

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.2, Texas Department of Transportation and §1.4, Public Access to Commission Meetings relating to management to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A - C, 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 the amendments to §1.2 and §1.4 are adopted and are authorized for filing with the Office of the Secretary of State.

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:



General Counsel

Recommended by:



Executive Director

112038 NOV 19 09

Minute Number Date Passed

Adoption Preamble

The Texas Department of Transportation (department) adopts amendments to §1.2, Texas Department of Transportation, and §1.4, Public Access to Commission Meetings, all concerning management of the department. The amendments to §§1.2 and 1.4 are adopted without changes to the proposed text as published in the September 2009 issue of the *Texas Register* (34 TexReg 6299) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The legislature's enactment of S.B. 970, 81st Legislature, Regular Session, 2009, and the commission's adoption of a regionalization plan for the department require changes to rules of the Texas Transportation Commission (commission) relating to the management of the department.

Amendments to §1.2, Texas Department of Transportation, change the qualifications of the executive director of the department contained in subsection (a)(1) to conform to the changes made by S.B. 970, which removed the requirements that the executive director be a registered professional engineer and be skilled in construction and maintenance and added the requirement of organizational management skills.

The amendments to §1.2 also add new subsection (e), which

1 recognizes the consolidation of the operational and project
2 development functions of the department's districts into four
3 regional support centers. The creation of the regional support
4 centers is a part of the implementation of the regionalization
5 plan approved by the commission during its March 26, 2009
6 meeting, Minute Order 111738. The amendments redesignate
7 existing subsection (e) as subsection (f).

8

9 Amendments to §1.4(f), Notice, clarify that notice of commission
10 meetings are filed with the Secretary of State rather than with
11 the *Texas Register*. The Secretary of State currently publishes
12 open meeting notices on the Secretary's website rather than in
13 the *Texas Register*.

14

15 COMMENTS

16 No comments on the proposed amendments were received.

17

18 STATUTORY AUTHORITY

19 The amendments are adopted under Transportation Code, §201.101,
20 which provides the Texas Transportation Commission with the
21 authority to establish rules for the conduct of the work of the
22 department.

23

24 CROSS REFERENCE TO STATUTE

25 Transportation Code, §201.101 and §201.301(a).

1 SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES

2 §1.2. Texas Department of Transportation.

3 (a) Executive director.

4 (1) The commission will elect an executive director for
5 the department who shall be [~~a registered professional engineer~~
6 ~~in the State of Texas experienced and~~] skilled in transportation
7 planning~~[,]~~ and development~~[, construction,]~~ and in
8 organizational management [~~maintenance~~]. The executive
9 director, as the chief executive officer of the department, is
10 authorized to administer the day-to-day operations of the
11 department. The executive director may hold that position until
12 removed by the commission.

13 (2) To assist in discharging the duties and
14 responsibilities of the executive director, the executive
15 director may organize, appoint, and retain such administrative
16 staff as he or she deems appropriate.

17 (3) The executive director shall:

18 (A) serve the commission in an advisory capacity,
19 without vote;

20 (B) submit quarterly, annually, and biennially to the
21 commission detailed reports of the progress of public road
22 construction, public and mass transportation development, and
23 detailed statement of expenditures;

1 (C) hire, promote, assign, re-assign, transfer, and,
2 consistent with applicable law and policy, terminate staff
3 necessary to accomplish the roles and missions of the
4 department;

5 (D) notify the chair of grounds for removal of a
6 commissioner if the executive director knows that a potential
7 ground for removal exists, or, if the potential ground for
8 removal relates to the chair, notify another commissioner;

9 (E) under the direction and with the approval of the
10 commission, prepare a comprehensive plan providing a system of
11 state highways; and

12 (F) perform other responsibilities as required by law
13 or assigned by the commission.

14 (4) The executive director may, consistent with
15 applicable law, delegate one or more of the functions listed
16 under paragraph (3)(B)-(F) of this subsection to the staff of
17 the department.

18 (b) Department staff. The staff of the Texas Department of
19 Transportation, under the direction of the executive director,
20 is responsible for:

21 (1) implementing the policies and programs of the
22 commission by:

23 (A) formulating and applying operating procedures; and

1 (B) prescribing such other operating policies and
2 procedures as may be consistent with and in furtherance of the
3 roles and missions of the department;

4 (2) providing the chair and commissioners administrative
5 support necessary to perform their respective duties and
6 responsibilities, including:

7 (A) assigning staff to assist commissioners;

8 (B) providing necessary office space and equipment;

9 (C) furnishing in-house legal counsel;

10 (D) providing all information and documents necessary
11 for the commission to effectively perform its responsibilities;
12 and

13 (E) preparing an agenda under the direction of the
14 chair, providing notice, and transcribing commission meetings
15 and hearings as required by the Texas Open Meetings Act,
16 Government Code, Chapter 551; and

17 (3) performing all other duties as prescribed by law or
18 as assigned by the commission.

19 (c) Divisions. Consistent with commission direction
20 provided under §1.1(b)(1)(T) and (U) of this subchapter, the
21 executive director shall organize the department into
22 headquarters operating divisions and offices reflecting the
23 various functions and duties assigned to the department, and

1 shall designate a division or office director who shall
2 administer each division or office.

3 (d) Districts.

4 (1) District office. The department is divided into
5 geographical districts, each containing one district office.
6 Each district is administered by a district engineer who is a
7 registered professional engineer and is appointed by the
8 executive director.

9 (2) Area office. A district contains one or more area
10 offices, each of which is responsible for carrying out the
11 department's primary functions at the local level for a
12 designated geographical area. Each area office is normally
13 administered by an area engineer who shall be a registered
14 professional engineer.

15 (3) Project office. A district may contain one or more
16 project offices, which is normally responsible for a specific
17 project within an area.

18 (e) Regional Support Centers. The department has four
19 regional support centers, which provide operational and project
20 development support functions to the districts. The regional
21 support centers are located in Fort Worth, Houston, San Antonio,
22 and Lubbock.

23 (f) [+e+] Automobile Burglary and Theft Prevention

1 Authority. The Automobile Burglary and Theft Prevention
2 Authority (authority) is an independent authority within the
3 department. The authority undertakes a variety of programs
4 designed to reduce thefts of motor vehicles.

1 SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS

2 §1.4. Public Access to Commission Meetings.

3 (a) Purpose. This section provides policies and procedures
4 governing public access to the commission in order to facilitate
5 that access and maximize public participation in the decision-
6 making process, while ensuring orderly and effective conduct of
7 meetings.

8 (b) Posted agenda items. A person may speak before the
9 commission on any matter on a posted agenda by submitting a
10 request, in a form and manner as prescribed by the department,
11 prior to the matter being taken up by the commission. A person
12 speaking before the commission on an agenda item will be allowed
13 an opportunity to speak:

14 (1) prior to a vote by the commission on the item; and

15 (2) for a maximum of three minutes, except as provided in
16 subsection (g)(6) of this section.

17 (c) New agenda items.

18 (1) A person may request the addition of an item to the
19 commission agenda by submitting, no less than 20 days prior to
20 the date which has been set for the next meeting, the following
21 information:

22 (A) the name and address of the person making the
23 request;

1 (B) a clear and concise statement of the subject of the
2 proposed agenda item; and

3 (C) a brief summary of the action sought.

4 (2) If the chair determines that the proposed item is
5 within the jurisdiction of the commission and that the proposed
6 item concerns a matter in which there is sufficient public
7 interest to warrant consideration by the commission as an agenda
8 item, the chair may place the matter on the posted agenda for
9 the next or a subsequent meeting, consistent with available
10 time.

11 (d) Open comment period.

12 (1) At the conclusion of the posted agenda of each
13 regular business meeting the commission will allow an open
14 comment period, not to exceed one hour, to receive public
15 comment on any other matter that is under the jurisdiction of
16 the commission.

17 (2) A person desiring to appear under this subsection
18 must complete a registration form, as provided by the
19 department, prior to the beginning of the open comment period.

20 (3) Except as provided in subsection (g)(6) of this
21 section, each person will be allowed to speak for a maximum of
22 three minutes for each presentation in the order in which he or
23 she registered.

1 (e) Disability accommodation. Persons with disabilities
2 who have special communication or accommodation needs and who
3 plan to attend a meeting may contact the office of the secretary
4 to the commission in Austin. Requests should be made at least
5 two days before a meeting. The department will make every
6 reasonable effort to accommodate these needs.

7 (f) Notice. For each commission meeting an agenda will be
8 filed with the Office of the Secretary of State [~~Texas Register~~]
9 in accordance with the requirements of the Open Meetings Act,
10 Government Code, Chapter 551.

11 (g) Conduct and decorum. The commission will receive
12 public input as authorized by this section, subject to the
13 following guidelines.

14 (1) Questioning of those making presentations will be
15 reserved to commissioners and the department's administrative
16 staff.

17 (2) Organizations, associations, or groups are encouraged
18 to present their commonly held views, and same or similar
19 comments, through a representative member where possible.

20 (3) Presentations shall remain pertinent to the issue
21 being discussed.

22 (4) A person who disrupts a meeting must leave the
23 meeting room if ordered to do so by the chair.

1 (5) Time allotted to one speaker may not be reassigned to
2 another speaker.

3 (6) The time allotted for presentations or comments under
4 this section may be increased or further limited by the chair,
5 or, in the chair's absence, the acting chair, as may be
6 appropriate to assure opportunity for the maximum number of
7 persons to appear.

8 (h) Waiver. Subject to the approval of the chair, a
9 requirement of this section may be waived in the public interest
10 if necessary for the performance of the responsibilities of the
11 commission or the department.