

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.82, statutory advisory committee operations and procedures, §1.84, statutory advisory committees, and §1.85, department advisory committees, all relating to department advisory committees 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 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 the amendments to §1.82, §1.84, and §1.85 are adopted and are authorized for filing with the Office of the Secretary of State.

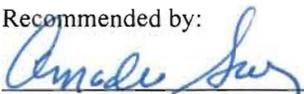
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



General Counsel

Recommended by:



Executive Director

112039 NOV 19 09

Minute
Number

Date
Passed

Adoption Preamble

1
2 The Texas Department of Transportation (department) adopts
3 amendments to §1.82, Statutory Advisory Committee Operations and
4 Procedures, §1.84, Statutory Advisory Committees, and §1.85,
5 Department Advisory Committees, all concerning department
6 advisory committees. The amendments to §1.82, §1.84, and §1.85
7 are adopted in conjunction with the proposed repeal of §24.13,
8 relating to corridor planning and development. The amendments
9 to §§1.82, 1.84, and 1.85 are adopted without changes to the
10 proposed text as published in the September 2009 issue of the
11 *Texas Register* (34 TexReg 6301) and will not be republished.

12

13 EXPLANATION OF ADOPTED AMENDMENTS

14 The adopted amendments are the result of procedural changes by
15 the Secretary of State relating to the publication of meeting
16 notices, the Texas Transportation Commission's (commission)
17 review of the need to continue the existence of the commission's
18 advisory committees, and changes made by H.B. 2219, 81st
19 Legislature, Regular Session, 2009, concerning the Public
20 Transportation Advisory Committee.

21

22 Amendments to §1.82, Statutory Advisory Committee Operations and
23 Procedures, subsection (c)(1), require that notice of advisory
24 committee meetings be filed with the Secretary of State for
25 publication on the Secretary's Internet website rather than

1 having the notice published in the *Texas Register*. This change
2 complies with the Secretary of State's current practice of
3 publishing open meeting notices on the Secretary's website
4 rather than in the *Texas Register*.

5
6 Amendments to subsection (i) of §1.82 revise the sunset dates of
7 commission advisory committees that are created by statute.
8 Section 1.82 currently provides that each statutory advisory
9 committee is abolished December 31, 2009. This sunset date was
10 established under Government Code, §2110.008, which authorizes a
11 state agency to establish by rule a date on which advisory
12 committees will automatically be abolished unless continued.
13 The commission determines that the continued existence of its
14 statutory advisory committees are necessary for improved
15 communication between the department and the public. Therefore,
16 §1.82(i) is amended to revise the sunset date to December 31,
17 2011.

18
19 Amendments to §1.84, Statutory Advisory Committees, subsection
20 (b)(2), remove the provisions relating to the terms and removal
21 of the members of the Public Transportation Advisory Committee.
22 H.B. 2219, made several changes relating to the Public
23 Transportation Advisory Committee, including the selection of
24 members of the committee by the governor, lieutenant governor,
25 and speaker of the house rather than by the commission. Under

1 H.B. 2219 members of the committee no longer serve fixed terms
2 and may be removed only by the appointing officer.

3

4 Amendments to §1.85, Department Advisory Committees, revise the
5 sunset date of advisory committees created by the commission.

6 Section 1.85 provides for the creation and operating procedures
7 of advisory committees of the commission that are not created by
8 statute. Subsection (c) currently provides that each advisory
9 committee created under §1.85 is abolished December 31, 2009.

10 This sunset date was established in accordance with Government
11 Code, §2110.008. The commission determines that each existing
12 advisory committee created under §1.85 is necessary for improved
13 communication between the department and the public. Therefore,
14 §1.85(c) is amended to revise the sunset date to December 31,
15 2011.

16

17 COMMENTS

18 No comments on the proposed amendments were received.

19

20 STATUTORY AUTHORITY

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

24

25 CROSS REFERENCE TO STATUTE

- 1 Government Code, §551.048, Government Code, Chapter 2110, and
- 2 Transportation Code, §455.004.

1 SUBCHAPTER F. ADVISORY COMMITTEES

2 §1.82. Statutory Advisory Committee Operations and Procedures.

3 (a) Applicability. This section applies to statutory
4 advisory committees and governs the operation of statutory
5 advisory committees unless it is superceded by a specific
6 provision in §1.84 of this subchapter (relating to Statutory
7 Advisory Committees).

8 (b) Election of officers and terms of members.

9 (1) Unless otherwise specified with regard to a
10 particular committee, each committee shall elect a chair and
11 vice-chair by majority vote of the members of the committee.
12 The chair and vice-chair shall each be elected for a term of not
13 less than one year and not more than two years. Once elected,
14 the chair and vice-chair may stand for reelection, without limit
15 on the number of consecutive terms.

16 (2) Members shall serve on an advisory committee until
17 new members are appointed.

18 (c) Meetings.

19 (1) Meeting requirements. The office designated for an
20 advisory committee under subsection (f) of this section shall
21 submit to the Office of the Secretary of State [~~publish~~] notice
22 of a meeting of the advisory committee [~~in the Texas Register~~]
23 at least 10 days before the date of the meeting. The notice

1 must provide the date, time, place, and subject of the meeting.
2 A meeting of an advisory committee must be open to the public.
3 An advisory committee will follow the agenda set for each
4 meeting under paragraph (2) of this subsection. Filing of
5 notice of meetings with the Office of the Secretary of State
6 shall be coordinated through the department's Office of General
7 Counsel.

8 (2) Scheduling of meetings. Meeting dates, times,
9 places, and agendas will be set by the office designated under
10 subsection (f) of this section. Any committee member may
11 suggest the need for a meeting or an agenda item, provided that
12 the committee may only discuss items that are within the
13 committee's and the department's jurisdiction. The office
14 designated under subsection (f) of this section will provide
15 notice of the time, date, place, and purpose of meetings to the
16 members, by mail, email, telephone or any combination of the
17 three, at least 10 calendar days in advance of each meeting.
18 All meetings must take place in Texas and must be held in a
19 location that is readily accessible to the general public.

20 (3) Quorum. A majority of the membership of an advisory
21 committee, including the chairman, constitutes a quorum. The
22 committee may act only by majority vote of the members present
23 at the meeting.

1 (4) Removal. A committee member may be removed at any
2 time without cause by the person or entity that appointed the
3 member or by that person's or entity's successor.

4 (5) Parliamentary procedure. Parliamentary procedures
5 for all committee meetings shall be in accordance with the
6 latest edition of Robert's Rules of Order, except that the chair
7 may vote on any action as any other member of the committee, and
8 except to the extent that Robert's Rules of Order are
9 inconsistent with any statute or this subchapter.

10 (6) Record. Minutes of all committee meetings shall be
11 prepared and filed with the commission. The complete
12 proceedings of all committee meetings must also be recorded by
13 electronic means.

14 (7) Public information. All minutes, transcripts, and
15 other records of the advisory committees are records of the
16 commission and as such may be subject to disclosure under the
17 provisions of Government Code, Chapter 552.

18 (d) Reimbursement. The department may, if authorized by
19 law and the executive director, reimburse a member of a
20 committee for reasonable and necessary travel expenses. Current
21 rules and laws governing reimbursement of expenses for state
22 employees shall govern reimbursement of expenses for advisory
23 committee members.

1 (e) Conflict of interest. Advisory committee members are
2 subject to the same laws and policies governing ethical
3 standards of conduct as those for commission members and
4 employees of the department.

5 (f) Administrative support. For each advisory committee,
6 the executive director will designate an office of the
7 department that will be responsible for providing any necessary
8 administrative support essential to the functions of the
9 committee.

10 (g) Advisory committee recommendations. In developing
11 department policies, the commission will consider the
12 recommendations submitted by advisory committees.

13 (h) Manner of reporting.

14 (1) The office designated under subsection (f) of this
15 section shall, in writing, report to the commission an official
16 action of a statutory advisory committee, including any advice
17 and recommendations, prior to commission action on the issue.
18 The chair of the advisory committee or the chair's designee will
19 also be invited by the department to appear before the
20 commission prior to commission action on a posted agenda item to
21 present the committee's advice and recommendations.

22 (2) In the event a written report cannot be furnished to
23 the commission prior to commission action, the report may be

1 given orally, provided that a written report is furnished within
2 10 days of commission action.

3 (i) Duration. Except as otherwise specified in this
4 subchapter, each statutory advisory committee is abolished
5 December 31, 2011 [~~2009~~], unless the commission amends its rules
6 to provide for a different date.

7

8 §1.84. Statutory Advisory Committees.

9 (a) Aviation Advisory Committee.

10 (1) Purpose. Created pursuant to Transportation Code,
11 §21.003, the Aviation Advisory Committee provides a direct link
12 for general aviation users' input into the Texas Airport System.
13 The committee provides a forum for exchange of information
14 concerning the users' view of the needs and requirements for the
15 economic development of the aviation system. The members of the
16 committee are an avenue for interested parties to utilize to
17 voice their concerns and have that data conveyed for action for
18 system improvement. Additionally, committee members are
19 representatives of the department and its Aviation Division,
20 able to furnish data on resources available to the Texas
21 aviation users.

22 (2) Membership. The commission will appoint the members
23 of the Aviation Advisory Committee to staggered terms of three

1 years with two members' terms expiring August 31 of each year.

2 A committee member must have five years of successful experience
3 as an aircraft pilot, an aircraft facilities manager, or a
4 fixed-base operator.

5 (3) Duties. The committee shall:

6 (A) periodically review the adopted capital improvement
7 program;

8 (B) advise the commission on the preparation and
9 adoption of an aviation facilities development program;

10 (C) advise the commission on the establishment and
11 maintenance of a method for determining priorities among
12 locations and projects to receive state financial assistance for
13 aviation facility development;

14 (D) advise the commission on the preparation and update
15 of a multi-year aviation facilities capital improvement program;
16 and

17 (E) perform other duties as determined by order of the
18 commission.

19 (4) Meetings. The committee shall meet once a calendar
20 year and such other times as requested by the Aviation Division
21 Director.

22 (5) Rulemaking. Section 1.83 of this subchapter
23 (relating to Rulemaking) does not apply to the Aviation Advisory

1 Committee.

2 (b) Public Transportation Advisory Committee.

3 (1) Purpose. Created pursuant to Transportation Code,
4 §455.004, the Public Transportation Advisory Committee provides
5 a forum for the exchange of information between the department,
6 the commission, and committee members representing the transit
7 industry and the general public. Advice and recommendations
8 expressed by the committee provide the department and the
9 commission with a broader perspective regarding public
10 transportation matters that will be considered in formulating
11 department policies.

12 (2) Membership. Members of the Public Transportation
13 Advisory Committee shall be appointed and shall serve pursuant
14 to Transportation Code, §455.004. [~~Members will be appointed~~
15 ~~for staggered three-year terms unless removed sooner at the~~
16 ~~discretion of the commission.~~]

17 (3) Duties. The committee shall:

18 (A) advise the commission on the needs and problems of
19 the state's public transportation providers, including
20 recommending methods for allocating state public transportation
21 funds if the allocation methodology is not specified by statute;

22 (B) comment on proposed rules or rule changes involving
23 public transportation matters during their development and prior

1 to final adoption unless an emergency requires immediate action
2 by the commission;

3 (C) advise the commission on the implementation of
4 Transportation Code, Chapter 461; and

5 (D) perform other duties as determined by order of the
6 commission.

7 (4) Meetings. The committee shall meet as requested by
8 the commission or the office designated under §1.82(f) of this
9 subchapter (relating to Statutory Advisory Committee Operations
10 and Procedures).

11 (5) Public transportation technical committees.

12 (A) The Public Transportation Advisory Committee may
13 appoint one or more technical committees to advise it on
14 specific issues, such as vehicle specifications, funding
15 allocation methodologies, training and technical assistance
16 programs, and level of service planning.

17 (B) A technical committee shall report any findings and
18 recommendations to the Public Transportation Advisory Committee.

19 (c) Port Authority Advisory Committee.

20 (1) Purpose. Created pursuant to Transportation Code,
21 §55.006, the purpose of the Port Authority Advisory Committee is
22 to provide a forum for the exchange of information between the
23 commission, the department, and committee members representing

1 the port industry in Texas and others who have an interest in
2 ports. The committee's advice and recommendations will provide
3 the commission and the department with a broad perspective
4 regarding ports and transportation-related matters to be
5 considered in formulating department policies concerning the
6 Texas port system.

7 (2) Membership.

8 (A) The commission will appoint seven members to
9 staggered three-year terms unless removed sooner at the
10 discretion of the commission.

11 (B) The commission will appoint:

12 (i) one member from the Port of Houston Authority of
13 Harris County;

14 (ii) three members from ports located on the upper
15 Texas coast; and

16 (iii) three members from ports located on the lower
17 Texas coast.

18 (3) Duties. The committee shall:

19 (A) prepare a port mission plan;

20 (B) review each project eligible to be funded under
21 Transportation Code, Chapter 55, and make recommendations for
22 approval or disapproval to the department;

23 (C) maintain trade data information that will assist

1 ports in this state and international trade;

2 (D) annually prepare a list of projects that have been
3 recommended by the committee, including:

4 (i) the recommended funding level for each project;
5 and

6 (ii) if staged implementation of the project is
7 appropriate, the funding requirements for each stage; and

8 (E) advise the commission and the department on matters
9 relating to port authorities.

10 (4) Meeting. The committee shall meet at least
11 semiannually and such other times as requested by the
12 commission, the executive director, or the executive director's
13 designee. The chair may request the department to call a
14 meeting.

15 (d) Border Trade Advisory Committee.

16 (1) Purpose. Created pursuant to Transportation Code,
17 §201.114, the Border Trade Advisory Committee provides a forum
18 for the exchange of communications among the commission, the
19 department, the governor, and committee members representing
20 border trade interests. The committee's advice and
21 recommendations will provide the governor, the commission, and
22 the department with a broad perspective regarding the effect of
23 transportation choices on border trade in general and on

1 particular communities. The members of the committee also
2 provide an avenue for interested parties to express opinions
3 with regard to border trade issues.

4 (2) Membership. The border commerce coordinator
5 designated under Government Code, §772.010, shall serve as the
6 chair of the committee. The commission will appoint the other
7 members of the committee in accordance with Transportation Code,
8 §201.114. The commission will appoint members to staggered
9 three-year terms expiring on August 31 of each year, except that
10 the commission may establish terms of less than three years for
11 some members in order to stagger terms.

12 (3) Duties. The committee shall:

13 (A) define and develop a strategy for identifying and
14 addressing the highest priority border trade transportation
15 challenges;

16 (B) make recommendations to the commission regarding
17 ways in which to address the highest priority border trade
18 transportation challenges;

19 (C) advise the commission on methods for determining
20 priorities among competing projects affecting border trade; and

21 (D) perform other duties as determined by the
22 commission, the executive director, or the executive director's
23 designee.

1 (4) Meetings. The committee shall meet at least once a
2 calendar year. The dates and times of meetings shall be set by
3 the committee. The committee shall also meet at the request of
4 the department.

5 (5) Rulemaking. Sections 1.82(i) and 1.83 of this
6 subchapter do not apply to the Border Trade Advisory Committee.

7

8 §1.85. Department Advisory Committees.

9 (a) Creation.

10 (1) Project advisory committees.

11 (A) Purpose. The executive director may authorize a
12 district engineer to create, by written order, an ad hoc project
13 advisory committee composed of the following members as may be
14 deemed appropriate by the district engineer: department staff;
15 affected property owners and business establishments; technical
16 experts; professional consultants representing the department;
17 and representatives of local governmental entities, the general
18 public, chambers of commerce, and the environmental community. A
19 project advisory committee shall serve the purpose of
20 facilitating, evaluating, and achieving support and consensus
21 from the affected community and governmental entities in the
22 initial stages of a transportation project. Advice and
23 recommendations of a committee provide the department with an

1 enhanced understanding of public, business, and private concerns
2 about a project from the development phase through the
3 implementation phase, thus facilitating the department's
4 communications and traffic management objectives, resulting in a
5 greater cooperation between the department and all affected
6 parties during project development and construction.

7 (B) Duties. A project advisory committee shall:

8 (i) maintain community and local government
9 communication; and

10 (ii) respond in a timely fashion to affected parties'
11 concerns about project development and construction.

12 (C) Manner of reporting. A project advisory committee
13 shall report its advice and recommendations to the district
14 engineer.

15 (D) Duration. A project advisory committee may be
16 abolished at any stage of project development, but in no event
17 may a committee continue beyond completion of the project.

18 (2) Rulemaking advisory committees.

19 (A) Purpose. The commission, by order, may create ad
20 hoc rulemaking advisory committees pursuant to Government Code,
21 Chapter 2001, §2001.031, for the purpose of receiving advice
22 from experts, interested persons, or the general public with
23 respect to contemplated rulemaking.

1 (B) Duties. A rulemaking advisory committee shall
2 provide advice and recommendations with respect to a specific
3 contemplated rulemaking.

4 (C) Manner of reporting. A rulemaking advisory
5 committee shall report its advice and recommendations to the
6 division responsible for the development of the rules.

7 (D) Duration. A rulemaking committee shall be
8 abolished upon final adoption of rules by the commission.

9 (3) Intelligent Transportation Systems (ITS) Steering
10 Committees.

11 (A) Purpose. Federal law encourages the expenditure of
12 federal transportation funds to achieve improvements in the
13 efficiency of transportation operations. A portion of these
14 funds are specifically designated for the planning and testing
15 of Intelligent Transportation Systems technologies. As part of
16 the development and implementation of these projects, a district
17 engineer, in conjunction with local officials, may create a
18 steering committee to provide support for ITS activities. Advice
19 and recommendations expressed by a committee will foster the
20 coordination of state and local benefit in the design,
21 maintenance, and operation of ITS facilities.

22 (B) Duties. A committee shall provide advice and
23 recommendations with respect to:

- 1 (i) ITS project priorities;
2 (ii) the approval of projects;
3 (iii) seeking project funding;
4 (iv) coordinating public and private ventures; and
5 (v) promoting ITS at local, state, and national
6 levels.

7 (C) Manner of reporting. A committee shall report its
8 advice and recommendations to the local district engineer, or
9 the district engineer's designee.

10 (4) Bicycle Advisory Committee.

11 (A) Purpose. The purpose of the Bicycle Advisory
12 Committee is to advise the commission on bicycle issues and
13 matters related to the Safe Routes to School Program. By
14 involving representatives of the public, including bicyclists
15 and other interested parties, the department helps ensure
16 effective communication with the bicycle community, and that the
17 bicyclist's perspective will be considered in the development of
18 departmental policies affecting bicycle use, including the
19 design, construction and maintenance of highways. The committee
20 will also provide recommendations to the department on the Safe
21 Routes to School Program.

22 (B) Duties. The committee shall:

- 23 (i) in accordance with Transportation Code,

1 §201.9025, advise and make recommendations to the commission on
2 the development of bicycle tourism trails;

3 (ii) provide recommendations on the selection of
4 projects under Chapter 25, Subchapter I of this title (relating
5 to Safe Routes to School Program); and

6 (iii) review and make recommendations on items of
7 mutual concern between the department and the bicycling
8 community.

9 (C) Manner of reporting. The committee shall report its
10 advice and recommendations to the commission, except for matters
11 relating to the Safe Routes to School Program. Under the Safe
12 Routes to School Program the committee shall reports its
13 recommendations to the director of the division responsible for
14 administering the program.

15 (5) Trans-Texas Corridor advisory committees.

16 (A) Purpose. The commission by order may create an
17 advisory committee concerning the Trans-Texas Corridor or a
18 project that is part of the Trans-Texas Corridor, for the
19 purpose of facilitating and achieving support and consensus from
20 affected communities, governmental entities, and other
21 interested parties in the planning of the Trans-Texas Corridor
22 and in the establishment of development plans for a project that
23 is part of the Trans-Texas Corridor. A committee may be

1 composed of the following members as deemed appropriate by the
2 commission: department staff; affected property owners and
3 business establishments; technical experts; professional
4 consultants representing the department; representatives of
5 local governmental entities; the general public; chambers of
6 commerce; and the environmental community. Advice and
7 recommendations of a committee will provide the department with
8 an enhanced understanding of public, business, and private
9 concerns about the Trans-Texas Corridor and projects that are
10 part of the Trans-Texas Corridor, thus facilitating the
11 department's communications and project development objectives,
12 resulting in greater cooperation between the department and all
13 affected parties during project planning and development.

14 (B) Duties. A Trans-Texas Corridor advisory committee
15 shall provide advice and recommendations to the department
16 regarding facilities to be included in a development plan for
17 the Trans-Texas Corridor or a project that is part of the Trans-
18 Texas Corridor.

19 (C) Manner of reporting. A Trans-Texas Corridor
20 advisory committee shall report its advice and recommendations
21 to the executive director or designee.

22 (D) Duration. A Trans-Texas Corridor advisory
23 committee may be abolished at any time by the commission, but in

1 no event may a committee continue beyond completion of the
2 Trans-Texas Corridor or the project for which the committee is
3 created.

4 (b) Operating procedures.

5 (1) Membership. Except as otherwise specified in this
6 section, an advisory committee shall be composed of not more
7 than 24 members to be appointed by the office or official to
8 whom the committee is to report. When applicable to the purpose
9 and duties of the committee, the membership shall provide a
10 balanced representation between:

11 (A) industries or occupations regulated or directly
12 affected by the department; and

13 (B) consumers of services provided either by the
14 department or by industries or occupations regulated by the
15 department.

16 (2) Meetings.

17 (A) An advisory committee shall meet once a calendar
18 year and at such other times as requested by the office to which
19 it reports.

20 (B) A majority of the membership of an advisory
21 committee constitutes a quorum. A committee may take formal
22 action only by majority vote of its membership.

23 (3) Officers. Each committee shall elect a chair and

1 vice-chair by majority vote of the members of the committee.

2 (c) Duration. Except as otherwise specified in this
3 section, a committee created under this section is abolished
4 December 31, 2011 [~~2009~~], unless the commission amends its rules
5 to provide for a different date.

6 (d) Reimbursement. The department may, if authorized by
7 law and the executive director, reimburse a member of a
8 committee for reasonable and necessary travel expenses. Current
9 rules and laws governing reimbursement of expenses for state
10 employees shall govern reimbursement of expenses for advisory
11 committee members.