

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §10.5, Benefit, relating to General Provisions, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed 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*.

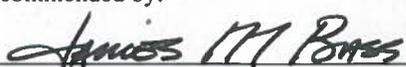
IT IS THEREFORE ORDERED by the commission that the amendments to §10.5 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

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:

  
\_\_\_\_\_  
Director, Compliance Division

Recommended by:

  
\_\_\_\_\_  
Executive Director

**114559 APR 28 06**

Minute  
Number

Date  
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes  
3 amendments to §10.5, concerning Benefit.

4

5 EXPLANATION OF PROPOSED AMENDMENTS

6 Amendments to §10.5, Benefit, expand the definition of "benefit"  
7 by deleting the exclusion for ordinary working meals. The  
8 department expects entities doing business with the department  
9 to adhere to ethical standards of conduct. Section 10.101,  
10 Required Conduct, requires that an entity that does business  
11 with the department refrain from offering, giving, or agreeing  
12 to give a benefit to a member of the commission or to a  
13 department employee. The amendments align the definition of  
14 benefit in §10.5 with the department's ethics policy, which  
15 requires that a department employee not accept or solicit any  
16 gift, favor, or service that might reasonably tend to influence  
17 the employee in the discharge of official duties, or that the  
18 employee knows or should know is being offered with the intent  
19 to influence the employee's official conduct.

20

21 FISCAL NOTE

22 Brian Ragland, Chief Financial Officer, has determined that for  
23 each of the first five years in which the amendments as proposed  
24 are in effect, there will be no fiscal implications for state or  
25 local governments as a result of enforcing or administering the

1 amendments.

2

3 Ms. Kristin Alexander, Director, Compliance Division, has  
4 certified that there will be no significant impact on local  
5 economies or overall employment as a result of enforcing or  
6 administering the amendments.

7

8 PUBLIC BENEFIT AND COST

9 Ms. Alexander has also determined that for each year of the  
10 first five years in which the sections are in effect, the public  
11 benefit anticipated as a result of enforcing or administering  
12 the amendments will be improved standards of ethics and fairness  
13 in the administration of the department's programs. There are  
14 no anticipated economic costs for persons required to comply  
15 with the sections as proposed. There will be no adverse economic  
16 effect on small businesses.

17

18 SUBMITTAL OF COMMENTS

19 Written comments on the proposed amendments to §10.5 may be  
20 submitted to Rule Comments, Office of General Counsel, Texas  
21 Department of Transportation, 125 East 11th Street, Austin,  
22 Texas 78701-2483 or to RuleComments@txdot.gov with the subject  
23 line "Benefit Rules." The deadline for receipt of comments is  
24 5:00 p.m. on June 13, 2016. In accordance with Transportation  
25 Code, §201.811(a)(5), a person who submits comments must

1 disclose, in writing with the comments, whether the person does  
2 business with the department, may benefit monetarily from the  
3 proposed amendments, or is an employee of the department.

4

5 STATUTORY AUTHORITY

6 The amendments are proposed under Transportation Code, §201.101,  
7 which provides the Texas Transportation Commission (commission)  
8 with the authority to establish rules for the conduct of the  
9 work of the department.

10

11 CROSS REFERENCE TO STATUTE

12 None.

1 SUBCHAPTER A. GENERAL PROVISIONS

2 §10.5. Benefit.

3 (a) Except as provided by subsection (b) of this section, a  
4 benefit, for the purposes of this chapter, is anything that is  
5 reasonably regarded as financial gain or financial advantage,  
6 including a benefit to another person in whose welfare the  
7 beneficiary has a direct and substantial interest, regardless of  
8 whether the donor is reimbursed. Examples are cash, loans,  
9 meals [~~other than ordinary working meals~~], lodging, services,  
10 tickets, door prizes, free entry to entertainment or sporting  
11 events, transportation, hunting or fishing trips, or discounts  
12 on goods or services.

13 (b) The following are not benefits for the purposes of this  
14 chapter:

15 [~~(1) an ordinary working meal;~~]

16 (1) [~~(2)~~] a token item, other than cash, a check,  
17 stock, bond, or similar item, that is distributed generally as a  
18 normal means of advertising and that does not exceed an  
19 estimated value of \$25;

20 (2) [~~(3)~~] an honorarium in the form of a meal served  
21 at an official, department-related event such as a conference,  
22 workshop, seminar, or symposium; or

23 (3) [~~(4)~~] reimbursement for food, travel, or lodging

1 to an event described by paragraph (2) [~~(3)~~] of this subsection  
2 in an amount allowable under department policy if the recipient  
3 were to seek reimbursement from the department, or a greater  
4 amount if preapproved by the assistant executive director.