with that attendance. *Id.* (citing Tex. Elec. Code § 253.035(d)(1)).

More broadly, several of our prior opinions discuss judges using political contributions to *receive* education. Most recently, we opined that a judge may use political contributions to pay for membership in an organization that provides leadership training if the primary purpose in paying the costs is to facilitate the duties or activities of the judicial office. Tex. Ethics Comm'n Op. No. 546 (2018); *see also* Tex. Ethics Comm'n Op. Nos. 291 (1995) (a former judge sitting by assignment may use political contributions for continuing legal education courses), 279 (1995) (a senior judge may use political contributions for continuing legal education courses); 267 (1995) (a judge may use political contributions to attend a legal seminar); 247 (1995) (a judge may use political contributions to pay a person to assist the judge in preparation of a thesis required for a Masters of Law in the Judicial Process).¹

In each of these cases, the judge received an incidental personal benefit from the expenditure. But the Commission has recognized that "by specifying that the use must not *primarily* serve individual or family purposes, the legislature has indicated that a use is not a prohibited personal use merely 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)) (emphasis in original). An expenditure is not an impermissible personal use unless it "*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." Tex. Elec. Code § 253.035(d) (emphasis added).

In our opinion, creating an educational podcast for practicing lawyers would be connected to the judge's performance of official duties and activities, and therefore, paying for ordinary and necessary expenses related to creating such a podcast is a permissible use of political contributions. *See* Tex. Elec. Code § 253.035(d)(1). Not only does our precedent support this opinion, so too

¹ These opinions are distinguishable from Texas Ethics Commission Opinion Number 432 (2001), which states that a mayor may not use political contributions to pay professional license dues unless the license is *required* for the office held or sought. *Id.*; *cf.* Tex. Ethics Comm'n Op. No. 245 (1995) (a judge can use political contributions to pay state bar dues because a license to practice law is a requirement for that office). In that opinion, we recognized that expenditures for licensing raised different issues than expenditures for education. *Id.* ("It is the knowledge, however, not a professional license, that is useful [to a mayor's official duties]. The license itself allows the actual practice of engineering, which would be of value primarily for the mayor's *personal* purposes.") (emphasis added). Unlike professional licenses, we stated that a candidate or officeholder may not use political contributions to pay for general education or prepare for a private career, but may use political contributions to pay for education "if the education primarily furthers activities as a candidate or officeholder." *Id.* at fn. 1.

DRAFT

does the Texas Code of Judicial Conduct, which defines certain “extra-judicial activities” of judges, including to “speak, write, lecture, teach and participate in extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.” Tex. Code Jud. Conduct, Canon 4(B)(1), *reprinted* in Tex. Gov’t Code Ann. tit. 2, subtit. G., app. B (West 2013).

However, we decline to opine on whether the specific equipment and services identified by the requestor are ordinary or necessary. Instead, and only for the purposes of this opinion, we rely on the requestor’s statement that the equipment and services were identified after thorough research on what is ordinary and necessary for a “small scale podcast.” Assuming that is true, then the expenditures are permissible under Section 253.035(d)(1) of the Election Code.

Importantly, even though a judge may use political contributions to pay for podcasting equipment, he may not then convert that equipment to personal use. *See* Tex. Ethics Comm’n Op. No. 25 (1992) (judges may use political contributions to purchase electronic equipment for use in the judge’s courtroom, but may not convert the assets to personal use). Instead, the equipment would be subject to various provisions of Title 15 of the Election Code applicable to assets purchased with political contributions. *Id.*; *see also* 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.”)

DRAFT

ETHICS ADVISORY OPINION NO. ____

*[DATE]***ISSUE**

*Whether a registered lobbyist can be “present”¹ at an event via videoconference technology.
(AOR-635)*

SUMMARY

No. To be “present” for purposes of Texas Government Code Sections 305.006(f) or 305.024(a), a registered lobbyist must share a physical location with the recipient of the expenditure.

FACTS

The requestor is a registered lobbyist who seeks clarification from the Commission regarding the meaning of the word “present” as it is used in Chapter 305 of the Texas Government Code. Specifically, Chapter 305 prohibits lobbyists from making certain expenditures to communicate directly with members of the legislative or executive branch, including expenditures on food or beverages, unless the lobbyist is “present at the event.” Tex. Gov’t Code §§ 305.006(f), 305.024(a).

The requestor asks whether a registered lobbyist may be “present” for purposes of Chapter 305 by meeting with legislators remotely via videoconferencing software such as Zoom or Apple FaceTime. The requestor asks us to assume that the lobbyist organizes, pays for, and attends the virtual meeting that includes food and/or beverages.

ANALYSIS

Section 305.006 of the Texas Government Code requires every registered lobbyist to file periodic reports of expenditures made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action. Tex. Gov’t Code §§ 305.006(a)-(b). These expenditures must be reported by category, including: “(1) transportation and lodging; (2) food and beverages; (3) entertainment; (4) gifts, other than awards and mementos; (5) awards and mementos; and (6) expenditures made for the attendance of members of the legislative or executive branch at political fund-raisers or charity events.” *Id.* § 305.006(b).

¹ Tex. Gov’t Code §§ 305.006(f), 305.024(a) (as amended by Chapters 92 (S.B. 1011) and 206 (H.B. 1508), Acts of the 79th Legislature, Regular Session, 2005).

DRAFT

However, expenditures for certain categories—including food and beverage—are generally prohibited “unless the registrant is present at the event.” Id. § 305.006(f) (“An expenditure described by Subsection (b)(1), (2), (3), or (6) may not be made or accepted unless the registrant is present at the event.”); see also Id. § 305.024(a) (providing that a lobbyist may not offer, confer, or agree to confer to a member of the legislative or executive branch an expenditure described by Sections 305.006(1), (2), (3), or (6) unless present at the event).

All of our prior opinions discussing the presence requirement have assumed the physical presence of the registered lobbyist. *See, e.g.*, Tex. Ethics Comm’n Op. Nos. 113 (1993), 92 (1992), 89 (1992), and 4 (1992). Because we have not yet addressed the question, we look to other jurisdictions for guidance. The significant majority are in agreement; when a statute or rule requires a person to be “present,” it requires a physical presence,² unless there is an express exception that applies.³

For example, the Texas Open Meetings Act expressly allows members of governmental bodies to participate remotely in meetings “by videoconference call,” but only if the presiding officer is “physically present at one location of the meeting that is open to the public during the open portions of the meeting.” Tex. Gov’t Code § 551.127. Conversely, Chapter 305 of the Texas Government Code does not include any such express exceptions to the requirement that a lobbyist be present when making certain expenditures to communicate with members of the legislative and executive branches of government.

We understand the circumstances during this particular time in history are unique. Over the past several months, the Governor has declared a state of disaster due to the COVID-19 pandemic and has issued several emergency proclamations ordering Texas citizens to minimize social gatherings and to avoid restaurants, bars, and stores. Indeed, the Commission recognizes that because of the ongoing emergency, it is conducting a remote meeting in accordance with the Texas Open Meetings Act, Section 551.127 of the Texas Government Code.⁴

² *See, e.g., United States v. Navarro*, 169 F.3d 228, 236 (5th Cir. 1999), cert. denied 528 U.S. 845 (1999) (construing “present” as used in Federal Rule of Criminal Procedure 43 and holding that “the common-sense understanding of the definition is that a person must be in the same place as others in order to be present.”); *accord United States v. Williams*, 641 F.3d 758, 764-65 (6th Cir. 2011); *United States v. Torres-Palma*, 290 F.3d 1244, 1245-48 (10th Cir. 2002); *United States v. Lawrence*, 248 F.3d 300, 301, 303-04 (4th Cir. 2001); *United States v. Salim*, 690 F.3d 115, 122 (2nd Cir. 2012) (“every federal appellate court to have considered the question has held that a defendant’s right to be present requires physical presence and is not satisfied by participation through videoconference.”).

³ *See, e.g.*, Federal Rule of Civil Procedure 43(a), which expressly allows judges to “permit [presentation of] testimony in open court by contemporaneous transmission from a different location,” but only upon a showing of good cause.

⁴ The Texas Capitol building—where the Commission typically conducts its meetings—is closed to all non-legislative gatherings at the time of this opinion’s drafting. *See* <https://tspb.texas.gov/plan/events/tspbcal.html> (last visited 5/28/2020).

DRAFT

However, in the absence of an express statutory exception to the common-sense meaning of presence, or a lawful executive order suspending the requirement that a lobbyist be present,⁵ it is our opinion that a lobbyist cannot satisfy Chapter 305's presence requirement using videoconference software.

However, food or beverage with a value of \$90 or less, which is delivered by mail or common contract carrier to a location other than the Capitol Complex, is a gift not subject to the presence requirement. Tex. Gov't Code §§ 305.0061(e-1), 305.006(b)(4); 1 Tex. Admin. Code § 18.31(a) (adjusting threshold from \$50 to \$90). An expenditure for such a gift is subject to the \$500 aggregate calendar year limit, rather than the allowance for an unlimited amount that may be spent on food or beverages that meets the presence requirement. *Id.* § 305.024(a).

⁵ Under Texas Government Code Section 418.016, the Governor has the authority to suspend any regulatory statute prescribing the procedures for conduct of state business if strict compliance would prevent, hinder, or delay necessary action in coping with a disaster. Governor Abbott has exercised that authority to suspend certain provisions of law during the pandemic, but he has not suspended any portion of Sections 305.006(f) or 305.024(a).



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 550

June 28, 2019

ISSUE

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

BACKGROUND

The Texas Ethics Commission (“Commission”) has been asked on numerous occasions about the permissibility of a public officer’s¹ use of government resources for political advertising. For example, we have been asked whether a public officer may be interviewed in his or her government office for use in a campaign video.

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

SUMMARY

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

ANALYSIS

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

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

EXHIBIT A – BEFORE 6-1-20, WITH FOOTNOTE 2

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

Use of Government Resources for Political Advertising

Section 39.02(a)(2), Penal Code

Section 39.02(a)(2) of the Penal Code states that a public servant may not, with intent to obtain a benefit³ or harm or defraud another, intentionally or knowingly “misuse[] government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” Penal Code § 39.02(a)(2). A public servant, as defined in the Penal Code, includes a public officer, among other enumerated persons.⁴ Because the questions addressed by the Commission relate to public officers, this opinion applies to that class of public servants.

A “misuse” means:

[T]o deal with government property contrary to:

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

Id. § 39.01(2).

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

² This opinion does not apply to a judicial officer.

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

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

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

EXHIBIT A – BEFORE 6-1-20, WITH FOOTNOTE 2

servant’s private campaign purposes would be a misuse. Section 39.02(a)(2) of the Penal Code applies only to a misuse of government resources that have “come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” A public officer would have custody or possession⁶ of an office or other government resources by virtue of having exclusive control over those resources as a public officer. The public officer’s use of a government office, which is restricted to the custody or possession of that officer, for political advertising would confer a benefit to the individual public servant for private campaign purposes and would violate section 39.02(a)(2) of the Penal Code.

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

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

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

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

EXHIBIT A – BEFORE 6-1-20, WITH FOOTNOTE 2

Section 39.02(a)(1), Penal Code

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

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

Section 255.003(a), Election Code

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

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

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

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

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

EXHIBIT A – BEFORE 6-1-20, WITH FOOTNOTE 2

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

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

CONCLUSION

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

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

¹¹ Ethics Advisory Opinion No. 443 (2002).

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



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 550

*June 28, 2019**

ISSUE

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

BACKGROUND

The Texas Ethics Commission (“Commission”) has been asked on numerous occasions about the permissibility of a public officer’s¹ use of government resources for political advertising. For example, we have been asked whether a public officer may be interviewed in his or her government office for use in a campaign video.

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

SUMMARY

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

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

* The Commission voted to reconsider and amend this opinion by striking a footnote limiting the scope of the opinion. That change took effect June 1, 2020.

ANALYSIS

The Commission, on its own initiative, issues this advisory opinion to address whether a public officer may use government resources, such as the public officer’s office, to create a photograph, video, or other communication for political advertising. We also address whether a public officer may similarly use government resources that are equally accessible to the public. To resolve this question, we must address sections 39.02(a)(2) and 39.02(a)(1) of the Penal Code and section 255.003(a) of the Election Code, which restrict the use of government resources for political advertising.

Use of Government Resources for Political Advertising

Section 39.02(a)(2), Penal Code

Section 39.02(a)(2) of the Penal Code states that a public servant may not, with intent to obtain a benefit² or harm or defraud another, intentionally or knowingly “misuse[] government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” Penal Code § 39.02(a)(2). A public servant, as defined in the Penal Code, includes a public officer, among other enumerated persons.³ Because the questions addressed by the Commission relate to public officers, this opinion applies to that class of public servants.

A “misuse” means:

[T]o deal with government property contrary to:

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

Id. § 39.01(2).

² “Benefit” is defined, in pertinent part, as “anything reasonably regarded as economic gain or advantage.” Penal Code § 1.07(a)(7).

³ “Public servant” also includes an employee or agent of government, a juror or grand juror, an arbitrator or referee, a notary public, and a candidate for nomination or election public office. Penal Code § 1.07(a)(41).

EXHIBIT B – EFFECTIVE 6-1-20, WITHOUT FOOTNOTE 2

The use of government resources for an individual public servant's benefit is a misuse contrary to the state constitutional requirements that public money be used for a public purpose. Tex. Const. art. III, §§ 51, 52(a).⁴ Therefore, the use of government resources for an individual public servant's private campaign purposes would be a misuse. Section 39.02(a)(2) of the Penal Code applies only to a misuse of government resources that have "come into the public servant's custody or possession by virtue of the public servant's office or employment." A public officer would have custody or possession⁵ of an office or other government resources by virtue of having exclusive control over those resources as a public officer. The public officer's use of a government office, which is restricted to the custody or possession of that officer, for political advertising would confer a benefit to the individual public servant for private campaign purposes and would violate section 39.02(a)(2) of the Penal Code.

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

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

⁴ Tex. Const. art. III, §§ 51 (legislature may not authorize grant of public money to any individual, association, municipal or other corporation), 52(a) (legislature may not authorize any county, city, town or other political corporation or subdivision of the state to grant public money or thing of value in aid of or to any individual, association, or corporation). *See also* Ethics Advisory Opinion Nos. 386 (1997) (use of state equipment or state employees to handle campaign contributions or prepare campaign finance reports for officeholders is a misuse of government resources), 172 (1993) (state employees' work time may not be used to handle campaign contributions or expenditures); Gov't Code § 556.004 (prohibiting use of legislatively appropriated money and other resources for campaign purposes); *Texans Uniting for Reform & Freedom v. Saenz*, 319 S.W.3d 914 (Tex. App. – Austin 2010), *petition denied*, 2011 Tex. LEXIS 59 (Tex., Jan. 14, 2011) (legislature intended section 556.004 of the Government Code to prohibit state officers and employees from using their official authority to affect the result of an election, to affect the nomination of a candidate, or to achieve purposes similar in kind or nature to achieving or aiding the nomination or election of candidates); Attorney General Opinion Nos. DM-431 (1997), JM-685 (1993) (both holding that governmental entity may not pay costs in connection with election contest involving government officeholder), MW-36 (1979) (public body has no authority to contribute public funds to or on behalf of an individual or organization).

⁵ "Custody" is defined as "[t]he care and control of a thing or person for inspection, preservation, or security." Black's Law Dictionary 467 (10th ed. 2014). "Possession" is defined as "[t]he fact of having or holding property in one's power; the exercise of dominion over property," and "[t]he right under which one may exercise control over something to the exclusion of all others." *Id.* at 1351. In the Penal Code, "possession" is more generally defined as "actual care, custody, control, or management." Penal Code § 1.07(a)(39).

EXHIBIT B – EFFECTIVE 6-1-20, WITHOUT FOOTNOTE 2

conclude that public officers may permissibly use government resources that are equally accessible to the general public, and they should relocate to publicly accessible areas, when creating photographs, videos, or other communications for political advertising.

Section 39.02(a)(1), Penal Code

Section 39.02(a)(1) of the Penal Code states that a public servant may not, with intent to obtain a benefit or harm or defraud another, intentionally or knowingly “violate[] a law relating to the public servant’s office or employment.” Penal Code § 39.02(a)(1).⁶ Section 39.02(a)(2) of the Penal Code and the constitutional requirement to use public money for a public purpose are laws relating to the public officer’s office or employment. Therefore, in our opinion, a public officer would violate section 39.02(a)(1) of the Penal Code by using government resources of which the officer has custody or possession, including the government office, to create a photograph, video, or other communication for political advertising.

We caution that additional legal restrictions may apply to the use of any government resources, including other state or local laws or policies, and such restrictions may constitute law relating to a public servant’s office or employment under section 39.02(a)(1) of the Penal Code. This prohibition has a wide application and “allows for a vast array of potential means of committing the offense.” *State v. Martinez*, 548 S.W.3d 751, 759 (Tex. App. – Corpus Christi – Edinburg 2018), *reh’g denied*, 2018 Tex. App. LEXIS 5042 (Tex. App. – Corpus Christi – Edinburg June 11, 2018) (indictment alleging an offense under this provision must specify which law or laws relating to the public servant’s office or employment were allegedly violated). We cannot address the application of laws or policies that are outside our jurisdiction for an advisory opinion.⁷ Accordingly, we cannot provide assurance that section 39.02(a)(1) of the Penal Code, depending upon all applicable laws, would not prohibit a public officer from using other government resources that are generally accessible to the public to create a photograph, video, or other communication for political advertising.

Section 255.003(a), Election Code

Section 255.003(a) of the Election Code states, in pertinent part, that an officer of a political subdivision may not knowingly “spend or authorize the spending of public funds for political advertising.” Elec. Code § 255.003(a).⁸ The “spending” of public funds includes the use of a

⁶ “Law relating to a public servant’s office or employment” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly: (A) imposes a duty on the public servant; or (B) governs the conduct of the public servant. *Id.* § 39.01(1). “Law” means the constitution or a statute of this state or of the United States, a written opinion of a court of record, a municipal ordinance, an order of a county commissioners court, or a rule authorized by and lawfully adopted under a statute. *Id.* § 1.07(a)(30).

⁷ See Gov’t Code § 571.091 (specifying the laws the commission may consider in an advisory opinion).

⁸ Section 255.003(a) of the Election Code applies to an officer of a political subdivision. “Political subdivision” includes a county, city, or school district or any other government entity that possesses authority for subordinate self-government through officers selected by it. Elec. Code § 1.005(13)(C). By contrast, section 39.02 of the Penal Code applies to any public servant. *See supra*, n. 4 (defining “public servant”).

EXHIBIT B – EFFECTIVE 6-1-20, WITHOUT FOOTNOTE 2

political subdivision employee’s work time or a political subdivision’s equipment or facilities.⁹ “Political advertising” is defined, in pertinent part, as a communication supporting or opposing a candidate for nomination or election to a public office or a public officer that is published or broadcast in return for consideration or appears in various forms of writing or on an Internet website. *Id.* § 251.001(16).

For purposes of section 255.003(a) of the Election Code, we have concluded that the use of a facility maintained by a political subdivision, in an area that was restricted to its employees, required government resources to operate while in that restricted area, and therefore violated section 255.003(a) of the Election Code.¹⁰ Furthermore, we have found violations of section 255.003(a) of the Election Code on numerous occasions since the statute was enacted where public officers controlled the access to certain government resources.¹¹

CONCLUSION

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

⁹ See, e.g., Ethics Advisory Opinion No. 443 (2002) (placement of campaign flyers in a school district teachers’ lounge would involve the spending of public funds where school district employees were required to transport the flyers to an area of the school that was not accessible to the public), Ethics Advisory Opinion No. 45 (1992) (distribution of political advertising using school district equipment or school district employees on school district time would be the spending of public funds where an already existing internal mail system was used); Attorney General Opinion No. KP-177 (2018) (this statute prohibits the use of school district staff, facilities, or other resources where school districts electronically distributed links to Internet websites that were partisan in nature).

¹⁰ Ethics Advisory Opinion No. 443 (2002).

¹¹ See, e.g., *In re Brooks* (SC-3180260) (2018) (use of a county-owned vehicle dedicated to the officer’s use), *In re Wilson* (SC-31712183) (2018) (use of a county Facebook page maintained by the officer), *In re Joiner* (SC-31605137) (2017) (use of newsletter headlined as from officer’s desk), *In re Hawkins* (SC-31011409) (2012) (use of space in a city utility bill), *In re Downs* (SC-240588) (2004) (use of space in a city water bill), *In re McRae* (SC-240226) (2004) (use of city letterhead), *In re Clark* (SC-240225) (2004) (use of city letterhead), *In re Bowman* (SC-240218) (2004) (use of emergency services district letterhead), *In re Lord* (SC-230963) (2004) (use of city-contracted video production), *In re Williams, et. al.* (SC-211170) (2001) (use of space in city water bill and airtime on city cable channel), *In re Morgan* (SC-210541) (2001) (use of internal mail system), and *In re Williams* (SC-991032) (1999) (use of special edition of sheriff’s report).

Draft Subpoena Rules, Modeled on Texas Rules of Civil Procedure

Text of Proposed New Rules	Related Provisions from TRCP
<p>The proposed new language is indicated by <u>underlined</u> text.</p> <p>§12.29. Subpoenas <u>Issued by Commission.</u></p> <p>(a) A subpoena issued under section 571.137 of the Government Code shall specify the date, time, place, and manner for execution of the subpoena.</p> <p>(b) A subpoena <u>issued under section 571.137 of the Government Code</u> that requires a person to provide testimony shall be served on that person at least 10 business days before the date the subpoena is to be executed.</p> <p>§12.30. Subpoenas <u>Issued by Counsel for the Respondent.</u></p> <p>(a) <u>This section applies only to subpoenas issued by a respondent’s counsel under section 571.125(f) (concerning the issuance of a subpoena for a witness in a preliminary review hearing) or 571.130(f) (concerning the issuance of a subpoena for a witness in a formal hearing) of the Government Code.</u></p>	

(b) A subpoena must be issued in the name of “The State of Texas” and must:

(1) state the sworn complaint numbers for the sworn complaints at issue in the hearing at which the witness is summoned to appear;

(2) state that the subpoena pertains to a sworn complaint proceeding before the Texas Ethics Commission;

(3) state the date on which the subpoena is issued;

(4) identify the person to whom the subpoena is directed;

(5) state the time and place of the preliminary review hearing or formal hearing at which the subpoena directs the person to appear;

(6) identify the respondent at whose instance the subpoena is issued and the respondent’s attorney of record;

(7) specify with reasonable particularity any documents with which the person to whom the subpoena is directed shall appear;

176.1. Form.

Every subpoena must be issued in the name of “The State of Texas” and must:

(a) state the style of the suit and its cause number;

(b) state the court in which the suit is pending;

(c) state the date on which the subpoena is issued;

(d) identify the person to whom the subpoena is directed;

(e) state the time, place, and nature of the action required by the person to whom the subpoena is directed, as provided in Rule 176.2;

(f) identify the party at whose instance the subpoena is issued, and the party’s attorney of record, if any;

(8) state the text of § 12.31(i) of this chapter; and

(9) be signed by the attorney issuing the subpoena.

(c) A subpoena must command the person to whom it is directed to appear and give testimony at:

(1) a preliminary review hearing; or

(2) a formal hearing.

(d) A subpoena may only direct a person to appear, with or without documents, and give testimony at a preliminary review hearing or formal hearing before the commission.

(e) A subpoena may be issued only by the counsel of record for a respondent in a sworn complaint proceeding before the commission against that respondent.

(g) state the text of Rule 176.8(a); and

(h) be signed by the person issuing the subpoena.

176.2. Required Actions.

A subpoena must command the person to whom it is directed to do either or both of the following:

(a) attend and give testimony at a deposition, hearing, or trial;

(b) produce and permit inspection and copying of designated documents or tangible things in the possession, custody, or control of that person.

[Rule 176.3 on range limitations and limitation of subpoena power to scope of discovery rules, omitted here, does not have an equivalent in the proposed Commission rules]

(f) Service.

(1) Manner of service. A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or any person who is not a party and is 18 years of age or older. A subpoena must be served by delivering a copy to the witness and tendering to that person any fees required by law. If the witness is a party and is represented by an attorney of record in the sworn complaint proceeding, the subpoena may be served on the witness's attorney of record.

176.4 Who May Issue.

A subpoena may be issued by:

- (a) the clerk of the appropriate district, county, or justice court, who must provide the party requesting the subpoena with an original and a copy for each witness to be completed by the party;
- (b) an attorney authorized to practice in the State of Texas, as an officer of the Court; or
- (c) an officer authorized to take depositions in this State, who must issue the subpoena immediately on a request accompanied by a notice to take a deposition under Rules 199 or 200, or a notice under Rule 205.3, and who may also serve the notice with the subpoena.

176.5. Service.

(a) Manner of service. A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or any person who is not a party and is 18 years of age or older. A subpoena must be served by delivering a copy to the witness and tendering to that person any fees required by law. If the witness is a party and is represented by an attorney of record in the proceeding, the subpoena may be served on the witness's attorney of record.

(2) Deadline for service. A subpoena must be served upon the person required to appear at least 21 days before the preliminary review hearing or formal hearing at which the person is required to appear. The subpoena and proof of service must be filed with the commission within three days of its service on the person required to appear.

(3) Proof of service. Proof of service must be made by filing either:

(A) the witness's signed written memorandum attached to the subpoena showing that the witness accepted the subpoena; or

(B) a statement by the person who made the service stating the date, time, and manner of service, and the name of the person served.

(g) Response.

(1) Except as provided in this subsection, a person served with a subpoena must comply with the command stated therein unless discharged by the commission or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of hearing from day to day until discharged by the commission or the party summoning the witness.

(b) Proof of service. Proof of service must be made by filing either:

(1) the witness's signed written memorandum attached to the subpoena showing that the witness accepted the subpoena; or

(2) a statement by the person who made the service stating the date, time, and manner of service, and the name of the person served.

176.6. Response.

(a) Compliance required. Except as provided in this subdivision, a person served with a subpoena must comply with the command stated therein unless discharged by the court or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of deposition, hearing, or trial from day to day until discharged by the court or by the party summoning the witness.

(2) If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(3) A person commanded to appear with documents must produce the documents as they are kept in the usual course of business or must organize and label them to correspond with the categories in the demand.

(4) A person commanded to appear at a hearing must file any motion to quash the subpoena or objection to a requirement to appear with certain documents with the commission no later than the 14th day before the hearing at which the person is directed to appear. Commission staff may move to quash a subpoena or object to appearance with

(b) Organizations. If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(c) Production of documents or tangible things. A person commanded to produce documents or tangible things need not appear in person at the time and place of production unless the person is also compelled to attend and give testimony, either in the same subpoena or a separate one. A person must produce documents as they are kept in the usual course of business or must organize and label them to correspond with the categories in the demand. A person may withhold material or information claimed to be privileged but must comply with Rule 193.3. A nonparty's production of a document authenticates the document for use against the nonparty to the same extent as a party's production of a document is authenticated for use against the party under Rule 193.7.

(d) Objections. A person commanded to produce and permit inspection or copying of designated documents and things may serve on the party requesting issuance of the subpoena – before the time specified for compliance – written objections to producing any or all of the designated materials. A person need not comply with the part of a subpoena to which objection is made as provided in this

certain documents in the same manner as the person commanded to appear by the subpoena. The filer of a motion to quash or objection to a requirement to appear with certain documents must serve the motion or objection on the proponent of the subpoena in person, by mail, by commercial delivery service, by fax, by email, or by other such manner as the presiding officer of the commission may direct, no later than the deadline for filing the motion to quash or objection to appearance with documents with the commission. After affording commission staff and the person commanded to appear an opportunity to move to quash the subpoena or object to appearance with certain documents, and affording the proponent of the subpoena an opportunity to respond to the motion to quash or objection to appearance with documents, the commission's presiding officer shall rule on a motion to quash or objection to appearance with documents.

(5) A person commanded to attend and give testimony, or to produce documents or things, at a preliminary review hearing or formal hearing may object to giving testimony or producing documents at the time and place specified for the hearing, rather than under subsection (g)(4) of this section.

paragraph unless ordered to do so by the court. The party requesting the subpoena may move for such an order at any time after an objection is made.

(e) Protective orders. A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things, and any other person affected by the subpoena, may move for a protective order under Rule 192.6(b) – before the time specified for compliance – either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21A. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court. The party requesting the subpoena may seek such an order at any time after the motion for protection is filed.

(f) Trial subpoenas. A person commanded to attend and give testimony, or to produce documents or things, at a hearing or trial, may object or move for protective order before the court at the time and place specified for compliance, rather than under paragraphs (d) and (e).

(6) A party's appearance with a document in response to a subpoena directing the party to appear with the document authenticates the document for use against that party in any proceeding before the commission unless the party appearing with the document objects to the authenticity of the document, or any part of it, at the time of the party's appearance, stating the specific basis for objection. An objection must have a good faith factual and legal basis. An objection made to the authenticity of only part of a document does not affect the authenticity of the remainder. If objection is made, the party attempting to use the document should be given a reasonable opportunity to establish its authenticity. The requirement that the commission provide a reasonable opportunity to establish the document's authenticity may be satisfied by the opportunity to present a witness to authenticate the document at a subsequent hearing before the commission.

(h) A counsel for a respondent issuing a subpoena must take reasonable steps to avoid imposing undue burden or expense on the person served. In ruling on a motion to quash or objection to appearance with documents, the presiding officer must provide a person served with a subpoena an adequate time for compliance, protection

193.7. Production of Documents Self-Authenticating.

A party's production of a document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial unless - within ten days or a longer or shorter time ordered by the court, after the producing party has actual notice that the document will be used - the party objects to the authenticity of the document, or any part of it, stating the specific basis for objection. An objection must be either on the record or in writing and must have a good faith factual and legal basis. An objection made to the authenticity of only part of a document does not affect the authenticity of the remainder. If objection is made, the party attempting to use the document should be given a reasonable opportunity to establish its authenticity.

176.7. Protection of Person from Undue Burden and Expense.

A party causing a subpoena to issue must take reasonable steps to avoid imposing undue burden or expense on the person served. In ruling on objections or motions for protection, the court must provide a person served with a subpoena an adequate time for compliance, protection from disclosure of privileged material or information, and

from disclosure of privileged material or information, and protection from undue burden or expense. The presiding officer may impose reasonable conditions on compliance with a subpoena, including compensating the witness for undue hardship.

protection from undue burden or expense. The court may impose reasonable conditions on compliance with a subpoena, including compensating the witness for undue hardship.

176.8. Enforcement of Subpoena.

(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

(b) Proof of payment of fees required for fine or attachment. A fine may not be imposed, nor a person served with a subpoena attached, for failure to comply with a subpoena without proof by affidavit of the party requesting the subpoena or the party's attorney of record that all fees due the witness by law were paid or tendered.

EXHIBIT A

Text of Proposed Rulemaking

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

Chapter 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

Subchapter A. GENERAL RULES

§20.1. Definitions.

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

...

(25) Hybrid committee—A political committee that, as provided by section 252.003(a)(4) (relating to contents of a general-purpose committee’s campaign treasurer appointment) or 252.0031(a)(2) (relating to a specific-purpose committee’s campaign treasurer appointment) of the Election Code, as applicable, has filed a campaign treasurer appointment that includes an affidavit stating that:

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

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

(i) a candidate for elective office;

(ii) an officeholder; or

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

(26) Direct campaign expenditure-only committee—A political committee, as authorized by section 253.105 of the Election Code (relating to political contributions to direct campaign expenditure-only committees) to accept political contributions from corporations or labor organizations, that:

1 (A) is not established or controlled by a candidate or an officeholder;

2 (B) makes or intends to make direct campaign expenditures;

3 (C) does not make or intend to make political contributions to:

4 (i) a candidate;

5 (ii) an officeholder;

6 (iii) a specific-purpose committee established or controlled by a candidate
7 or an officeholder; or

8 (iv) a political committee that makes or intends to make political
9 contributions to a candidate, an officeholder, or a specific-purpose committee
10 established or controlled by a candidate or an officeholder; and

11 (D) has filed an affidavit with the commission stating the committee's intention to
12 operate as described by subparagraphs (B) and (C).

13 **§22.35. Corporate Contributions to Certain Political Committees.**

14 (a) A political committee that accepts a monetary political contribution from a corporation
15 or labor organization shall maintain the contribution in a separate account for political
16 contributions from corporations and labor organizations.

17 (b) A political committee that accepts a political contribution from a corporation or labor
18 organization shall not use the contribution to make a political contribution to:

19 (1) a candidate for elective office;

20 (2) an officeholder; or

21 (3) a political committee other than a hybrid committee, a direct campaign
22 expenditure-only committee, or a political committee that supports or
23 opposes measures exclusively.

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

26 **§24.18. Designation of Contribution for Administrative Purposes.**

27 (a) Any of the following will serve to designate a political expenditure in the form of a
28 political contribution made by a corporation or labor organization [~~corporate expenditure~~]
29 as restricted to the establishment, administration, maintenance, or operation of a general-
30 purpose committee:

1 (1) A contemporaneous written instruction that the contribution [~~expenditure~~] is
2 restricted to the administration, maintenance, or operation of the committee
3 accepting the contribution; [~~expenditure~~];

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

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

10 (4) The general-purpose committee accepting the contribution deposits the
11 contribution into a separate segregated account for political contributions from
12 corporations and labor organizations.

13 (b) Subsection (a) of this section shall not be read to restrict a hybrid committee, a direct
14 campaign expenditure-only committee, or a political committee that supports or opposes
15 measures exclusively from using a contribution from a corporation or labor organization
16 to make a direct campaign expenditure.

17 **§24.19. Affidavit Required by a Political Committee Making a Direct Campaign**
18 **Expenditure from a Political Contribution Accepted from a Corporation or Labor**
19 **Organization.**

20 A political committee, including a direct campaign expenditure-only committee, must
21 include in its campaign treasurer appointment the affidavit described by section
22 252.003(a)(4) (relating to contents of a general-purpose committee's campaign treasurer
23 appointment) or 252.0031(a)(2) (relating to contents of a specific-purpose committee's
24 campaign treasurer appointment) of the Election Code, as applicable, before using a
25 political contribution from a corporation or labor organization to make a direct campaign
26 expenditure in connection with a campaign for an elective office.

H.B. No. 2586

AN ACT

relating to political contributions and political expenditures made to or by political committees or other persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 251.001, Election Code, is amended by amending Subdivisions (8) and (12) and adding Subdivision (21) to read as follows:

(8) "Direct campaign expenditure" means a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. A campaign expenditure does not constitute a contribution by the person making the expenditure to a candidate or officeholder if the expenditure is made without the prior consent or approval of the candidate or officeholder on whose

1 behalf the expenditure is made. A campaign expenditure made in
2 connection with a measure does not constitute a contribution by the
3 person making the expenditure if it is not made as a political
4 contribution to a political committee supporting or opposing the
5 measure.

6 (12) "Political committee" means two or more [~~a group~~
7 ~~of~~] persons acting in concert with [~~that has as~~] a principal
8 purpose of accepting political contributions or making political
9 expenditures. The term does not include a group composed
10 exclusively of two or more individual filers or political
11 committees required to file reports under this title who make
12 reportable expenditures for a joint activity.

13 (21) "In-kind contribution" means a contribution of
14 goods, services, or any other thing of value that is not money, and
15 includes an agreement made or other obligation incurred, whether
16 legally enforceable or not, to make the contribution. The term
17 does not include a direct campaign expenditure.

1 SECTION 2. Subchapter A, Chapter 251, Election Code, is
2 amended by adding Sections 251.0015 and 251.0016 to read as
3 follows:

4 Sec. 251.0015. COMMUNICATION WITH CANDIDATE. For purposes
5 of Section 251.001(8), communication between a person and a
6 candidate, officeholder, or candidate's or officeholder's agent is
7 not evidence that the person obtained the candidate's or
8 officeholder's consent or approval for a campaign expenditure made
9 after the communication by the person on behalf of the candidate or
10 officeholder unless the communication establishes that:

11 (1) the expenditure is incurred at the request or
12 suggestion of the candidate, officeholder, or candidate's or
13 officeholder's agent;

14 (2) the candidate, officeholder, or candidate's or
15 officeholder's agent is materially involved in decisions regarding
16 the creation, production, or distribution of a campaign
17 communication related to the expenditure; or

1 (3) the candidate, officeholder, or candidate's or
2 officeholder's agent shares information about the candidate's or
3 officeholder's plans or needs that is:

4 (A) material to the creation, production, or
5 distribution of a campaign communication related to the
6 expenditure; and

7 (B) not available to the public.

8 Sec. 251.0016. COMMON VENDOR. A person using the same vendor
9 as a candidate, officeholder, or political committee established or
10 controlled by a candidate or officeholder is not acting in concert
11 with the candidate, officeholder, or committee to make a campaign
12 expenditure unless the person makes the expenditure using
13 information from the vendor about the campaign plans or needs of
14 the candidate, officeholder, or committee that is:

15 (1) material to the expenditure; and

16 (2) not available to the public.

17 SECTION 3. Section 252.003, Election Code, is amended by

1 amending Subsection (a) and adding Subsection (a-1) to read as
2 follows:

3 (a) In addition to the information required by Section
4 252.002, a campaign treasurer appointment by a general-purpose
5 committee must include:

6 (1) the full name, and any acronym of the name that will
7 be used in the name of the committee as provided by Subsection (d),
8 of each corporation, labor organization, or other association or
9 legal entity that directly establishes, administers, or controls
10 the committee, if applicable, or the name of each person who
11 determines to whom the committee makes contributions or the name of
12 each person who determines for what purposes the committee makes
13 expenditures;

14 (2) the full name and address of each general-purpose
15 committee to whom the committee intends to make political
16 contributions; [~~and~~]

17 (3) the name of the committee and, if the name is an

1 acronym, the words the acronym represents; and

2 (4) before the committee may use a political
3 contribution from a corporation or a labor organization to make a
4 direct campaign expenditure in connection with a campaign for an
5 elective office, an affidavit stating that:

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

8 (B) the committee will not use any political
9 contribution from a corporation or a labor organization to make a
10 political contribution to:

11 (i) a candidate for elective office;

12 (ii) an officeholder; or

13 (iii) a political committee that has not filed
14 an affidavit under this subdivision or Section 252.0031(a)(2).

15 (a-1) Filing an affidavit under Subsection (a)(4) does not
16 create any additional reporting requirements under Section 254.261.

17 SECTION 4. Section 252.0031, Election Code, is amended by

1 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
2 read as follows:

3 (a) In addition to the information required by Section
4 252.002, a campaign treasurer appointment by a specific-purpose
5 committee for supporting or opposing a candidate for an office
6 specified by Section 252.005(1) must include:

7 (1) the name of and the office sought by the candidate;
8 and

9 (2) before the committee may use a political
10 contribution from a corporation or a labor organization to make a
11 direct campaign expenditure in connection with a campaign for an
12 elective office, an affidavit stating that:

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

15 (B) the committee will not use any political
16 contribution from a corporation or a labor organization to make a
17 political contribution to:

- 1 (i) a candidate for elective office;
2 (ii) an officeholder; or
3 (iii) a political committee that has not filed
4 an affidavit under this subdivision or Section 252.003(a)(4).

5 (a-1) If the [~~that~~] information required to be provided under
6 Subsection (a) changes, the committee shall immediately file an
7 amended appointment reflecting the change.

8 (a-2) Filing an affidavit under Subsection (a)(2) does not
9 create any additional reporting requirements under Section 254.261.

10 SECTION 5. Subchapter D, Chapter 253, Election Code, is
11 amended by adding Section 253.097 to read as follows:

12 Sec. 253.097. CONTRIBUTION FROM CORPORATION OR LABOR
13 ORGANIZATION. A corporation or labor organization may make
14 campaign contributions from its own property to a political
15 committee that has filed an affidavit with the committee's campaign
16 treasurer appointment in accordance with Section 252.003(a)(4) or
17 252.0031(a)(2).

1 SECTION 6. Sections 253.100(a) and (e), Election Code, are
2 amended to read as follows:

3 (a) A corporation, acting alone or with one or more other
4 corporations, may make one or more political expenditures to
5 finance the establishment or administration of a general-purpose
6 committee. In addition to any other expenditure that is considered
7 permissible under this section, a corporation may make an
8 expenditure for the maintenance and operation of a general-purpose
9 committee, including an expenditure for:

- 10 (1) office space maintenance and repairs;
11 (2) telephone and Internet services;
12 (3) office equipment;
13 (4) utilities;
14 (5) general office and meeting supplies;
15 (6) salaries for routine clerical, data entry, and
16 administrative assistance necessary for the proper administrative
17 operation of the committee;

1 (7) legal and accounting fees for the committee's
2 compliance with this title;

3 (8) routine administrative expenses incurred in
4 establishing and administering a general-purpose political
5 committee;

6 (9) management and supervision of the committee,
7 including expenses incurred in holding meetings of the committee's
8 governing body to interview candidates and make endorsements
9 relating to the committee's support;

10 (10) the recording of committee decisions;

11 (11) expenses incurred in hosting candidate forums in
12 which all candidates for a particular office in an election are
13 invited to participate on the same terms; [~~or~~]

14 (12) expenses incurred in preparing and delivering
15 committee contributions; or

16 (13) creation and maintenance of the committee's public
17 Internet web pages that do not contain political advertising.

1 (e) Subsection (d) does not apply to a corporation or labor
2 organization making a campaign contribution to a political
3 committee under Section 253.097 or an expenditure to communicate
4 with its stockholders or members, as applicable, or with the
5 families of its stockholders or members as provided by Section
6 253.098.

7 SECTION 7. Section 253.101, Election Code, is amended by
8 adding Subsection (a-1) to read as follows:

9 (a-1) Subsection (a) does not prohibit a political committee
10 from making a political contribution or political expenditure
11 wholly or partly from a campaign contribution made by a corporation
12 or labor organization to the political committee under Section
13 253.096 or 253.097.

14 SECTION 8. Section 254.031(a), Election Code, is amended to
15 read as follows:

16 (a) Except as otherwise provided by this chapter, each report
17 filed under this chapter must include:

1 (1) the amount of political contributions, other than
2 political contributions described by Subdivision (1-a), from each
3 person that in the aggregate exceed \$50 and that are accepted
4 during the reporting period by the person or committee required to
5 file a report under this chapter, the full name and address of the
6 person making the contributions, and the dates of the
7 contributions;

8 (1-a) the amount of political contributions from each
9 person that are made electronically and that are accepted during
10 the reporting period by the person or committee required to file a
11 report under this chapter, the full name and address of the person
12 making the contributions, and the dates of the contributions;

13 (2) the amount of loans that are made during the
14 reporting period for campaign or officeholder purposes to the
15 person or committee required to file the report and that in the
16 aggregate exceed \$50, the dates the loans are made, the interest
17 rate, the maturity date, the type of collateral for the loans, if

1 any, the full name and address of the person or financial
2 institution making the loans, the full name and address, principal
3 occupation, and name of the employer of each guarantor of the
4 loans, the amount of the loans guaranteed by each guarantor, and
5 the aggregate principal amount of all outstanding loans as of the
6 last day of the reporting period;

7 (3) the amount of political expenditures that in the
8 aggregate exceed \$100 and that are made during the reporting
9 period, the full name and address of the persons to whom the
10 expenditures are made, and the dates and purposes of the
11 expenditures;

12 (4) the amount of each payment made during the reporting
13 period from a political contribution if the payment is not a
14 political expenditure, the full name and address of the person to
15 whom the payment is made, and the date and purpose of the payment;

16 (5) the total amount or a specific listing of the
17 political contributions of \$50 or less accepted and the total

1 amount or a specific listing of the political expenditures of \$100
2 or less made during the reporting period;

3 (6) the total amount of all political contributions
4 accepted and the total amount of all political expenditures made
5 during the reporting period;

6 (7) the name of each candidate or officeholder who
7 benefits from a direct campaign expenditure made during the
8 reporting period by the person or committee required to file the
9 report, and the office sought or held, excluding a direct campaign
10 expenditure that is made by the principal political committee of a
11 political party on behalf of a slate of two or more nominees of
12 that party;

13 (8) as of the last day of a reporting period for which
14 the person is required to file a report, the total amount of
15 political contributions accepted, including interest or other
16 income on those contributions, maintained in one or more accounts
17 in which political contributions are deposited as of the last day

1 of the reporting period;

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

7 (10) any proceeds of the sale of an asset purchased with
8 a political contribution that is received during the reporting
9 period and the amount of which exceeds \$100;

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

13 (12) any other gain from a political contribution that
14 is received during the reporting period and the amount of which
15 exceeds \$100; and

16 (13) the full name and address of each person from whom
17 an amount described by Subdivision (9), (10), (11), or (12) is

1 received, the date the amount is received, and the purpose for
2 which the amount is received.

3 SECTION 9. Section 254.031(a), Election Code, as amended by
4 this Act, applies only to a report under Chapter 254, Election
5 Code, that is required to be filed on or after the effective date
6 of this Act. A report under Chapter 254, Election Code, that is
7 required to be filed before the effective date of this Act is
8 governed by the law in effect on the date the report is required to
9 be filed, and the former law is continued in effect for that
10 purpose.

11 SECTION 10. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was
15 committed, and the former law is continued in effect for that
16 purpose. For purposes of this section, an offense was committed
17 before the effective date of this Act if any element of the offense

H.B. No. 2586

1 occurred before that date.

2 SECTION 11. This Act takes effect September 1, 2019.

3

H.B. No. 2586

1

2

Governor

EXHIBIT A

Text of Proposed Rule Amendments

Chapter 8. ADVISORY OPINIONS

1 **§8.1. Definitions.**

2 The following words and terms, when used in this chapter, shall have the following
 3 meanings, unless the context clearly indicates otherwise: AOR number--An advisory
 4 opinion request file number assigned by the executive director to a pending advisory
 5 opinion request in accordance with this chapter.

6 **§8.3. Subject of an Advisory Opinion.**

7 (a) The commission may only [~~will~~] issue a written advisory opinion on the application of
 8 any of the following laws: [~~laws to a person qualified to make a request under §8.5 of this~~
 9 ~~title (relating to Persons Eligible To Receive an Advisory Opinion):~~]

10 (1) Government Code, Chapter 302 (concerning Speaker of the House of
 11 Representatives);

12 (2) Government Code, Chapter 303 (concerning Governor for a Day and Speaker's
 13 Reunion Day Ceremonies);

14 (3) Government Code, Chapter 305 (concerning Registration of Lobbyists);

15 (4) Government Code, Chapter 572 (concerning Personal Financial Disclosure,
 16 Standards of Conduct, and Conflict of Interest);

17 (5) Government Code, Chapter 2004 (concerning Representation Before State
 18 Agencies);

19 (6) Local Government Code, Chapter 159, Subchapter C, in connection with a
 20 county judicial officer, as defined by Section 159.051, Local Government Code,
 21 who elects to file a financial statement with the commission;

22 (7) Election Code, Title 15 (concerning Regulating Political Funds and Campaigns);

23 (8) Penal Code, Chapter 36 (concerning Bribery and Corrupt Influence);

24 (9) Penal Code, Chapter 39 (concerning Abuse of Office);

25 (10) Government Code, §2152.064 (concerning Conflict of Interest in Certain
 26 Transactions); and

- 1 (11) Government Code, §2155.003 (concerning Conflict of Interest).
- 2 (b) The commission may [~~will~~] not issue an advisory opinion that concerns the subject
3 matter of pending litigation known to the commission.
- 4 (c) For purposes of this section, the term litigation includes a sworn complaint proceeding
5 before the commission only if the Government Code Subchapters C - H, Chapter 2001,
6 apply to the proceeding.
- 7 (d) An advisory opinion cannot resolve a disputed question of fact.

8 **§8.5. Persons Eligible To Receive an Advisory Opinion.**

9 A person who is subject to one of the laws described in § 8.3(a) of this chapter [~~title~~]
10 (relating to Subject of Advisory Opinions) may request an opinion that advises how the
11 law applies to that person in a specific real or hypothetical factual situation.

12 **§8.7. Request for an Advisory Opinion.**

13 (a) A request for an advisory opinion shall describe a specified factual situation. The facts
14 specified may be real or hypothetical. The request must provide sufficient detail to permit
15 the commission to provide a response to the request, including the name of the person
16 making the request and, if applicable, the name of the person on whose behalf the request
17 is made.

18 (b) A request for an advisory opinion shall be:

- 19 (1) in writing; and
- 20 (2) mailed or hand-delivered [~~writing. A written request may be mailed, hand-~~
21 ~~delivered, or faxed~~] to the commission at the agency office or emailed to the
22 commission's email address designated for receiving requests.

23 **§8.9. Commission Initiated Opinion.**

24 When a majority of the commission determines that an opinion would be in the public
25 interest or in the interest of any person or persons within the jurisdiction of the commission,
26 the commission may on its own motion issue an advisory opinion.

27 **§8.11. Review and Processing of a Request.**

28 (a) Upon receipt of a written request for an advisory opinion, the executive director shall
29 [~~will~~] determine whether the request:

1 (1) pertains to the application of a law specified [request is one the commission will
2 answer] under §8.3 of this chapter [title (relating to Subject of an Advisory
3 Opinion)];

4 (2) meets the standing requirements of §8.5 of this chapter;

5 (3) meets the form requirements of §8.7 of this chapter; and

6 (4) cannot be answered by written response under § 8.17 of this chapter by reference
7 to the plain language of a statute, commission rule, or advisory opinion.

8 (b) If the executive director determines that a request for an opinion meets the requirements
9 of this chapter as set forth in subsections (a)(1)-(3) of this section and that the request
10 cannot be answered by written response under §8.17 of this chapter, [the commission will
11 answer the request,] the executive director shall [will] assign an AOR number to the
12 request. The executive director shall notify the person making the request of the AOR
13 number and of the proposed wording of the question to be answered by the commission.

14 (c) If the executive director determines that a request for an opinion does not meet the
15 requirements of this chapter as set forth in subsections (a)(1)-(3) of this section or that the
16 request can be answered by written response under §8.17 of this chapter, [request is one
17 the commission cannot answer,] the executive director shall notify the person making the
18 request of the reason the person making the request is not entitled to an advisory opinion
19 in response to the request [will not be answered].

20 **§8.13. Time Period.**

21 (a) The commission shall issue an advisory opinion in response to a request that meets the
22 requirements of this chapter not later than the 60th day after the date the commission
23 receives the [written] request.

24 (b) The time available to issue an advisory opinion in response to a written request is
25 automatically extended for 60 days pursuant to §571.092(b), Government Code. [For
26 purposes of calculating the time period under subsection (a) of this section, an advisory
27 opinion request is deemed to have been received on the date the executive director
28 determines the request complies with §§8.3, 8.5, and 8.7 of this title (relating to Subject of
29 an Advisory Opinion; Persons Eligible To Receive an Advisory Opinion; and Request for
30 an Advisory Opinion) and assigns the request an AOR number.]

31 [(c) The authority granted by the Act, §1.29(b), is delegated to the staff of the commission.]

32 **§8.15. Publication in Texas Register; Comments.**

33 (a) Each request assigned an AOR number under this chapter shall be published in
34 summary form in the Texas Register.

1 (b) Any ~~interested~~ person may submit written comments to the commission concerning
2 an advisory opinion request. Comments submitted should reference the AOR number.

3 **§8.17. Request Answered by Written ~~Letter~~ Response.**

4 If the executive director determines that a request can be answered by reference to the plain
5 language of a statute, ~~or a~~ commission rule, or advisory opinion: ~~[if the question has~~
6 ~~already been answered by the commission, then in either case]~~

7 (1) the executive director shall ~~may~~ provide a written response to the person
8 making the request that cites the language of the statute, ~~or~~ rule, or advisory
9 opinion, ~~[the prior determination,]~~ as applicable; and

10 (2) the person making the request is not entitled to an advisory opinion in response
11 to the request.

12 **§8.18. No Defense to Prosecution or Civil Penalty.**

13 A person who requests an advisory opinion does not obtain a defense to prosecution or to
14 imposition of a civil penalty by requesting the opinion if any of the following apply:

15 (1) the commission is not authorized to answer the request because it does not
16 pertain to the application of a law specified under §8.3 of this chapter;

17 (2) the request does not meet the standing requirements of §8.5 of this chapter;

18 (3) the request does not meet the form requirements of §8.7 of this chapter; or

19 (4) the executive director responds to the request by written response under §8.17
20 of this chapter.

21 **§8.19. Confidentiality.**

22 (a) The name of a person who requests an advisory opinion is confidential.

23 (b) The original request for an advisory opinion shall be placed in a confidential file. ~~[No~~
24 ~~original request or copy of an original request may be removed from the agency office.]~~

25 (c) Confidentiality under subsection (a) of this section may be waived only if the person
26 making the request for an advisory opinion provides a verified, written waiver of
27 confidentiality to the executive director.

28 (d) If a request for a copy of an advisory opinion request is received, the executive director
29 shall prepare a redacted version of the advisory opinion request by deleting any information
30 that is likely to identify the person making the request. The redacted version of the request
31 shall be provided to the person who requested a copy of the advisory opinion request.

1 **§8.21. Compilation of Advisory Opinions.**

2 The executive director shall number and categorize each advisory opinion issued and shall
3 annually compile a summary of advisory opinions in a single reference document. The
4 executive director may publish and provide copies of advisory opinions in other formats as
5 may be in the public interest.

EXHIBIT A

Text of Proposed Rule Amendments

Chapter 8. ADVISORY OPINIONS

1 **§8.1. Definitions.**

2 The following words and terms, when used in this chapter, shall have the following
 3 meanings, unless the context clearly indicates otherwise: AOR number--An advisory
 4 opinion request file number assigned by the executive director to a pending advisory
 5 opinion request in accordance with this chapter.

6 **§8.3. Subject of an Advisory Opinion.**

7 (a) The commission may only [~~will~~] issue a written advisory opinion on the application of
 8 any of the following laws: [~~laws to a person qualified to make a request under §8.5 of this~~
 9 ~~title (relating to Persons Eligible To Receive an Advisory Opinion):~~]

10 (1) Government Code, Chapter 302 (concerning Speaker of the House of
 11 Representatives);

12 (2) Government Code, Chapter 303 (concerning Governor for a Day and Speaker's
 13 Reunion Day Ceremonies);

14 (3) Government Code, Chapter 305 (concerning Registration of Lobbyists);

15 (4) Government Code, Chapter 572 (concerning Personal Financial Disclosure,
 16 Standards of Conduct, and Conflict of Interest);

17 (5) Government Code, Chapter 2004 (concerning Representation Before State
 18 Agencies);

19 (6) Local Government Code, Chapter 159, Subchapter C, in connection with a
 20 county judicial officer, as defined by Section 159.051, Local Government Code,
 21 who elects to file a financial statement with the commission;

22 (7) Election Code, Title 15 (concerning Regulating Political Funds and Campaigns);

23 (8) Penal Code, Chapter 36 (concerning Bribery and Corrupt Influence);

24 (9) Penal Code, Chapter 39 (concerning Abuse of Office);

25 (10) Government Code, §2152.064 (concerning Conflict of Interest in Certain
 26 Transactions); and

1 (11) Government Code, §2155.003 (concerning Conflict of Interest).

2 (b) The commission ~~may~~ ~~[will]~~ not issue an advisory opinion that concerns the same
3 particular subject matter of pending litigation known to the commission.

4 (c) For purposes of this section, the term litigation includes a sworn complaint proceeding
5 before the commission only if the Government Code Subchapters C - H, Chapter 2001,
6 apply to the proceeding.

7 (d) An advisory opinion cannot resolve a disputed question of fact.

8 **§8.5. Persons Eligible To Receive an Advisory Opinion.**

9 A person who is subject to one of the laws described in § 8.3(a) of this chapter ~~[title]~~
10 (relating to Subject of Advisory Opinions) may request an opinion that advises how the
11 law applies to that person in a specific real or hypothetical factual situation.

12 **§8.7. Request for an Advisory Opinion.**

13 (a) A request for an advisory opinion shall describe a specified factual situation. The facts
14 specified may be real or hypothetical. The request must provide sufficient detail to permit
15 the commission to provide a response to the request, including the name of the person
16 making the request and, if applicable, the name of the person on whose behalf the request
17 is made.

18 (b) A request for an advisory opinion shall: ~~be:~~

19 (1) be in writing; and

20 (2) be mailed or hand-delivered ~~[writing. A written request may be mailed, hand-~~
21 ~~delivered, or faxed]~~ to the commission at the agency office or emailed to the
22 commission's email address designated for receiving requests.

23 (3) expressly state that it is a request for an advisory opinion.

24 **§8.9. Commission Initiated Opinion.**

25 When a majority of the commission determines that an opinion would be in the public
26 interest or in the interest of any person or persons within the jurisdiction of the commission,
27 the commission may on its own motion issue an advisory opinion.

28 **§8.11. Review and Processing of a Request.**

29 (a) Upon receipt of a written request for an advisory opinion, the executive director shall
30 ~~[will]~~ determine whether the request:

1 (1) pertains to the application of a law specified [request is one the commission will
2 answer] under §8.3 of this chapter [title (relating to Subject of an Advisory
3 Opinion)];

4 (2) meets the standing requirements of §8.5 of this chapter;

5 (3) meets the form requirements of §8.7 of this chapter; and

6 (4) cannot be answered by written response under § 8.17 of this chapter by reference
7 to the plain language of a statute, commission rule, or advisory opinion.

8 (b) If the executive director determines that a request for an opinion meets the requirements
9 of this chapter as set forth in subsections (a)(1)-(3) of this section and that the request
10 cannot be answered by written response under §8.17 of this chapter, [the commission will
11 answer the request,] the executive director shall [will] assign an AOR number to the
12 request. The executive director shall notify the person making the request of the AOR
13 number and of the proposed wording of the question to be answered by the commission.

14 (c) If the executive director determines that a request for an opinion does not meet the
15 requirements of this chapter as set forth in subsections (a)(1)-(3) of this section or that the
16 request can be answered by written response under §8.17 of this chapter, [request is one
17 the commission cannot answer,] the executive director shall notify the person making the
18 request of the reason the person making the request is not entitled to an advisory opinion
19 in response to the request [will not be answered].

20 **§8.13. Time Period.**

21 (a) The commission shall issue an advisory opinion or written response under Section 8.17
22 of this chapter, as applicable, in response to a request that meets the requirements of this
23 chapter not later than the 60th day after the date the commission receives the [written]
24 request.

25 (b) The time available to issue an advisory opinion in response to a written request is
26 automatically extended for 60 days pursuant to §571.092(b), Government Code. [For
27 purposes of calculating the time period under subsection (a) of this section, an advisory
28 opinion request is deemed to have been received on the date the executive director
29 determines the request complies with §§8.3, 8.5, and 8.7 of this title (relating to Subject of
30 an Advisory Opinion; Persons Eligible To Receive an Advisory Opinion; and Request for
31 an Advisory Opinion) and assigns the request an AOR number.]

32 [(c) The authority granted by the Act, §1.29(b), is delegated to the staff of the commission.]

33 **§8.15. Publication in Texas Register; Comments.**

1 (a) Each request assigned an AOR number under this chapter, and is not answerable by a
2 written response under Section 8.17 of this chapter, shall be published in summary form in
3 the Texas Register.

4 (b) Any [~~interested~~] person may submit written comments to the commission concerning
5 an advisory opinion request. Comments submitted should reference the AOR number.

6 **§8.17. Request Answered by Written [~~Letter~~] Response.**

7 If the executive director determines that a request can be answered by reference to the plain
8 language of a statute, [~~or a~~] commission rule, or advisory opinion: [~~if the question has~~
9 ~~already been answered by the commission, then in either case]~~

- 10 (1) the executive director shall [~~may~~] provide a written response to the person
11 making the request that cites the language of the statute, [~~or~~] rule, or advisory
12 opinion, [~~the prior determination,~~] as applicable; and
13 (2) the person making the request is not entitled to an advisory opinion in response
14 to the request.

15 **§8.18. No Defense to Prosecution or Civil Penalty.**

16 A person who requests an advisory opinion does not obtain a defense to prosecution or to
17 imposition of a civil penalty by requesting the opinion if any of the following apply:

- 18 (1) the commission is not authorized to answer the request because it does not
19 pertain to the application of a law specified under §8.3 of this chapter;
20 (2) the request does not meet the standing requirements of §8.5 of this chapter;
21 (3) the request does not meet the form requirements of §8.7 of this chapter; or
22 (4) the executive director responds to the request by written response under §8.17
23 of this chapter.

24 **§8.19. Confidentiality.**

- 25 (a) The name of a person who requests an advisory opinion is confidential.
- 26 (b) The original request for an advisory opinion shall be placed in a confidential file. [~~No~~
27 ~~original request or copy of an original request may be removed from the agency office.~~]
- 28 (c) Confidentiality under subsection (a) of this section may be waived only if the person
29 making the request for an advisory opinion provides a verified, written waiver of
30 confidentiality to the executive director.

1 (d) If a request for a copy of an advisory opinion request is received, the executive director
2 shall prepare a redacted version of the advisory opinion request by deleting any information
3 that is likely to identify the person making the request. The redacted version of the request
4 shall be provided to the person who requested a copy of the advisory opinion request.

5 **§8.21. Compilation of Advisory Opinions.**

6 The executive director shall number and categorize each advisory opinion issued and shall
7 annually compile a summary of advisory opinions in a single reference document. The
8 executive director may publish and provide copies of advisory opinions in other formats as
9 may be in the public interest.

DRAFT 1

EXHIBIT A

Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

The deleted language is indicated by ~~[strike through]~~ text.

1 **Chapter 12. SWORN COMPLAINTS**

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

3 **§12.83. Preliminary Review.**

4 (a) A complainant or respondent must respond to written questions [~~submitted to the~~
5 ~~respondent pursuant to section 571.1243 of the Government Code~~] not later than 15
6 business days after receiving [~~the respondent receives~~] the written questions. The executive
7 director may grant an extension of the time period for good cause shown.

8
9 (b) If the commission staff submits written questions to a respondent [~~pursuant to section~~
10 ~~571.1243 of the Government Code~~], the 120-day deadline for the commission to propose
11 an agreement to the respondent or dismiss the complaint (provided in section 571.1242(g)
12 of the Government Code) [~~time period set forth in section 571.1242(a)(2) of the~~
13 ~~Government Code or section 571.1242(b)(2) of the Government Code, as applicable, is~~
14 ~~increased by the number of business days during the period~~] is tolled beginning on the date
15 the commission sends the written questions and resets [~~ending~~] on the date the commission
16 receives the respondent's written response.

17
18 (c) If the commission staff applies to the commission for the issuance of a subpoena
19 pursuant to section 571.137(a-1) of the Government Code, the 120-day deadline for the
20 commission to propose an agreement to the respondent or dismiss the complaint (provided
21 in section 571.1242(g) of the Government Code) is tolled [~~time period set forth in section~~
22 ~~571.1242(a)(2) of the Government Code or section 571.1242(b)(2) of the Government~~
23 ~~Code as applicable, is increased by the number of business days during the period~~]
24 beginning on the date the staff applies to the commission for the subpoena and resets
25 [~~ending~~] on either:

26
27 (1) the date the commission rejects the staff's application for a subpoena;

28
29 (2) the date the person to whom the subpoena is directed complies with the
30 subpoena; or

31
32 (3) the date the commission receives a final ruling on a person's failure or refusal to
33 comply with a subpoena that is reported [~~reports~~] to a district court pursuant to
34 section 571.137(c) of the Government Code.
35

1 (d) If the commission staff proposes to a respondent an agreement to settle a complaint that
2 would be effective upon approval by the commission and the respondent, the 120-day
3 deadline for the commission to propose an agreement to the respondent or dismiss the
4 complaint (provided in section 571.1242(g) of the Government Code) is met. If a
5 respondent approves a proposed agreement, commission staff must submit the proposed
6 agreement to the commission to seek final approval at the next scheduled commission
7 meeting. If a respondent rejects a proposed agreement, the matter shall be set for a
8 preliminary review hearing at the next commission meeting for which notice has not yet
9 been posted. If a respondent rejects a proposed agreement within 45 days before the date
10 of a commission meeting, the matter shall be set for a preliminary review hearing at the
11 next commission meeting thereafter.

12
13 (e) [~~(d)~~] During a preliminary review, commission staff may present documents or
14 evidence, make recommendations, or otherwise communicate with commissioners outside
15 the presence of the respondent for the purpose of investigating and resolving a sworn
16 complaint.

17
18 (f) [~~(e)~~] Commission staff may not communicate with a commissioner outside the presence
19 of the respondent for the purpose of influencing a decision on a pending sworn complaint
20 after the complaint has been scheduled for a preliminary review hearing and notice of the
21 hearing has been sent to the respondent.

22 **Subchapter D. PRELIMINARY REVIEW HEARING**

23 **§12.84. Notice of Preliminary Review Hearing.**

24 (a) Commission staff shall provide notice of a preliminary review hearing to a respondent
25 and complainant at least 45 days before the date of the hearing and must include:

- 26
27 (1) the date, time, place, and nature of the hearing;
28 (2) a statement of the legal authority and jurisdiction under which the hearing is to
29 be held;
30 (3) a reference to the particular sections of the statutes and rules involved; and
31 (4) a short and plain statement of the factual matters asserted.

32 (b) Commission staff shall provide to a respondent at least 30 days before the date of the
33 hearing:

- 34 (1) a list of proposed witnesses to be called at the hearing and a brief statement as
35 to the nature of the testimony expected to be given by each witness to be called at
36 the hearing; and
37 (2) copies of all documents expected to be used or introduced as exhibits at the
38 hearing.

1 (c) The respondent shall provide to commission staff the contents described by subsections
2 (b)(1) and (b)(2) of this section at least 30 days before the date of the hearing. [~~The contents~~
3 ~~must be received by commission staff at least 14 days before the date of the hearing.~~] If a
4 respondent or commission staff fails to comply with this section, the commission may
5 reschedule the hearing or proceed with the hearing and exclude at the hearing evidence,
6 documents, and testimony provided by the respondent or commission staff, as applicable,
7 but such failure may be excused upon a showing of good cause.

1
2
3
4
5
6
7
8

S.B. No. 548

AN ACT

9 relating to complaints filed with and certain other filings submitted to
10 the Texas Ethics Commission.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

12 SECTION 1. Section 571.0771(b), Government Code, is amended to read
13 as follows:

14 (b) Subsection (a) does not apply to:

15 (1) a penalty imposed under Section 571.069 or Subchapter [~~E~~
16 ~~ex~~] F; or

17 (2) a report required to be filed under Section [~~254.038,~~
18 ~~254.039,~~] 254.064(c), 254.124(c), or 254.154(c), Election Code.

19 SECTION 2. Section 571.097, Government Code, is amended to read as
20 follows:

21 Sec. 571.097. DEFENSES: [~~DEFENSE FOR~~] RELIANCE ON ADVISORY

1 OPINION; COMMISSION'S FAILURE TO ISSUE OPINION. (a) It is a defense to
2 prosecution or to imposition of a civil penalty that the person
3 reasonably relied on a written advisory opinion of the commission
4 relating to the provision of the law the person is alleged to have
5 violated or relating to a fact situation that is substantially similar to
6 the fact situation in which the person is involved.

7 (b) It is a defense to prosecution or to imposition of a civil
8 penalty for the violation of a law that:

9 (1) the person requested a written advisory opinion from the
10 commission relating to the application of that law to a specified
11 existing fact situation involving the person that is the same fact
12 situation or substantially similar to the fact situation that forms the
13 basis of the alleged violation; and

14 (2) the commission did not issue the opinion within the time
15 prescribed by Section 571.092.

16 (c) The defense to prosecution or imposition of a civil penalty
17 under Subsection (b) applies only to acts giving rise to a potential
18 violation of law occurring in the period beginning on the date the time

1 prescribed by Section 571.092 expires and ending on the date the
2 commission issues the requested opinion.

3 SECTION 3. Section 571.1212, Government Code, is amended to read as
4 follows:

5 Sec. 571.1212. CATEGORIZATION OF VIOLATIONS. An allegation of a
6 violation listed as a Category One violation shall be treated as a
7 Category Two violation if the executive director at any time determines
8 that:

9 (1) the allegation arises out of the same set of facts as
10 those that give rise to an allegation of a Category Two violation, and
11 the interests of justice or efficiency require resolution of the
12 allegations together; or

13 (2) the facts and law related to a particular allegation or a
14 defense to the allegation present a level of complexity that prevents
15 resolution through the preliminary review procedures for Category One
16 violations prescribed by Section 571.1242 [~~571.1242(a)~~].

17 SECTION 4. Subchapter E, Chapter 571, Government Code, is amended
18 by adding Section 571.1223 to read as follows:

1 Sec. 571.1223. DISMISSAL OF COMPLAINT FOLLOWING CORRECTED OR
2 AMENDED STATEMENT, REGISTRATION, OR REPORT. At any stage of a proceeding
3 under this subchapter, the commission shall dismiss a complaint to the
4 extent the complaint alleges a statement, registration, or report
5 violates a law or rule if:

6 (1) the respondent has filed a corrected or amended statement,
7 registration, or report before the commission accepts jurisdiction over
8 the complaint; and

9 (2) the corrected or amended statement, registration, or
10 report remedies the alleged violation.

11 SECTION 5. The heading to Section 571.1241, Government Code, is
12 amended to read as follows:

13 Sec. 571.1241. REVIEW OF EXECUTIVE DIRECTOR'S DETERMINATION OF [NØ]
14 JURISDICTION.

15 SECTION 6. Section 571.1241(a), Government Code, is amended to read
16 as follows:

17 (a) If the executive director determines that the commission does
18 not have jurisdiction over the violation alleged in the complaint, the

1 complainant or respondent may request that the commission review the
2 determination. A request for review under this section must be filed not
3 later than the 30th day after the date the complainant or respondent
4 receives the executive director's determination.

5 SECTION 7. The heading to Section 571.1242, Government Code, is
6 amended to read as follows:

7 Sec. 571.1242. PRELIMINARY REVIEW[~~;- RESPONSE BY RESPONDENT~~].

8 SECTION 8. Sections 571.1242(a), (b), and (c), Government Code, are
9 amended to read as follows:

10 (a) If the alleged violation is a Category One violation,[;-
11 [+1-] the respondent must respond to the notice required by
12 Section 571.123(b) not later than the 10th business day after the date
13 the respondent receives the notice[~~;- and~~

14 ~~[-(2)- if the matter is not resolved by agreement between the~~
15 ~~commission and the respondent before the 30th business day after the date~~
16 ~~the respondent receives the notice under Section 571.123(b), the~~
17 ~~commission shall set the matter for a preliminary review hearing to be~~
18 ~~held at the next commission meeting for which notice has not yet been~~

1 posted].

2 (b) If the alleged violation is a Category Two violation, [÷

3 [~~1~~] the respondent must respond to the notice required by
4 Section 571.123(b) not later than the 25th business day after the date
5 the respondent receives the notice under Section 571.123(b) [÷ and

6 [~~2~~] if the matter is not resolved by agreement between the
7 commission and the respondent before the 75th business day after the date
8 the respondent receives the notice under Section 571.123(b), the
9 commission shall set the matter for a preliminary review hearing to be
10 held at the next commission meeting for which notice has not yet been
11 posted].

12 (c) A respondent's failure to timely respond as required by
13 Subsection (a) [~~(a)(1)~~] or (b) [~~(b)(1)~~] is a Category One violation.

14 SECTION 9. Section 571.1243, Government Code, is redesignated as
15 Section 571.1242(f), Government Code, and amended to read as follows:

16 (f) [Sec. 571.1243. ~~PRELIMINARY REVIEW: WRITTEN QUESTIONS.~~]
17 During a preliminary review, the commission staff may submit to the
18 complainant or respondent written questions reasonably intended to lead

1 to the discovery of matters relevant to the investigation.

2 SECTION 10. Section 571.1242, Government Code, is amended by adding
3 Subsections (g), (h), (i), and (j) to read as follows:

4 (g) Not later than the 120th day after the later of the date the
5 commission receives a respondent's response to notice as required by
6 Subsection (a) or (b) or the respondent's response to written questions
7 as required by Subsection (f), the commission shall:

8 (1) propose an agreement to the respondent to settle the
9 complaint without holding a preliminary hearing; or

10 (2) dismiss the complaint.

11 (h) The deadline under Subsection (g) is tolled for the duration of
12 any litigation brought by the respondent or the commission regarding the
13 complaint at issue.

14 (i) If a respondent rejects a proposed settlement under Subsection
15 (g), the matter shall be set for a preliminary review hearing at the next
16 commission meeting for which notice has not yet been posted.

17 (j) If a complaint is dismissed under Subsection (g), the
18 commission shall deny jurisdiction over any subsequent complaint against

1 the respondent that alleges the respondent violated the same statutes or
2 rules based on the same facts alleged in the dismissed complaint.

3 SECTION 11. Section 571.125, Government Code, is amended by adding
4 Subsection (f) to read as follows:

5 (f) Counsel for the respondent may subpoena a witness to a
6 preliminary review hearing in the same manner as an attorney may issue a
7 subpoena in a proceeding in a county or district court.

8 SECTION 12. Section 571.130, Government Code, is amended by adding
9 Subsection (f) to read as follows:

10 (f) Counsel for the respondent may subpoena a witness to a formal
11 hearing in the same manner as an attorney may issue a subpoena in a
12 proceeding in a county or district court.

13 SECTION 13. Section 571.1242(e), Government Code, is repealed.

14 SECTION 14. The changes in law made by this Act to Chapter 571,
15 Government Code, apply only to a complaint filed under that chapter on or
16 after the effective date of this Act. A complaint filed before the
17 effective date of this Act is governed by the law in effect when the
18 complaint was filed, and the former law is continued in effect for that

1 purpose.

2 SECTION 15. This Act takes effect September 1, 2019.

3

S.B. No. 548

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 548 passed the Senate on
March 26, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 548 passed the House on May 22, 2019,
by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

EXHIBIT A

Text of Proposed Rule Amendments

Chapter 12. SWORN COMPLAINTS

1 **§12.34. Agreed Orders.**

2 (a) The commission may enter into an agreed order with a respondent to resolve and settle
3 a complaint filed against the respondent, including an assurance of voluntary compliance,
4 a notice of reporting error, or an agreed order and resolution.

5 (b) An assurance of voluntary compliance:

6 (1) resolves a sworn complaint:

7 (A) with no determination that a violation within the jurisdiction of the
8 commission has occurred, if entered into before a preliminary review hearing
9 is completed; or

10 (B) with a determination that all violations within the jurisdiction of the
11 commission, when viewed as a whole in consideration of any mitigating
12 action taken by the respondent, are technical or de minimis; and

13 (2) may include a civil penalty.

14 (c) A notice of reporting error resolves a complaint with a determination that all violations
15 within the jurisdiction of the commission are reporting errors that do not materially defeat
16 the purpose of disclosure and may include a civil penalty in the form of an assessment fee.

17 (d) An agreed order and resolution resolves a sworn complaint with a determination that
18 one or more violations within the jurisdiction of the commission occurred and may include
19 a civil penalty.

EXHIBIT A

Text of Proposed New Rules and Amendments

The proposed new language is indicated by underlined text.

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

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)	The amount of political contributions or political expenditures permitted by a political committee before a campaign treasurer appointment is required	\$500	<u>\$910</u> [\$870]
253.031(d)(2)	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>\$33,750</u> [\$32,320]
253.032(a)	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>\$930</u> [\$900]
253.032(a)(1)	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	\$100	<u>\$190</u> [\$180]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
	253.032(a), Election Code		
253.032(e)	Threshold of contributions accepted from an out-of-state political committee at or below which certain information or a statement of organization must be included in a report	\$500	<u>\$930</u> [\$900]
254.031(a)(1)	Threshold at which contributor information is required to be reported	\$50	\$90
254.031(a)(2)	Threshold at which lender information is required to be reported	\$50	\$90
254.031(a)(3)	Threshold at which information on the payee of a political expenditure is required to be reported	\$100	<u>\$190</u> [\$180]
254.031(a)(5)	Threshold below which contributor information is not required to be reported	\$50	\$90
254.031(a)(5)	Threshold below which payee information is not required to be reported	\$100	<u>\$190</u> [\$180]
254.031(a)(9)	Threshold at which the source of any credit, interest, return of deposit fee from political contributions or asset is required to be reported	\$100	<u>\$120</u> [\$130]
254.031(a)(10)	Threshold at which the proceeds from sale of a political asset is required to be reported	\$50	<u>\$120</u> [\$130]
254.031(a)(11)	Threshold at which any gain from an investment purchased with political contributions is required to be reported	\$50	<u>\$120</u> [\$130]
254.031(a)(12)	Threshold at which any other gain from political contribution is required to be reported	\$50	<u>\$120</u> [\$130]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.0311(b)(1)	Threshold at which contributor information for contributions from non-caucus members is required to be reported by a caucus	\$50	\$90
254.0311(b)(2)	Threshold at which lender information is required to be reported by a caucus	\$50	\$90
254.0311(b)(3)	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)	Threshold below which contributor and payee information is not required to be reported by a caucus	\$50	\$90
254.0312	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>\$710</u> [\$680]
254.036	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>\$28,420</u> [\$27,140]
254.038(a)	Contribution threshold triggering a Special Report Near Election by Certain Candidates and Political Committees	\$1,000	<u>\$1,860</u> [\$1,790]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
	during the 9 days before election		
254.039	Contribution threshold triggering Special Report Near Election by GPACs during the 9 days before election	\$5,000	<u>\$6,370</u> [\$6,090]
254.039	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>\$1,860/\$27,950</u> [\$1,790/\$26,780]
254.0611(a)(2)	Threshold at which principal occupation/employer information for contributors to judicial filers is required to be reported	\$50	\$90
254.0611(a)(3)	Threshold at which the disclosure of an asset purchased with political contributions is required to be reported by judicial filers	\$500	<u>\$930</u> [\$900]
254.0612	Threshold at which principal occupation/employer information for contributors to statewide executive and legislative candidates is required to be reported	\$500	<u>\$930</u> [\$900]
254.095	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>\$930</u> [\$900]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.151(6)	Threshold at which the principal occupation for GPAC contributors is required to be reported	\$50	\$90
254.1541(a)	Threshold of political contributions and political expenditures below which a GPAC has a \$100 contribution itemization threshold, rather than \$50	\$20,000	<u>\$27,000</u> [\$25,860]
254.1541(b)	Contribution reporting threshold for GPACs qualifying under section 254.1541 set to \$100	\$100	<u>\$190</u> [\$180]
254.156(1)	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)	Threshold at which contribution information for MPACs qualifying under section 254.1541 is set to \$20	\$20	\$40
254.181, 254.182, 254.183	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>\$930</u> [\$900]
254.261	Threshold at which a person making direct campaign expenditures in an election must disclose the expenditures, including payee information	\$100	<u>\$140</u> [\$130]

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.003(1)	Threshold of expenditures over which a person must register as a lobbyist	\$500, by 1 Tex. Admin. Code §34.41	<u>\$810</u> [\$780]
305.003(2)	Threshold of compensation or reimbursement over which a person must register as a lobbyist	\$1,000, by 1 Tex. Admin. Code §34.43	<u>\$1,620</u> [\$1,560]
305.004(7)	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>\$9,320</u> [\$8,930]
305.005(g)(2)	Threshold of category to report compensation less than \$10,000	\$10,000	<u>\$18,630</u> [\$17,860]
305.005(g)(3)	Upper threshold of category to report compensation of at least \$10,000 but less than \$25,000	\$25,000	<u>\$46,580</u> [\$44,630]
305.005(g)(4)	Upper threshold of category to report compensation of at least \$25,000 but less than \$50,000	\$50,000	<u>\$93,150</u> [\$89,260]
305.005(g)(5)	Upper threshold of category to report compensation of at least \$50,000 but less than \$100,000	\$100,000	<u>\$186,300</u> [\$178,520]
305.005(g)(6)	Upper threshold of category to report compensation of at least \$100,000 but less than \$150,000	\$150,000	<u>\$279,450</u> [\$267,770]
305.005(g)(7)	Upper threshold of category to report compensation of at least \$150,000 but less than \$200,000	\$200,000	<u>\$372,600</u> [\$357,030]
305.005(g)(8)	Upper threshold of category to report compensation of at least \$200,000 but less than \$250,000	\$250,000	<u>\$465,750</u> [\$446,280]
305.005(g)(9)	Upper threshold of category to report compensation of at least \$250,000 but less than \$300,000	\$300,000	<u>\$558,900</u> [\$535,540]
305.005(g)(10)	Upper threshold of category to report compensation of at least \$300,000 but less than \$350,000	\$350,000	<u>\$652,050</u> [\$624,790]

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.005(g)(11)	Upper threshold of category to report compensation of at least \$350,000 but less than \$400,000	\$400,000	<u>\$745,200</u> [\$714,050]
305.005(g)(12)	Upper threshold of category to report compensation of at least \$400,000 but less than \$450,000	\$450,000	<u>\$838,350</u> [\$803,310]
305.005(g)(13)	Upper threshold of category to report compensation of at least \$450,000 but less than \$500,000	\$500,000	<u>\$931,500</u> [\$892,560]
305.005(g-1)	Threshold of compensation or reimbursement at which a registrant must report the exact amount	\$500,000	<u>\$931,500</u> [\$892,560]
305.0061(c)(3)	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)	Threshold below which an expenditure for food or beverages is considered a gift and reported as such	\$50	\$90
305.0063	Threshold of expenditures below which a registrant may file lobby activities reports annually instead of monthly	\$1,000	<u>\$1,860</u> [\$1,790]

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.022(a)(1)	Threshold of category to report an amount less than \$5,000	less than \$5,000	less than <u>\$9,320</u> [\$8,930]
572.022(a)(2)	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>\$9,320</u> [\$8,930] to less than <u>\$18,630</u> [\$17,860]
572.022(a)(3)	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>\$18,630</u> [\$17,860] to less than <u>\$46,580</u> [\$44,630]
572.022(a)(4)	Threshold of category to report an amount of at least \$25,000 or more	\$25,000 or more	<u>\$46,580</u> [\$44,630] or more

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.005, 572.023(b)(1)	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>\$46,580</u> [\$44,630]
572.023(b)(4)	Threshold over which income from interest, dividends, royalties, and rents is required to be reported	\$500	<u>\$930</u> [\$900]
572.023(b)(5)	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>\$1,860</u> [\$1,790]
572.023(b)(7)	Threshold of value over which the identity of the source of a gift and a gift description is required to be reported	\$250	<u>\$470</u> [\$450]
572.023(b)(8)	Threshold over which the source and amount of income received as beneficiary of a trust asset is required to be reported	\$500	<u>\$930</u> [\$900]
<u>572.023(b)(15)</u>	<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</u>	<u>Exceeds \$10,000</u>	<u>\$10,220</u>
<u>572.023(b)(15)(A)</u>	<u>itemization under (15) of contracts for sale of goods or services in the amount of \$2,500 or more to governmental entities</u>	<u>\$2,500 or more</u>	<u>\$2,560 or more</u>
<u>572.023(b)(16)(D)(i)</u>	<u>category of amount of bound counsel fees paid to legislator</u>	<u>less than \$5,000</u>	<u>less than \$5,110</u>

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

Speaker Election and Certain Ceremonial Reports: Section of Government Code	Threshold Type	Current Threshold Amount	Adjusted Amount
302.014(4)	Expenditure of campaign funds over \$10 must be disclosed, including payee's name and address and the purpose	\$10	\$20
303.005(a)(1) – (10)	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)(b) The effective date of this rule is January 1, 2021[0].

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 \$6,370 [~~\$6,130~~] 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 [~~\$180~~] 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 [~~\$180~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] 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 \$930 [~~\$900~~] 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 \$930 [~~\$900~~] 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.

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

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

- (1) the candidate's full name;
- (2) the candidate's address;
- (3) the office sought by the candidate, if known;
- (4) the identity and date of the election for which the report is filed, if known;
- (5) the campaign treasurer's name;
- (6) the campaign treasurer's telephone number;
- (7) the campaign treasurer's residence or business street address;
- (8) for each political committee from which the candidate received notice under §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of this title (relating to Notice to Candidate or Officeholder):
 - (A) the committee's full name;
 - (B) the committee's address;
 - (C) identification of the political committee as a general-purpose or a specific-purpose committee;
 - (D) the full name of the committee's campaign treasurer; and
 - (E) the address of the committee's campaign treasurer;
- (9) on a separate page, the following information for each expenditure from political contributions made to a business in which the candidate has a participating interest

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

- (A) the full name of the business to which the expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

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

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

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

- (A) the full name of the person making the pledge;
- (B) the address of the person making the pledge;
- (C) the amount of each pledge;
- (D) the date each pledge was accepted; and
- (E) a description of any goods or services pledged; and
- (F) the total of all pledges accepted during the period for \$90 and less from a person, except those reported under subparagraphs (A)-(E) of this paragraph;

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

- (A) the full name of the person or financial institution making the loan;
- (B) the address of the person or financial institution making the loan;

- (C) the amount of the loan;
- (D) the date of the loan;
- (E) the interest rate;
- (F) the maturity date;
- (G) the collateral for the loan, if any; and
- (H) if the loan has guarantors:

- (i) the full name of each guarantor;
- (ii) the address of each guarantor;
- (iii) the principal occupation of each guarantor;
- (iv) the name of the employer of each guarantor; and
- (v) the amount guaranteed by each guarantor;

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

(14) for political expenditures made during the reporting period that total more than \$190 [~~\$180~~] to a single payee, other than expenditures reported under paragraph (9) of this section:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

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

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure;
- (E) a declaration that the expenditure was made out of personal funds;

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

(G) the amount of the expenditure;

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

(A) the date of each expenditure;

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

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

(D) the purpose of the expenditure; and

(E) the amount of the expenditure;

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

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

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

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

(19) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(20) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(21) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(22) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

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

(24) the following total amounts:

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

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

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

(D) the total amount or an itemized listing of the political expenditures of \$190 [~~\$180~~] and less; and

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

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

§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 \$610 [~~\$590~~] 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 \$610 [~~\$590~~]

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 \$1,860 [~~\$1,800~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] in political expenditures during the reporting period.

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

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

- (1) the officeholder's full name;
- (2) the officeholder's address;
- (3) the office held by the officeholder;
- (4) for each political committee from which the officeholder received notice under §20.319 of this title (relating to Notice to Candidate or Officeholder) or §20.421 of this title (relating to Notice to Candidate or Officeholder):
 - (A) the committee's full name;
 - (B) the committee's address;
 - (C) identification of the political committee as a general-purpose or a specific-purpose committee;
 - (D) the full name of the committee's campaign treasurer; and
 - (E) the address of the committee's campaign treasurer;
- (5) on a separate page, the following information for each expenditure from political contributions made to a business in which the officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:
 - (A) the full name of the business to which the expenditure was made;
 - (B) the address of the business to which the expenditure was made;
 - (C) the date of the expenditure;
 - (D) the purpose of the expenditure; and
 - (E) the amount of the expenditure;

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

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

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

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

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

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

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

- (i) the full name of each guarantor;
- (ii) the address of each guarantor;
- (iii) the principal occupation of each guarantor;
- (iv) the name of the employer of each guarantor; and
- (v) the amount guaranteed by each guarantor;

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

(11) for political expenditures made during the reporting period that total more than \$190 [~~\$180~~] to a single payee, other than expenditures reported under paragraph (5) of this section:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

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

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of each expenditure;
- (D) the purpose of the expenditure;
- (E) a declaration that the expenditure was made from personal funds;
- (F) a declaration that reimbursement from political contributions is intended; and
- (G) the amount of the expenditure;

(13) for each non-political expenditure made from political contributions, other than expenditures reported under paragraph (5) of this section:

- (A) the date of each expenditure;

- (B) the full name of the person to whom the expenditure was made;
 - (C) the address of the person to whom the expenditure was made;
 - (D) the purpose of the expenditure; and
 - (E) the amount of the expenditure;
- (14) for each candidate or other officeholder who benefits from a direct campaign expenditure made by the officeholder during the reporting period:
- (A) the name of the candidate or officeholder; and
 - (B) the office sought or held by the candidate or officeholder;
- (15) for each political contribution from an out-of-state political committee, the information required by §22.7 of this title (relating to Contribution from Out-of-State Committee);
- (16) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];
- (17) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];
- (18) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];
- (19) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];
- (20) the full name and address of each person from whom an amount described by paragraph (16), (17), (18), or (19) of this section is received, the date the amount is received, and the purpose for which the amount is received;
- (21) the following total amounts:
- (A) the total principal amount of all outstanding loans as of the last day of the reporting period;
 - (B) the total amount or an itemized listing of political contributions (other than pledges, loans, or guarantees of loans) of \$90 and less;
 - (C) the total amount of all political contributions (other than pledges, loans, or guarantees of loans);

(D) the total amount or an itemized listing of the political expenditures of \$190 [~~\$130~~] and less; and

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

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

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 \$910 [~~\$870~~] and may not make or authorize political expenditures exceeding \$910 [~~\$870~~] 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 \$910 [~~\$870~~] 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 \$910 [~~\$870~~] 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 \$910 [~~\$870~~] in political expenditures or \$910 [~~\$870~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] 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 \$930 [~~\$900~~] in political contributions or make more than \$930 [~~\$900~~] 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 \$930 [~~\$900~~] limits for modified reporting.

(g) If a specific-purpose committee exceeds either of the \$930 [~~\$900~~] 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 \$930 [~~\$900~~] 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.

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

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

- (1) the full name of the specific-purpose committee;
- (2) the address of the specific-purpose committee;

- (3) the full name of the specific-purpose committee's campaign treasurer;
- (4) the residence or business street address of the specific-purpose committee's campaign treasurer;
- (5) the committee campaign treasurer's telephone number;
- (6) the identity and date of the election for which the report is filed, if applicable;
- (7) for each candidate supported or opposed by the specific-purpose committee:
 - (A) the full name of the candidate;
 - (B) the office sought by the candidate; and
 - (C) an indication of whether the committee supports or opposes the candidate;
- (8) for each officeholder assisted by the specific-purpose committee:
 - (A) the full name of the officeholder;
 - (B) the office held by the officeholder; and
 - (C) an indication of whether the committee supports or opposes the officeholder;
- (9) for each measure supported or opposed by the specific-purpose committee:
 - (A) a description of the measure; and
 - (B) an indication of whether the committee supports or opposes the measure;
- (10) for each political expenditure by the committee that was made as a political contribution to a candidate, officeholder, or another political committee and that was returned to the specific-purpose committee during the reporting period:
 - (A) the amount returned;
 - (B) the full name of the person to whom the expenditure was originally made;
 - (C) the address of the person to whom the expenditure was originally made; and
 - (D) the date the expenditure was returned to the specific-purpose committee;
- (11) on a separate page, the following information for each expenditure from political contributions made to a business in which the candidate has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:

- (A) the full name of the business to which the expenditure was made;
- (B) the address of the business to which the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure; and
- (E) the amount of the expenditure;

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

- (A) the date each contribution was accepted;
- (B) the full name of the corporation or labor organization making the contribution;
- (C) the address of the corporation or labor organization making the contribution;
- (D) the amount of the contribution; and
- (E) a description of any in-kind contribution;

(13) for each person from whom the specific-purpose committee accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than \$90 in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than \$90 in value:

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

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

- (A) the full name of the person making a pledge;
- (B) the address of the person making a pledge;
- (C) the amount of the pledge;

- (D) the date each pledge was accepted; and
 - (E) a description of any goods or services pledged;
- (15) the total of all pledges accepted during the period for \$90 and less from a person, except those reported under paragraph (14) of this section;
- (16) for each person making a loan or loans to the specific-purpose committee for campaign or officeholder purposes if the total amount loaned by the person during the period is more than \$90:
- (A) the full name of the person or financial institution making the loan;
 - (B) the address of the person or financial institution making the loan;
 - (C) the amount of the loan;
 - (D) the date of the loan;
 - (E) the interest rate;
 - (F) the maturity date;
 - (G) the collateral for the loan, if any; and
 - (H) if the loan has guarantors:
 - (i) the full name of each guarantor;
 - (ii) the address of each guarantor;
 - (iii) the principal occupation of each guarantor;
 - (iv) the name of the employer of each guarantor; and
 - (v) the amount guaranteed by each guarantor;
- (17) the total amount of loans accepted during the period for \$90 and less from persons other than financial institutions engaged in the business of making loans for more than one year, except those reported under paragraph (16) of this section;
- (18) for political expenditures made during the reporting period that total more than \$190 [~~\$180~~] to a single payee:
- (A) the full name of the person to whom each expenditure was made;
 - (B) the address of the person to whom the expenditure was made;
 - (C) the date of the expenditure;
 - (D) the purpose of the expenditure; and

(E) the amount of the expenditure;

(19) for each direct campaign expenditure benefiting a candidate or officeholder, except for a direct campaign expenditure made by a committee supporting only one candidate or officeholder:

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

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

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

(A) the date of each expenditure;

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

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

(D) the purpose of the expenditure; and

(E) the amount of the expenditure;

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

(22) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(23) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(24) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(25) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

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

(27) the following total amounts:

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

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

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

(D) the total amount or an itemized listing of the political expenditures of \$190 [~~\$180~~] and less; and

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

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

§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 \$1,860 [~~\$1,790~~] 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 \$910 [~~\$870~~] and may not make or authorize political expenditures exceeding \$910 [~~\$870~~] 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 \$910 [~~\$870~~] 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 \$910 [~~\$870~~] 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.

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

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

- (1) the full name of the general-purpose committee;
- (2) the address of the general-purpose committee;
- (3) the full name of the general-purpose committee's campaign treasurer;
- (4) the residence or business street address of the general-purpose committee's campaign treasurer;
- (5) the committee campaign treasurer's telephone number;
- (6) the identity and date of the election for which the report is filed, if applicable;
- (7) the full name of each identified candidate or measure or classification by party of candidates supported or opposed by the general-purpose committee and an indication of whether the general-purpose committee supports or opposes each listed candidate, measure, or classification by party of candidates;
- (8) the full name of each identified officeholder or classification by party of officeholders assisted by the general-purpose committee;
- (9) if the general-purpose committee supports or opposes measures exclusively, for each contribution accepted from a corporation as defined by §20.1 of this title (relating to Definitions):
 - (A) the date each contribution was accepted;
 - (B) the full name of the corporation or labor organization making the contribution;
 - (C) the address of the corporation or labor organization making the contribution;
 - (D) the amount of the contribution; and
 - (E) a description of any in-kind contribution;

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

(A) the amount returned;

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

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

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

(11) for each person from whom the general-purpose committee accepted a political contribution other than a pledge or a loan of more than \$90 in value, or political contributions other than pledges or loans that total more than \$90 in value (or more than \$20 for a general-purpose committee reporting monthly):

(A) the date each contribution was accepted;

(B) the full name of the person making the contribution;

(C) the address of the person making the contribution;

(D) the principal occupation of the person making the contribution;

(E) the amount of the contribution; and

(F) a description of any in-kind contribution;

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

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

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

(C) the principal occupation of the person making the pledge;

(D) the amount of each pledge;

(E) the date each pledge was accepted; and

(F) a description of any goods or services pledged;

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

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

- (A) the full name of the person or financial institution making the loan;
- (B) the address of the person or financial institution making the loan;
- (C) the amount of the loan;
- (D) the date of the loan;
- (E) the interest rate;
- (F) the maturity date;
- (G) the collateral for the loan, if any; and
- (H) if the loan has guarantors:
 - (i) the full name of each guarantor;
 - (ii) the address of each guarantor;
 - (iii) the principal occupation of each guarantor;
 - (iv) the name of the employer of each guarantor; and
 - (v) the amount guaranteed by each guarantor;

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

(16) for political expenditures made during the reporting period that total more than \$190 [~~\$180~~] (more than \$20 for a general-purpose committee reporting monthly) to a single payee:

- (A) the full name of the person to whom each expenditure was made;
- (B) the address of the person to whom the expenditure was made;
- (C) the date of the expenditure;
- (D) the purpose of the expenditure;
- (E) the amount of the expenditure; and
- (F) indication for an expenditure paid in full or in part from corporations or labor organizations that it was paid from such sources.

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

- (A) the date of each expenditure;
- (B) the full name of the person to whom the expenditure was made;
- (C) the address of the person to whom the expenditure was made;
- (D) the purpose of the expenditure;
- (E) the amount of the expenditure; and
- (F) indication for an expenditure paid in full or in part from corporations or labor organizations that it was paid from such sources.

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

- (A) the name of the candidate or officeholder; and
- (B) the office sought or held by the candidate or officeholder;

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

(20) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(21) any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(22) any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

(23) any investment purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120; [~~\$130~~];

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

(25) the following total amounts:

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

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

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

(D) the total amount or an itemized listing of the political expenditures of \$190 [~~\$180~~] and less (\$20 and less for a general-purpose committee reporting monthly); and

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

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

§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 \$27,000 [~~\$25,860~~] 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 [~~\$180~~] instead of the threshold reporting amount of \$90 [~~\$50~~] 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 \$1,860 [~~\$1,790~~] or a group of candidates that in the aggregate exceed \$27,950 [~~\$26,780~~] during the reporting period for special pre-election reports; or

(2) accepts political contributions from a person that in the aggregate exceed \$6,370 [~~\$6,090~~] 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 \$33,750 [~~\$32,320~~] 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 \$33,750 [~~\$32,320~~] 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 \$33,750 [~~\$32,320~~] 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 \$33,750 [~~\$32,320~~] 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 \$33,750 [~~\$32,320~~] thresholds in the previous calendar year; or

(2) at any time if the committee has not exceeded one of the \$33,750 [~~\$32,320~~] 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 \$910 [~~\$870~~] and may not make or authorize political expenditures exceeding \$910 [~~\$870~~] 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 \$910 [~~\$870~~] 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).

§22.6. Reporting Direct Campaign Expenditures.

(a) Section 254.261 of the Election Code applies to a person who, not acting in concert with another person, makes one or more direct campaign expenditures that exceed \$140 [~~\$130~~] in an election from the person's own property.

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

(1) using the same consultants;

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

§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 \$930, [~~\$900~~], 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 \$930 [~~\$900~~] 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 [~~\$180~~] 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 \$930. [~~\$900~~]

(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 \$930 [~~\$900~~] 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 \$810 [~~\$780~~] 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 \$1,620 [~~\$1,560~~] 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.