

NTTA BOARD OF DIRECTORS ETHICS POLICY

I. OVERVIEW

Pursuant to Section [366.033\(a\)\(1\)](#) of the Texas Transportation Code, the NTTA Board of Directors (“Board”) adopts the following as its Ethics Policy.

II. STANDARDS OF CONDUCT

Directors have a fiduciary duty to act in the best interest of the NTTA. They shall act honestly and according to the standard of a prudent person, exercising their best skill and judgment for the NTTA’s benefit. Directors shall comply with all applicable laws. To the extent this Ethics Policy is inconsistent with any applicable law, such law shall control.

A. A Director shall:

1. perform his or her official duties in a lawful, professional, and ethical manner befitting the NTTA;
2. report any conduct or activity that the Director believes to be in violation of this Ethics Policy or of law to the Ethics Officer or appropriate law enforcement officer; and
3. consult promptly with the Ethics Officer about ethics issues pertaining to his or her service as a Director.

B. A Director shall not:

1. solicit, accept, or agree to accept any gift or other benefit (i) as consideration for the Director’s decision, opinion, recommendation, vote or other exercise of discretion, (ii) that the Director knows or should know is being offered with the intent to influence the Director’s official conduct or (iii) that might reasonably tend to influence the Director’s discharge of official duties;
2. solicit, accept, or agree to accept any gift or other benefit from a person the Director knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the Director’s exercise of discretion, other than a gift or other benefit allowed

under [Section 36.10](#) of the Texas Penal Code;¹

3. intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers as a Director or performed his or her official duties as a Director in favor of another;
4. disclose confidential or proprietary information, information that is excepted from public disclosure under the [Texas Public Information Act](#), or information that has been ordered sealed by a court that was acquired by the Director by reason of the Director's official position;
5. accept other employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that the director might reasonably expect would require or induce the Director to disclose confidential information that was acquired by reason of the Director's official position;
6. accept other employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that could reasonably be expected to impair the Director's independence of judgment in the performance of the Director's official duties;
7. make personal investments that could reasonably be expected to create a substantial conflict between the Director's private interest and the NTTA's interest;
8. utilize NTTA property, facilities, or equipment for any purpose other than official NTTA business, unless such use is reasonable and incidental and does not result in any direct cost to the NTTA, interfere with the Director's official duties, or interfere with NTTA functions;
9. utilize his or her official position for financial gain, obtaining privileges, or avoiding consequences of illegal acts;
10. knowingly make misleading statements, either oral or written, or provide false information, in the course of conducting NTTA business; or
11. utilize NTTA property or personnel for political activity such as campaigning for a candidate or soliciting political contributions; or
12. purport to commit the NTTA to any contract, obligation or other action without having been properly authorized to do so by the Board.

¹ Such permitted items include (i) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient and (ii) an item with a value of less than \$50, excluding cash, and (iii) food, lodging, transportation or entertainment accepted as a guest.

III. CONFLICTS OF INTEREST

A. Definition. A “conflict of interest” exists when a Director has a private interest (financial, personal, or otherwise) in a contract, decision, or other matter involving the NTTA that might cause the Director to perform his or her official duties in a way other than the Director would have if he or she had no such private interest. A Director with a direct or indirect interest in a contract with the NTTA has a *per se* conflict.

B. Application. Except where indicated, the conflicts of interest policy in this Section III covers the Director, certain family members of the Director and a domestic partner of the Director. This means that if a family member or domestic partner of a Director has an interest in an NTTA matter that, if the interest were held by the Director, would give rise to a conflict of interest, then the Director is deemed to have a conflict of interest in that matter.

C. Family members and domestic partners. Family members are persons related to the Director in the first degree by consanguinity or affinity under [Chapter 573](#), Texas Government Code, Subchapter B.² A domestic partner is someone who lives in the same household with the Director and shares the common resources of life in a close, personal, and intimate relationship with the Director.

D. Substantial interest in business or real estate. If a Director or the Director’s family member or domestic partner has a substantial interest in (i) a business entity that is the subject of a vote or decision by the Board and that vote or decision will have a special economic effect on the business entity that is distinguishable from the effect on the public or (ii) real estate where it is reasonably foreseeable the matter will have a special economic effect that is distinguishable from the effect on the public, the Director shall abstain from participation in the matter and, prior to the vote or other action by the Board, file an affidavit on the form approved by the NTTA that notes the basis of the Director’s abstention. A substantial interest in a business entity occurs when a person (i) owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity or (ii) receives over 10 percent of his/her gross income for the previous year from

² The list of family members includes the Director’s spouse, children, stepchildren, sons-in-law, daughters-in-law, mother, father, mother-in-law and father-in-law. Also included is a divorced spouse of a Director, if the Director and the former spouse had a child together who is now living, and the mother or father of a deceased or divorced spouse if the Director and the deceased/divorced spouse had a child who is now living.

the business entity. A substantial interest in real estate exists if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

E. Reporting requirements. Directors are required to file an affidavit on a form approved by the NTTA when the NTTA is entering into or considering entering into a contract with a business or person and that business or person (i) has had an employment or business relationship with the Director or a family member or domestic partner of the Director through which the person or business has received over \$2,500 in income (other than investment income) during the previous 12 months or (ii) has given the Director or a family member or domestic partner of a Director one or more gifts that have an aggregate value of more than \$250 in the previous 12 months. The following need not be reported: (i) gifts given by a family member of the person accepting the gift; (ii) a political contribution defined by [Section 251.001](#), Texas Election Code or (iii) food, lodging, transportation, or entertainment accepted as a guest. Directors must file the affidavit within seven business days after the date the Director became aware of the facts that require the filing.

F. Apparent conflict of interest/appearance of impropriety. An apparent conflict of interest exists when a reasonable person would believe that a Director's private interest (financial, personal or otherwise) might cause the Director to perform his or her duties in a way other than they would have been performed if the Director had no such private interest. A Director with an apparent conflict of interest shall abstain from participation in that matter and note the basis of that abstention in an affidavit on a form approved by the NTTA filed before the Board takes a vote or other action on the matter. A Director who reasonably believes that his or her involvement in a vote or other action by the Board may give rise to an appearance of impropriety shall abstain from participation in that matter and submit an affidavit in the same manner.

G. Abstention. A Director who abstains from a matter must refrain from all involvement in deliberations and decision making with respect to that matter at both Board and staff levels. At a public meeting of the Board the Director who is abstaining shall indicate such lack of involvement by leaving his or her post temporarily when the matter is being discussed or pushing back his or her chair to signal non-involvement in the discussion. In some instances such as executive sessions, it will be necessary for the Director to physically remove himself or herself from the meeting when the matter is being discussed.

H. Process. Directors shall file the forms referenced in sections III.D – III.F with the Secretary. The Secretary shall promptly notify the Chairman, Executive Director and Ethics Officer of any such filings. The Chairman,

Executive Director and Ethics Officer shall proactively interact with Directors and each other regarding possible conflicts of interest or appearances of impropriety involving Directors. Any disputes involving the existence of a conflict of interest or an appearance of impropriety or the proper response thereto will be first discussed by the Chairman, Executive Director and the Ethics Officer with the affected Director. If they are unable to resolve the matter, the Board shall be apprised so it may take any appropriate action allowed by law. This process does not relieve individual Directors of their personal obligation to comply with this Ethics Policy.

I. Regular reporting. Directors shall diligently and promptly review and complete the conflict of interest disclosure forms provided to them by the NTTA in advance of every Board or Board Committee meeting. Each Director shall evaluate with the Ethics Officer the most effective method to ensure the disclosure of conflicts arising in connection with that Director's business, investment, and other activities. A Director who does not file a conflict of interest form shall be presumed to have reported that he or she has no conflict of interest pertaining to the matters being considered by the Board.

J. Annual reporting. Upon appointment, directors shall file with the Secretary a personal financial statement on the form developed by the Texas Ethics Commission before voting or participating in any substantive Board action. By January 31 of each year or at such other date established by the Board, each Director shall file such a personal financial statement with the Secretary, provided that in 2012 each sitting Director shall file such statement by February 29, 2012

IV. CONFLICTS OF INTEREST AFFECTING ELIGIBILITY

- A. Pursuant to [Section 366.252\(a\)](#) of the Texas Transportation Code a person is not eligible to serve as a Director if the person or the person's spouse:
1. is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;
 2. is employed by or participates in the management of a business entity or other organization regulated by the authority or receiving money from the NTTA;
 3. owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the NTTA, other than compensation for acquisition of turnpike right-of-way;
 4. uses or receives a substantial amount of tangible goods, services, or

money from the NTTA, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses, or for compensation for acquisition of turnpike right-of-way;

5. is an officer, employee, or paid consultant of a Texas trade association, as defined in [Subsection 366.252\(c\)](#) of the Texas Transportation Code, in the field of road construction, maintenance, or operation; or

6. is required to register as a lobbyist under [Chapter 305](#), Texas Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the NTTA.

- B. Reporting. On an annual basis each Director shall affirm on a form approved by the NTTA that he or she continues to meet the eligibility requirements for serving on the NTTA Board set forth under Section IA. A Director who believes at any time that he or she may no longer meet the eligibility requirements shall promptly bring that matter to the attention of the Chairman and the Ethics Officer.

V. NEPOTISM

A Director may not (i) appoint or hire, (ii) vote for the appointment or hiring of, or (iii) encourage others to appoint or hire an individual to an NTTA position that is to be directly or indirectly compensated from the NTTA's funds if the individual is related to the Director within the third degree of consanguinity or the second degree of affinity as defined by [Chapter 573](#), Texas Government Code, Subchapter B. Nor shall a Director take any of these actions on behalf of a person related to another Director within the third degree of consanguinity or the second degree of affinity as defined by [Chapter 573](#), Texas Government Code, Subchapter B, if such action was carried out in whole or partial consideration for the other Director taking a similar action regarding an individual related to the first Director within such degree of consanguinity or affinity.

VI. CONDUCT OF BUSINESS

The Board recognizes its obligations under the Texas Open Meetings Act and the Texas Public Information Act and will conduct its business and report on its activities in a manner that appraises the public of the matters under consideration by the Board and the decisions it makes. Pursuant to Section 551.146 of the Texas [Open Meetings Act](#), Directors shall not without lawful authority disclose to third parties what was discussed in executive session. Such authorization may come from the full Board or from the Chairman via authority delegated to the Chairman by the Board.

VII. ADOPTION

The Board adopted this Ethics Policy by Resolution No. ____, passed unanimously on January __, 2012. That resolution directed that ethics policies applicable to NTTA employees be made consistent with the standards set forth herein.

REFERENCES

[NTTA Enabling Act \(Section 366, Transportation Code\)](#)

[Section 36, Penal Code](#)

[Chapter 171, Local Government Code](#)

[Chapter 176, Local Government Code](#)

[Public Information Act \(Section 552, Government Code\)](#)

[Open Meetings Act \(Section 551, Government Code\)](#)

SPECIFIC STATUTES CITED

Section 36.10 Penal Code

Sec. 36.10. NON-APPLICABLE. (a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

(3) a benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

(4) a political contribution as defined by Title 15, Election Code;

(5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;

(6) an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code; or

(7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity.

(b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.

(d) Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code. Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.

Section 366.252, Texas Transportation Code

Sec. 366.252. CONFLICT OF INTEREST. (a) A person is not eligible to serve on the board of an authority if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;

(2) is employed by or participates in the management of a business entity or other organization regulated by the authority or receiving money from the authority;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the authority, other than compensation for acquisition of turnpike right-of-way;

(4) uses or receives a substantial amount of tangible goods, services, or money from the authority, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses, or for compensation for acquisition of turnpike right-of-way;

(5) is an officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation; or

(6) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(b) A person may not act as the general counsel to an authority if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of

the authority.

(c) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

Chapter 573, Texas Government Code

SUBCHAPTER B. RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

Sec. 573.021. METHOD OF COMPUTING DEGREE OF RELATIONSHIP.
The degree of a relationship is computed by the civil law method.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.022. DETERMINATION OF CONSANGUINITY. (a) Two individuals are related to each other by consanguinity if:

- (1) one is a descendant of the other; or
- (2) they share a common ancestor.

(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.023. COMPUTATION OF DEGREE OF CONSANGUINITY. (a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.

(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

- (1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
- (2) the number of generations between the relative and the nearest common ancestor.

(c) An individual's relatives within the third degree by consanguinity are the individual's:

- (1) parent or child (relatives in the first degree);
- (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
- (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.024. DETERMINATION OF AFFINITY. (a) Two individuals are related to each other by affinity if:

- (1) they are married to each other; or
- (2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 32, eff. May 30, 1995.

Sec. 573.025. COMPUTATION OF DEGREE OF AFFINITY. (a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

- (b) An individual's relatives within the third degree by affinity are:
- (1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and
 - (2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. NEPOTISM PROHIBITIONS

Sec. 573.041. PROHIBITION APPLICABLE TO PUBLIC OFFICIAL. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or

(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.042. PROHIBITION APPLICABLE TO CANDIDATE. (a) A candidate may not take an affirmative action to influence the following individuals regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Section 573.002:

(1) an employee of the office to which the candidate seeks election; or

(2) an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body.

(b) The prohibition imposed by this section does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.043. PROHIBITION APPLICABLE TO DISTRICT JUDGE. A district judge may not appoint as official stenographer of the judge's district an individual related to the judge or to the district attorney of the district within the third degree.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 573.044. PROHIBITION APPLICABLE TO TRADING. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

(1) the individual is related to another public official within a degree described by Section 573.002; and

(2) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other public official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first public official within a degree described by Section 573.002.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Section 252.001, Texas Election Code

Sec. 251.001. DEFINITIONS. In this title:

(1) "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

(A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;

(B) the filing of an application for a place on a ballot;

(C) the filing of an application for nomination by convention;

(D) the filing of a declaration of intent to become an independent candidate or a declaration of write-in candidacy;

(E) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;

(F) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;

(G) the soliciting or accepting of a campaign contribution or the

making of a campaign expenditure; and

(H) the seeking of the nomination of an executive committee of a political party to fill a vacancy.

(2) "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include:

(A) a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made; or

(B) an expenditure required to be reported under Section 305.006(b), Government Code.

(3) "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

(4) "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that:

(A) are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(5) "Political contribution" means a campaign contribution or an officeholder contribution.

(6) "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment.

(7) "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure.

(8) "Direct campaign expenditure" means a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure.

(9) "Officeholder expenditure" means an expenditure made by any person to defray expenses that:

(A) are incurred by an officeholder in performing a duty or

engaging in an activity in connection with the office; and

(B) are not reimbursable with public money.

(10) "Political expenditure" means a campaign expenditure or an officeholder expenditure.

(11) "Reportable activity" means a political contribution, political expenditure, or other activity required to be reported under this title.

(12) "Political committee" means a group of persons that has as a principal purpose accepting political contributions or making political expenditures.

(13) "Specific-purpose committee" means a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes:

(A) supporting or opposing one or more:

(i) candidates, all of whom are identified and are seeking offices that are known; or

(ii) measures, all of which are identified;

(B) assisting one or more officeholders, all of whom are identified; or

(C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown.

(14) "General-purpose committee" means a political committee that has among its principal purposes:

(A) supporting or opposing:

(i) two or more candidates who are unidentified or are seeking offices that are unknown; or

(ii) one or more measures that are unidentified; or

(B) assisting two or more officeholders who are unidentified.

(15) "Out-of-state political committee" means a political committee that:

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

(16) "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(A) in return for consideration, is published in a newspaper,

magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

(17) "Campaign communication" means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure.

(18) "Labor organization" means an agency, committee, or any other organization in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(19) "Measure" means a question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(20) "Commission" means the Texas Ethics Commission.

Section 305.003, 305.004 and 305.041, Texas Government Code

Sec. 305.003. PERSONS REQUIRED TO REGISTER. (a) A person must register with the commission under this chapter if the person:

(1) makes a total expenditure of an amount determined by commission rule but not less than \$200 in a calendar quarter, not including the person's own travel, food, or lodging expenses or the person's own membership dues, on activities described in Section 305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action; or

(2) receives, or is entitled to receive under an agreement under which the person is retained or employed, compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than an amount determined by commission rule but not less than \$200 in a calendar quarter from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) Subsection (a)(2) requires a person to register if the person, as part of his regular employment, has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action on behalf of the person by whom he is compensated or reimbursed, whether or not the person receives any

compensation for the communication in addition to the salary for that regular employment.

(b-1) Subsection (a)(2) does not require a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state to register. This subsection does not apply to an officer or employee of a quasi-governmental agency. For purposes of this subsection, "quasi-governmental agency" means a governmental agency, other than an institution of higher education as defined by Section 61.003, Education Code, that has as one of its primary purposes engaging in an activity that is normally engaged in by a nongovernmental agency, including:

- (1) acting as a trade association; or
- (2) competing in the public utility business with private entities.

(b-2) Subsection (a)(2) does not require an officer or an employee of a state agency that provides utility services under Section 35.102, Utilities Code, and Sections 31.401 and 52.133, Natural Resources Code, to register.

(c) A person who communicates directly with a member of the executive branch to influence administrative action is not required to register under Subsection (a)(2) if the person is an attorney of record or pro se, the person enters his appearance in a public record through pleadings or other written documents in a docketed case pending before a state agency, and that communication is the only activity that would otherwise require the person to register.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.03, eff. Jan. 1, 1992; Acts 2003, 78th Leg., ch. 249, Sec. 4.03, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [725](#), Sec. 1, eff. September 1, 2007.

Sec. 305.004. EXCEPTIONS. The following persons are not required to register under this chapter:

- (1) a person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, letters to the editors, editorial or other comment, or paid advertisements that directly or indirectly oppose or promote legislation or administrative action, if the person does not engage in further or other activities that require registration under this chapter and does not represent another person in connection with influencing legislation or administrative action;
- (2) a person whose only direct communication with a member of the

legislative or executive branch to influence legislation or administrative action is an appearance before or testimony to one or more members of the legislative or executive branch in a hearing conducted by or on behalf of either the legislative or the executive branch and who does not receive special or extra compensation for the appearance other than actual expenses incurred in attending the hearing;

(3) a person whose only activity is to encourage or solicit members, employees, or stockholders of an entity by whom the person is reimbursed, employed, or retained to communicate directly with members of the legislative or executive branch to influence legislation or administrative action;

(4) a person whose only activity to influence legislation or administrative action is to compensate or reimburse an individual registrant to act in the person's behalf to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(5) a person whose only activity to influence legislation or administrative action is attendance at a meeting or entertainment event attended by a member of the legislative or executive branch if the total cost of the meeting or entertainment event is paid by a business entity, union, or association;

(6) a person whose only compensation subject to Section 305.003(a)(2) consists of reimbursement for any wages not earned due to attendance at a meeting or entertainment event, travel to and from the meeting or entertainment event, admission to the meeting or entertainment event, and any food and beverage consumed at the meeting or entertainment event if the meeting or entertainment event is attended by a member of the legislative or executive branch and if the total cost of the meeting or entertainment event is paid by a business entity, union, or association; and

(7) a person who communicates directly with a member of the legislative or executive branch on behalf of a political party concerning legislation or administrative action, and whose expenditures and compensation, as described in Section 305.003, combined do not exceed \$5,000 a calendar year.

Acts 1985, 69th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 304, Sec. 2.04, eff. Jan. 1, 1992.

Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not required to register under this chapter in accordance with Section 305.003(a)(2) solely because the person receives or is entitled to receive compensation or reimbursement to:

(1) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that do not exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions;

(2) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that exceed 10 million dollars involving a product, service, or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

(3) communicate in a capacity other than as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions involving a product, service, or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

(4) communicate as a member of an advisory committee or task force if the person is appointed to serve in that capacity by a member of the legislative or executive branch; or

(5) communicate as a member of a board, task force, or advisory committee on which a member of the legislative or executive branch also serves.

(b) A registrant who performs an activity described by Subsection (a) is not required to:

(1) provide information concerning that activity in the registrant's registration statement under Section 305.005(f)(4) or (5)(B);

(2) provide information concerning the person who reimburses, retains, or employs the registrant to perform that activity under Section 305.005(f)(3) or (6) unless the registrant performs, on behalf of that person, other activities that require registration under this chapter; or

(3) provide information concerning a person employed or retained by the registrant for the purpose of assisting in that activity under Section 305.005(f)(5)(A) unless the person is also employed or retained by the registrant to assist with other activities that require registration under this chapter. For the purposes of this chapter, a registrant is not required to list as an assistant another person who is also registered for the same client as the registrant.

Added by Acts 2009, 81st Leg., R.S., Ch. [1174](#), Sec. 3, eff. September 1, 2009.

Section 146, Texas Open Meetings Act

Sec. 551.146. DISCLOSURE OF CERTIFIED AGENDA OR TAPE RECORDING OF CLOSED MEETING; OFFENSE; PENALTY; CIVIL LIABILITY. (a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting

that was lawfully closed to the public under this chapter:

- (1) commits an offense; and
- (2) is liable to a person injured or damaged by the disclosure for:
 - (A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;
 - (B) reasonable attorney fees and court costs; and
 - (C) at the discretion of the trier of fact, exemplary damages.
- (b) An offense under Subsection (a)(1) is a Class B misdemeanor.
- (c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:
 - (1) the defendant had good reason to believe the disclosure was lawful; or
 - (2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.