

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose new §26.17, Board Membership after Commission Approval, concerning the membership of the boards of Regional Mobility Authorities, 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 §26.17 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:



General Counsel

Recommended by:



Executive Director
112786 AUG 25 11

Minute Number Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes new
3 §26.17, Board Membership after Commission Approval, concerning
4 the membership of the boards of Regional Mobility Authorities
5 (RMA).

6

7 EXPLANATION OF PROPOSED NEW SECTION

8 Title 43, Texas Administrative Code, §26.11 authorizes one or
9 more counties and certain specified cities to request that the
10 Texas Transportation Commission (commission) approve the
11 creation of an RMA. Section 26.21 provides the conditions for a
12 county to be added to an existing RMA and §26.22 establishes the
13 requirements for a county to withdraw from an RMA.

14

15 The purpose of new §26.17 is to clarify that after the creation
16 of an RMA neither the commission nor the department has any role
17 in approving the RMA's board appointments or the board
18 appointment processes adopted by the counties that are members
19 of the RMA or the city that created the RMA. The new section
20 does not affect the authority of the commission to consider the
21 fair representation of political subdivisions within the
22 authority at the time of the RMA's creation, but rather
23 clarifies that there is no ongoing review or approval of board
24 appointments or the board appointment process.

25

1 New §26.17(a) provides that the authority to change the
2 representation criteria or appointment process for an RMA's
3 board members belongs to the governing bodies of the counties
4 that are currently members of or the city that created the RMA.

5
6 New §26.17(b) clarifies that the authority described by
7 subsection (a) is the exclusive authority of the counties or
8 city and emphasizes that a change made under subsection (a) is
9 not contingent on review by or approval of the commission.

10

11 New §26.17(c) similarly clarifies that whether or not a change
12 is made under subsection (a), no appointment to an RMA's board
13 other than an appointment to the initial board is subject to the
14 review or approval of the commission.

15

16 FISCAL NOTE

17 James Bass, Chief Financial Officer, has determined that for
18 each of the first five years the new section as proposed is in
19 effect, there will be no fiscal implications for state or local
20 governments as a result of enforcing or administering the new
21 section.

22

23 Bob Jackson, General Counsel, has certified that there will be
24 no significant impact on local economies or overall employment
25 as a result of enforcing or administering the new section.

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2 PUBLIC BENEFIT AND COST

3 Mr. Jackson has also determined that for each year of the first
4 five years in which the section is in effect, the public benefit
5 anticipated as a result of enforcing or administering the new
6 section will be clarity regarding the requirements for the
7 membership of and appointment to the board of an RMA. There are
8 no anticipated economic costs for persons required to comply
9 with the section as proposed. There will be no adverse economic
10 effect on small businesses.

11

12 SUBMITTAL OF COMMENTS

13 Written comments on the proposed new §26.17 may be submitted to
14 Bob Jackson, General Counsel, Texas Department of
15 Transportation, 125 East 11th Street, Austin, Texas 78701-2483.
16 The deadline for receipt of comments is 5:00 p.m. on
17 October 11, 2011.

18

19 STATUTORY AUTHORITY

20 The new section is proposed under Transportation Code, §201.101,
21 which provides the commission with the authority to establish
22 rules for the conduct of the work of the department, and more
23 specifically, Transportation Code, §370.038, which provides
24 authority for the commission to adopt rules governing the
25 creation of an RMA.

- 1
- 2 CROSS REFERENCE TO STATUTE
- 3 Transportation Code, Chapter 370, Subchapter B.

1 SUBCHAPTER B. CREATION OF A REGIONAL MOBILITY AUTHORITY

2 §26.17. Board Membership after Commission Approval.

3 (a) After the commission approves the composition and
4 appointment method of the board of an RMA under §26.13 or §26.16
5 of this subchapter (relating to Approval and Alternate Board
6 Composition and Method of Appointment, respectively) and the RMA
7 has been created and the initial board members have been
8 appointed, the representation criteria and appointment process
9 for the RMA's board members may be revised by the governing body
10 of each county that is a member of the RMA or the city that
11 created the RMA.

12 (b) A revision under subsection (a) of this section is not
13 subject to review or approval of the commission.

14 (c) After the appointment of the initial board members, an
15 appointment to an RMA's board is not subject to review or
16 approval of the commission.