

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

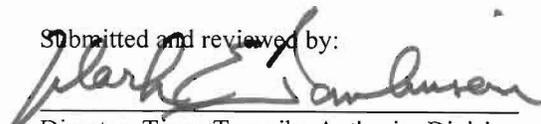
The Texas Transportation Commission (commission) finds it necessary to propose new §26.56 relating to Internal Ethics and Compliance Program to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed new section, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

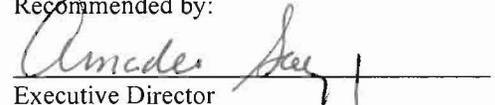
IT IS THEREFORE ORDERED by the commission that new §26.56 is proposed for adoption and is authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


Director, Texas Turnpike Authority Division

Recommended by:


Executive Director

112071 DEC 17 09

Minute
Number

Date
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes new
3 §26.56, concerning a required internal ethics and compliance
4 program.

5

6 EXPLANATION OF PROPOSED NEW SECTION

7 To maintain and build on the department's commitment to
8 integrity and ethical behavior, the Texas Transportation
9 Commission (commission) ordered the department to develop an
10 internal compliance program designed to promote an
11 organizational culture that encourages ethical conduct and a
12 commitment to compliance with the law and departmental policies.
13 The proposed new section expands the use of that concept to
14 require regional mobility authorities (RMA) to have and enforce
15 compliance with an internal ethics and compliance program. The
16 purpose of the proposed changes is to curtail fraudulent and
17 illegal activity by persons who receive financial assistance
18 from or through the department.

19

20 New §26.56, Internal Ethics and Compliance Program, requires an
21 RMA to adopt, and enforce compliance with, an internal ethics
22 and compliance program that satisfies the requirements of 43 TAC
23 §1.8, Internal Ethics and Compliance Program.

24

1 FISCAL NOTE

2 James Bass, Chief Financial Officer, has determined that for
3 each of the first five years the new section as proposed is in
4 effect, there may be some minimal fiscal implications, but those
5 fiscal implications cannot be quantified with any certainty
6 since the department does not know which RMAs have qualifying
7 programs in place now, which have programs that need to be
8 upgraded, and which have no current program.

9

10 Mark Tomlinson, Director, Texas Turnpike Authority Division, has
11 certified that there will be no significant impact on local
12 economies or overall employment as a result of enforcing or
13 administering the new section.

14

15 PUBLIC BENEFIT AND COST

16 Mr. Tomlinson has also determined that for each year of the
17 first five years the section is in effect, the public benefit
18 anticipated as a result of enforcing or administering the new
19 section will be for RMAs to establish and enforce a framework
20 for discouraging fraudulent and illegal activity by persons with
21 whom the RMAs have interactions. There are no anticipated
22 economic costs for persons required to comply with the section
23 as proposed. There will be no adverse economic effect on small
24 businesses.

25

1 SUBMITTAL OF COMMENTS

2 Written comments on the proposed new §26.56 may be submitted to
3 Mark Tomlinson, Director, Texas Turnpike Authority Division,
4 Texas Department of Transportation, 125 East 11th Street,
5 Austin, Texas 78701-2483. The deadline for receipt of comments
6 is 5:00 p.m. on February 1, 2010.

7

8 STATUTORY AUTHORITY

9 The new section is proposed under Transportation Code, §201.101,
10 which provides the commission with the authority to establish
11 rules for the conduct of the work of the department, and more
12 specifically, Transportation Code, §370.038, which provides the
13 commission with the authority to establish rules for minimum
14 audit and reporting requirements and standards of RMAs and
15 minimum ethical standards for RMA directors and employees.

16

17 CROSS REFERENCE TO STATUTE

18 Transportation Code, Chapter 370, Subchapter B.

1 SUBCHAPTER F. MISCELLANEOUS OPERATION PROVISIONS

2 §26.56. Required Internal Ethics and Compliance Program.

3 (a) An RMA shall adopt an internal compliance and ethics
4 program that satisfies the requirements of §1.8 of this title
5 (relating to Internal Ethics and Compliance Program).

6 (b) An RMA must finally adopt a program described by
7 subsection (a) of this section before the later of:

8 (1) April 1, 2011; or

9 (2) the first anniversary of the date on which the RMA is
10 created.

11 (c) An RMA shall enforce compliance with its internal
12 compliance and ethics program.