

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 §1.1 and §1.2 relating to organization and responsibilities 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 §1.1 and §1.2 are adopted and are authorized for filing with the Office of the Secretary of State.

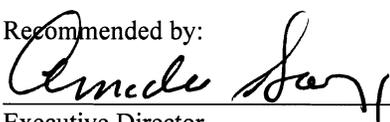
The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



General Counsel

Recommended by:



Executive Director

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Minute
Number

Date
Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §1.1, Texas Transportation Commission and §1.2,
4 Texas Department of Transportation concerning organization and
5 responsibilities. The amendments to §§1.1 and 1.2 are adopted
6 with changes to the proposed text as published in the July 15,
7 2011 issue of the *Texas Register* (36 TexReg 4535).

8

9 EXPLANATION OF ADOPTED AMENDMENTS

10 Title 43 Texas Administrative Code, §1.1 and §1.2 essentially
11 track statutory language and provide basic information
12 concerning the duties of the Texas Transportation Commission
13 (commission) and the department. Several Acts of the 82nd
14 Legislature, Regular Session, 2011, made various changes to
15 those duties. Therefore, §1.1 and §1.2 must be revised to
16 reflect those changes. The bill numbers cited in this preamble
17 reference the numbers assigned to bills by the 82nd Legislature
18 during its Regular Session held in 2011.

19

20 Amendments to §1.1, subsection (b)(1)(J), update the entities
21 for which commission approval of a toll project that is to
22 become a part of the state highway system is not required under
23 Transportation Code, §362.055. Section 126 of H.B. No. 2702,
24 which updates statutory population brackets to take into account
25 the new data contained in the 2010 federal census, amends

1 Transportation Code, §362.055 changing the population of an
2 excepted county from more than 1.5 million to more than 2
3 million. The amendments to subparagraph (J) change the county
4 population in accordance with the statutory changes. The
5 language added in subparagraph (J) is intended to more clearly
6 inform the reader of the other exceptions found in
7 Transportation Code, §362.055.

8
9 Amendments to §1.1, in their final form, delete subsection
10 (b)(1)(R), relating to the approval of recommendations submitted
11 by the chair under subsection (d)(1)(F). The requirement for
12 subsection (d)(1)(F) was contained in Transportation Code,
13 §201.053(b), which was repealed by Section 24 of S.B. No. 1179.
14 Therefore, subsection (b)(1)(R), must be deleted. This
15 amendment was inadvertently omitted from the proposed rules.

16
17 Amendments to §1.1, delete subsection (b)(1)(U), relating to the
18 Trans-Texas Corridor, because H.B. No. 1201 repealed the
19 authority for the establishment and operation of the corridor.
20 The amendments also delete subsection (b)(1)(W), relating to a
21 report to the legislature about statutory changes to improve the
22 operation of the department, because Section 99 of S.B. No. 1420
23 repealed Transportation Code, §201.0545, which was the basis for
24 subparagraph (W). The amendments to §1.1, add a new subsection
25 (b)(1)(U), which provides that the commission will establish a

1 compliance program that is required by Transportation Code,
2 §201.451, as added by Section 15 of S.B. No. 1420.

3
4 The subparagraphs within §1.1(b)(1) are redesignated as required
5 to accommodate the changes made to that paragraph.

6
7 Amendments to §1.1, delete subsection (d)(1)(C) and (E),
8 relating to reports to the governor, and subsection (d)(1)(F),
9 relating to the review of and recommended changes to the
10 department's organizational structure. Those requirements were
11 contained in Transportation Code, §201.053(b), and were repealed
12 by Section 24 of S.B. No. 1179. The amendments also delete
13 subsection (d)(1)(K), relating to a report to the governor and
14 the legislature on the commission's legislative recommendations
15 about the operation of the department. That provision was based
16 on Transportation Code, §201.0545, which was repealed by Section
17 99 of S.B. No. 1420. The subparagraphs of subsection (d)(1) are
18 redesignated accordingly.

19
20 Amendments to §1.1, subsection (d)(3), reflect the changes made
21 in Section 9 of S.B. No. 656. That bill abolished the Coastal
22 Coordination Council and requires the commissioner of the
23 General Land Office to establish the Coastal Coordination
24 Advisory Committee. Natural Resources Code, §33.2041(b)(1)(F),
25 requires the chair of the commission to designate a

1 representative of the department to that committee. Paragraph
2 (3) is revised accordingly.

3

4 Amendments to §1.2, subsection (a)(2), indicate that the
5 executive director of the department will employ a chief
6 financial officer of the department. Section 7 of S.B. No. 1420
7 adds new Transportation Code, §201.1075, relating to the
8 functions and duties of the department's chief financial
9 officer. The amendments to subsection (a)(2) recognize the
10 existence of that statutorily required position. The cross
11 reference at §1.2(c) is corrected.

12

13 COMMENTS

14 No comments on the proposed amendments were received.

15

16 STATUTORY AUTHORITY

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

20

21 CROSS REFERENCE TO STATUTE

22 Natural Resources Code, §33.2041, and Transportation Code,
23 §201.1075, §201.451, and §362.055.

1 SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES

2 §1.1. Texas Transportation Commission.

3 (a) Commission.

4 (1) The Texas Department of Transportation is governed by
5 the Texas Transportation Commission, consisting of five
6 commissioners appointed by the governor with the advice and
7 consent of the senate.

8 (2) The governor designates one commissioner as the chair
9 of the commission.

10 (b) Commission responsibilities.

11 (1) The Texas Transportation Commission, with the advice
12 and recommendations of the executive director, will:

13 (A) plan and make policies for the location,
14 construction, and maintenance of a comprehensive system of state
15 highways and public roads;

16 (B) lay out, construct, maintain, and operate a modern
17 state highway system;

18 (C) develop a statewide transportation plan that
19 contains all modes of transportation, including highways and
20 turnpikes, aviation, mass transportation, railroads and high-
21 speed railroads, and water traffic;

22 (D) award contracts necessary for the improvement of
23 the state highway system, as provided by Transportation Code,

1 Chapter 223, and §§9.10-9.21 of this title (relating to Highway
2 Improvement Contracts);

3 (E) encourage, foster, and assist in the development of
4 public and mass transportation in the state;

5 (F) encourage, foster, and assist in the development of
6 aeronautics in the state and encourage, aid, and assist in the
7 establishment of airports, airstrips, and air navigational
8 facilities in the state;

9 (G) fulfill the local sponsorship requirements of the
10 Gulf Intracoastal Waterway as agent for the state;

11 (H) provide for the development and operation of toll
12 projects on the state highway system;

13 (I) approve a toll project constructed by a private
14 entity or corporation if the project connects to the state
15 highway system;

16 (J) approve the construction of a toll project by a
17 governmental or private entity other than a county with a
18 population of more than 2 [~~1.5~~] million people, a local
19 government corporation created by such a county, or a regional
20 tollway authority, if it is to become a part of the state
21 highway system;

22 (K) appoint an internal auditor for the department who
23 shall report directly to the commission on the conduct of

1 departmental affairs;

2 (L) adopt rules for the operation of the department;

3 (M) divide the department into districts to accomplish
4 the department's functions and the duties assigned to it;

5 (N) carry out such transportation functions as may be
6 delegated by the governor pursuant to applicable federal law;

7 (O) establish policy necessary to carry out the duties
8 and functions of the department and the commission;

9 (P) administer the state infrastructure bank;

10 (Q) organize the department into divisions to
11 accomplish the department's functions and duties assigned to it;

12 [~~(R) approve recommendations for changes to the~~
13 ~~department's organizational structure submitted by the chair of~~
14 ~~the commission under subsection (d)(1)(F) of this section;~~]

15 (R) [~~(S)~~] plan and make policies for the location,
16 construction, maintenance, and operation of rail facilities;

17 (S) [~~(T)~~] administer the Texas Mobility Fund as a
18 revolving fund to provide a method of financing the
19 construction, reconstruction, acquisition, and expansion of
20 state highways, and for the construction of other transportation
21 projects;

22 [~~(U) designate and provide for the development of a~~
23 ~~statewide system of multi-modal transportation facilities known~~

1 ~~as the Trans-Texas Corridor;~~

2 (T) [~~(V)~~] approve the creation of regional mobility
3 authorities;

4 (U) establish a compliance program;

5 [~~(W)~~ ~~consider ways in which the department's operations~~
6 ~~may be improved and periodically report to the legislature~~
7 ~~concerning potential statutory changes that would improve the~~
8 ~~operation of the department~~]; and

9 (V) [~~(X)~~] perform other duties required by law.

10 (2) The commission may, consistent with applicable law,
11 delegate one or more of the functions listed under paragraph (1)
12 of this subsection to the executive director. The executive
13 director may further delegate such functions to one or more
14 employees of the department.

15 (c) Attendance at meetings. Each commissioner shall:
16 attend at least half of the regularly scheduled meetings that
17 the commissioner is eligible to attend during a calendar year
18 unless the absence is excused by majority vote of the
19 commission.

20 (d) Chair of the commission.

21 (1) The chair of the commission, with the advice and
22 recommendations of the executive director and the executive
23 director's staff, shall:

1 (A) preside over commission meetings, make rulings on
2 motions and points of order, and determine the order of
3 business;

4 (B) represent the department in dealing with the
5 governor;

6 [~~(C) report at least quarterly to the governor on the
7 state of affairs at the department;~~]

8 (C) [~~(D)~~] report suggestions made by the governor for
9 departmental operations to the commission;

10 [~~(E) report to the governor on efforts to maximize the
11 efficiency of departmental operations through the use of private
12 enterprise;~~]

13 [~~(F) periodically review the department's
14 organizational structure and submit recommendations for
15 structural changes to the governor, the commission, and the
16 Legislative Budget Board;~~]

17 (D) [~~(G)~~] designate one or more employees of the
18 department as a civil rights division of the department and
19 receive regular reports from the division on the department's
20 efforts to comply with civil rights legislation and
21 administrative rules;

22 (E) [~~(H)~~] create subcommittees, appoint commissioners
23 to subcommittees, and receive the reports of subcommittees to

1 the commission as a whole;

2 (F) [~~(I)~~] appoint a commissioner to act in the chair's
3 absence;

4 (G) [~~(J)~~] serve as the departmental liaison with the
5 governor and the Office of State-Federal Relations to maximize
6 federal funding for transportation;

7 [~~(K) on behalf of the commission, report to the~~
8 ~~governor, the lieutenant governor, the speaker of the house of~~
9 ~~representatives, and the presiding officer of relevant~~
10 ~~legislative committees on legislative recommendations adopted by~~
11 ~~the commission and relating to the operation of the department;]~~

12 (H) [~~(L)~~] oversee the preparation of an agenda for each
13 commission meeting and ensure that a copy is provided to each
14 commissioner at least seven days before a regular meeting; and

15 (I) [~~(M)~~] perform any other duties assigned by law.

16 (2) The chair may, consistent with applicable law,
17 delegate one or more of the functions listed under paragraph (1)
18 of this subsection to the executive director, who in turn may
19 further delegate such functions to one or more employees of the
20 department.

21 (3) The chair will designate a person to [~~or a~~
22 ~~commissioner designated by the chair shall~~] serve as a
23 representative of the department on [~~member of~~] the Coastal

1 Coordination Advisory Committee [~~Council~~].

2

3 §1.2. Texas Department of Transportation.

4 (a) Executive director.

5 (1) The commission will elect an executive director for
6 the department who shall be skilled in transportation planning
7 and development and in organizational management. The executive
8 director, as the chief executive officer of the department, is
9 authorized to administer the day-to-day operations of the
10 department. The executive director may hold that position until
11 removed by the commission.

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

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)(Q) [~~and (R)~~] 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.