

*2016 General Election
Candidate Packet*

Jason Stuebe
City Secretary



*City of Humble
General Election
May 7, 2016*

Positions for Election

Council Member Place 3

Incumbent: Norman Funderburk

Council Member Place 4

Incumbent: Allan Steagall

Council Member Place 5

Incumbent: David Pierce

**NOTICE OF DEADLINE TO FILE APPLICATIONS FOR
PLACE ON THE BALLOT
(AVISO DE FECHA LÍMITE PARA PRESENTAR SOLICITUDES PARA
UN LUGAR EN LA BOLETA)**

Notice is hereby given that applications for a place on the City of Humble, Texas General Election ballot may be filed during the following time:

(Se da aviso por la presente que las solicitudes para un lugar en la boleta de la Elección General de la Ciudad de Humble, Tejas se pueden presentar durante el siguiente horario:)

Filing Dates and Times:

(Fechas y Horario para Entregar Presentaciones):

Start Date: January 20, 2016

(Fecha Inicio): 20 de enero de 2016

End Date: February 19, 2016

(Fecha Limite): 19 de febrero de 2016

Office Hours: Monday - Friday: 8:00 a.m.- 5:00 p.m.

Horario de la Oficina: Lunes - Viernes: 8:00 a.m.- 5:00 p.m.

Physical address for filing applications in person for place on the ballot:

(Dirección a física para presentar las solicitudes en persona para un lugar en la boleta):

City Secretary
Humble, Texas
114 W. Higgins
Humble, Texas 77338

*La Secretaria de la Ciudad
La Ciudad de Humble, Tejas
114 W. Higgins
Humble, Texas 77338*

Address to mail applications for place on the ballot (if filing by mail):

(Dirección a donde enviar las solicitudes para un lugar en la boleta (en caso de presentar por correo))

City Secretary
Humble, Texas
114 W. Higgins
Humble, Texas 77338

*La Secretaria de la Ciudad
La Ciudad de Humble, Tejas
114 W. Higgins
Humble, Texas 77338*

Jason Stuebe, City Secretary/Secretaria de la Ciudad

Printed Name of Filing Officer

(Nombre en letra de molde del Oficial de Archivos)


Signature of Filing Officer

(Firma del Oficial de Archivos)



December 21, 2016/21 de diciembre de 2016

Date Posted (*Fecha archivada*)

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City of
Humble

114 WEST HIGGINS, HUMBLE, TEXAS 77338, (281) 446-3061

MERLE AARON
MAYOR

FAX: (281) 446-7843

COUNCIL MEMBERS

RAY CALFEE
CHARLES "ANDY" CURRY
NORMAN FUNDERBURK
DAVID PIERCE
ALLAN STEAGALL

CITY MANAGER
DARRELL BOESKE

CITY SECRETARY
JASON STUEBE

January 4, 2016

Dear Candidate:

Thank you for your interest in the City of Humble General Election to be held on May 7, 2016. Enclosed you will find the paperwork necessary to apply for a place on the ballot as well as informational guides and tools to assist you with the election process. **The first day you may file an application to be on the ballot is January 20, 2016.** After you file the appointment of your Campaign Treasurer and your application for a place on the ballot, you will be given the required Texas Ethics Committee paperwork you will need to file both during and after your campaign. **The deadline to file an application to be on the ballot is February 19, 2016 at 5:00 P.M. NO EXCEPTIONS.**

As a reminder, no electioneering will be allowed in City Hall. You must be 100 feet from the polling place to conduct electioneering, therefore you cannot be in City Hall unless you have business to transact. If you must be in City Hall, please avoid the back area around the Council Chamber. A violation of this provision of the law could lead to prosecution.

For general questions regarding elections, please contact: the Secretary of State, 1-800-252-8683, www.sos.state.tx.us. For questions concerning campaign contributions, expenditures and reporting, please contact: the Texas Ethics Commission, 512-463-5800, www.ethics.state.tx.us. To order voter lists, please contact the Harris County Tax Assessor Voter's Registrar's Office at 713-368-2200. If you have any other questions, please contact me at 281-446-3061 or jstuebe@cityofhumble.net.

Respectfully,

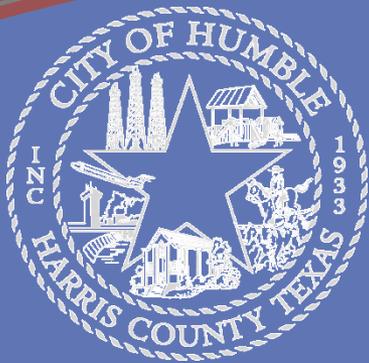
Jason Stuebe
City Secretary

City of Humble
2016 General Election Calendar

January 20, 2016	First day for filing application for place on ballot. At this time the appointment of a Campaign Treasurer and your application for a place on the ballot must be turned in.
February 19, 2016	Last day for filing application for place on ballot and to file appointment of a Campaign Treasurer. 5:00 P.M.
February 26, 2016	Last Day for a candidate to withdraw.
April 7, 2016	Due date for filing the first report of campaign contributions and expenditures by opposed candidates (unless declared modified reporting) with the City Secretary.
April 25, 2016	First day for early voting by personal appearance.
April 29, 2016	Due date for filing the second report of campaign contributions expenditures with the City Secretary.
May 3, 2016	Last day of regular early voting by personal appearance.
May 7, 2016	Election Day.

CITY COUNCIL

101



City Council 101

Jason Stuebe
City Secretary

City Council

- ❑ The Humble [City Council](#) consists of six (6) members, including the Mayor and five (5) regular members filling places 1-5.
- ❑ All six (6) members are elected at-large for two-year terms. Places 1, 2 and the Mayor are elected in odd numbered years; Places 3, 4, and 5 in even numbered years.
- ❑ The City Council has no term limits.
- ❑ Candidates must receive a majority (50 percent +1) of the votes cast for the to earn a place on the Council.

Council Elections

- ❑ The Humble [City Council](#) consists of six (6) members, including the Mayor and five (5) regular members filling places 1-5.
- ❑ All six (6) members are elected at-large for two-year terms. Places 1, 2 and the Mayor are elected in odd numbered years; Places 3, 4, and 5 in even numbered years.
- ❑ The City Council has no term limits.
- ❑ Candidates must receive a majority (50 percent +1) of the votes cast for the to earn a place on the Council.

Qualifications

- ❑ Must be at least eighteen (18) years of age.
- ❑ Must be a resident of Humble and a registered voter.
- ❑ Must not be indebted to the City.
- ❑ Must not hold any other elected public office.
- ❑ Failure to maintain the qualifications required by the [City Charter](#) will result in forfeiture of office.

Office of the Mayor

- ❑ The mayor is recognized as the head of the City government for all ceremonial purposes, the courts for civic process, and by the government for military law.
- ❑ The mayor is the presiding officer at all meetings and votes but has no veto authority.
- ❑ The mayor preserves order and decorum.
- ❑ The mayor mediates conflict among Councilmembers.
- ❑ When authorized by the City Council, the mayor signs all official documents, i.e. ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds

Mayor Pro Tempore

- ❑ At the first meeting of each new Council, the Council elects a Mayor Pro Tempore.
- ❑ The term of office is one (1) year.
- ❑ The Mayor Pro Tempore acts as the mayor if a vacancy occurs or in the event of the absence or disability of the Mayor.
- ❑ In this capacity, the Mayor Pro Tempore has the rights conferred upon the Mayor.
- ❑ In the absence or failure, inability, or refusal of both the Mayor and Mayor Pro Tempore to perform their duties, the Council may elect an Acting Mayor Pro Tempore.

Council Powers

- All powers of the city and the determination of all matters of policy are vested in the City Council including but not limited to:
 - Establishment of administrative departments
 - Adoption of the City Budget
 - Authorize issuance of bonds by bond ordinance
 - Inquiry into the conduct of any officer or department
 - Adoption of plans and plats
 - Adoption and modification of the official map of the City
 - Provide for the establishment and designation of fire limits
 - Appointment of City Manager
 - Approval of City officers and agents

Council Duties

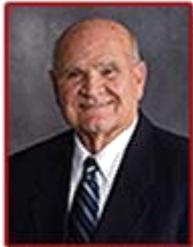
- ❑ Members have a duty to vote on every question decided at Council meetings.
- ❑ Members have a right to speak, make motions, introduce new ordinances, and amend existing ordinances when recognized by the Mayor.
- ❑ Members should attend all meetings and are expected to be on time.
- ❑ Members should be prepared and should read the agenda packet prior to the meeting.
- ❑ Members should be committed to being fair, unbiased and open-minded.
- ❑ Members should be involved and visible in the community and its activities.
- ❑ Members are expected to be courteous to each other and to the staff.

*Staff sees Council as a singular body – not plural.
Councilmembers have no individual authority.*

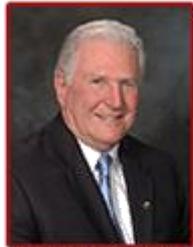
The Council-Manager Form of Government

- ❑ Mission:
 - City Council – Determines purpose, scope of services, tax levy, and constitutional issues.
 - City Manager – Advises the Council and analyzes the conditions and trends to provide professional expertise and guidance.
- ❑ Policy:
 - City Council – Pass ordinances, approve new projects and programs, and ratify the budget.
 - City Manager – Make recommendations on all decisions, formulate the budget and determine service distribution formula.
- ❑ Management:
 - City Council – Review organization's performance in manager's appraisal and provide clear direction for the City Organization
 - City Manager – Control of the human, material and informational resources of the organization to support policy and administrative functions and carry out the will of the City Council.

City Council and Administration



The Honorable Mayor
Merie Don Aaron Sr.



Council Member
Allan Steagall



Council Member
Norman Funderburk



Council Member
Ray Calfee



Council Member
David Ray Pierce



Council Member
Andy Curry



City Manager
Darrell Boeske

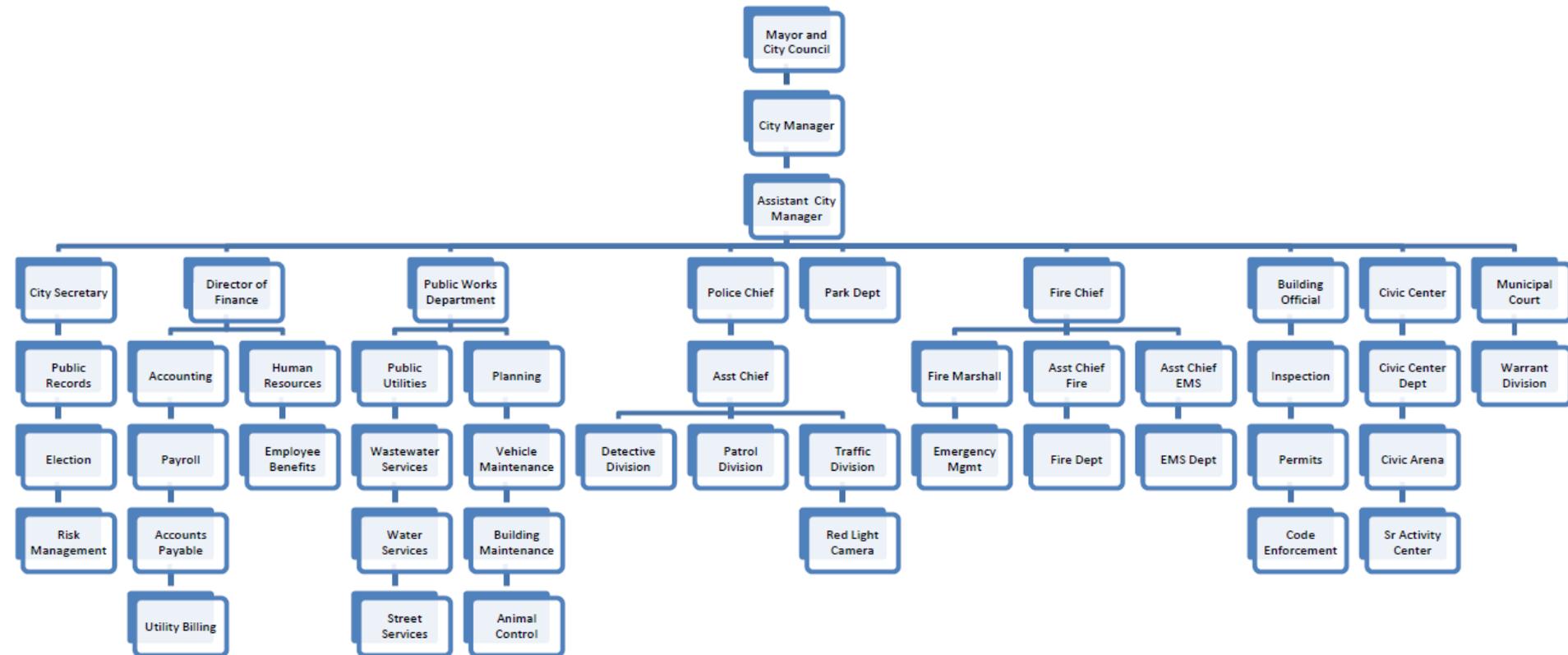


City Secretary
Jason Stuebe

Finance Director – Aimee Phillips
Police Chief – Delbert Dawes
Parks Director – Jeremy Mittag
EMS Chief – Mike Legoudes
Public Works Director – Barry Brock

Chief Building Official – Ray Pierce
Fire Chief – Gary Outlaw
Civic Center Director – Sergio Corales
Municipal Judge – Vic Pecorino
Court Administrator – Sandra Elliott

Organization



Political Leadership and Policy Development

- Council members are expected to:
 - View the public interest apart from personal interest
 - Set policies and goals as a team
 - Develop public policy
 - Be sensitive to the balance between casual and formal relationships

- Four steps to reach policy decisions:
 - Determine what is needed
 - Determine the will of the people
 - Determine what can be done financially and practically
 - Make a decision and take action

City Council Meetings

- ❑ The Council meets regularly but not less than once each month.
- ❑ Meetings are normally scheduled at 6:30 P.M. on the second and fourth Thursdays of each month.
- ❑ The mayor or three (3) Councilmembers may call special meetings.
- ❑ To conduct business, a quorum of at least four (4) Councilmembers must be present.
- ❑ Councilmembers are expected to report absences to the mayor in a timely manner to avoid violating quorum requirements.
- ❑ Council meetings are conducted in accordance with [Chapter 551](#) of the Local Government Code, the [Texas Open Meetings Act](#) and the [Texas Public Information Act](#)

Open Meetings Act

- ❑ Every meeting of the City Council must be conducted in accordance with Chapter 551 of the Government Code (Texas Open Meetings Act).
- ❑ All *newly* elected officials are required to complete Open Meetings Act training within 90 days after taking the oath of office.
- ❑ The Open Meetings Act requires a written notice (agenda) of the date, hour and location of every Council meeting along with an agenda specifically describing all the items to be considered.
- ❑ The notice/agenda must be posted 72 hours in advance of such meeting on a bulletin board at City Hall that is accessible to the public 24 hours a day.
- ❑ The Open Meetings Act requires a City that maintains an internet website to post meeting notices on its website.

Executive Sessions

- ❑ Executive sessions are permitted for the discussion of items that legitimately fall within the confines of statutorily-defined exceptions.
- ❑ Before an executive session can occur, an open session must be convened and the presiding officer must announce that a closed meeting will take place. The officer must cite the section of the Open Meetings Act that authorizes the closed session.
- ❑ Open meetings law expressly provides that no final action, decision or vote can be made except in a meeting that is open to the public.

Executive Sessions Cont'd

- ❑ A Councilmember who violates the open meeting law can be punished by a fine of \$100 to \$500 and/or be confined to the county jail for one to six months.
- ❑ Actions taken by a Council in an illegal meeting are voidable. A court may assess litigation costs and reasonable attorney fees incurred by a party who substantially prevails in action brought under the open meetings law.
- ❑ It is an affirmative defense to prosecution if the Mayor or Councilmember relied in good faith on the written advice of the City Attorney.

Open Meetings Exceptions

- There are ten (10) *narrow* exceptions to the Open Meetings Act:
 - Consultation with attorney
 - Deliberation regarding real property
 - Deliberation regarding prospective gifts
 - Personnel matters
 - Deliberation regarding security devices
 - Agency financed by the federal government
 - Exclusion of a witness from hearing
 - Meeting concerning a municipally-owned utility
 - Deliberation regarding economic development negotiation
 - Deliberation regarding test item

Conflict of Interest

- ❑ Refer to [Chapter 171](#) of the Local Government Code and [Article VIII, Section 5](#) of the City Charter.
- ❑ Every time a local public official participates in contracting with his/her governmental entity or owns real property that may be affected by that entity's actions, the official must consider whether his/her discussion, decision or vote on an item will violate either Texas conflict of interest laws or local conflict of interest provisions.
- ❑ An official with a conflict of interest under Chapter 171 must file an affidavit, and abstain from discussion and voting.
- ❑ An official may be charged with a crime for violating conflict of interest laws.

**APPLICATION FOR A
PLACE ON THE
BALLOT**

All information is required to be provided unless indicated as optional.

APPLICATION FOR A PLACE ON THE CITY OF _____ GENERAL ELECTION BALLOT					
TO: City Secretary					
I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.					
OFFICE SOUGHT Include any place number or other distinguishing number, if any.				INDICATE TERM <input type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED	
FULL NAME (First, Middle, Last)			PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT		
PERMANENT RESIDENCE ADDRESS (Street address and apartment number. If none, describe location of residence. Do not include P.O. Box or Rural Rt.)			MAILING ADDRESS (If different from residence address)		
CITY	STATE	ZIP	CITY	STATE	ZIP
EMAIL ADDRESS (Optional)	OCCUPATION (Do not leave blank)	DATE OF BIRTH / /	VOTER REGISTRATION VUID NUMBER (if applicable)		
TELEPHONE NUMBER (Include area code) (Optional)	Length of Continuous Residence as of Date Application Sworn				
OFFICE:	IN STATE ___ yr(s) ___ mos	IN CITY ___ yr(s) ___ mos	IN DISTRICT OR PRECINCT' ___ yr(s) ___ mos		
HOME:					
If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election.					
Before me, the undersigned authority, on this day personally appeared (name) _____, who being by me here and now duly sworn, upon oath says: "I, (name) _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I further swear that the foregoing statements included in my application are in all things true and correct."					
X _____ SIGNATURE OF CANDIDATE					
Sworn to and subscribed before me at _____, this the _____ day of _____, _____.					
SEAL					
Signature of Officer administering oath ²			Title of Officer administering oath		
TO BE COMPLETED BY CITY SECRETARY:					
(See Section 1.007)					
			Date Received		Signature of City Secretary

INSTRUCTIONS

An application to have the name of a candidate placed on the ballot for any election may not be filed earlier than 30 days before the deadline prescribed by this code for filing the application. An application filed before that day is void.

The filing deadline is 5:00 p.m. 71 days prior to the election day if the election is held in May or November of an odd-numbered year, except in cases where the law specifies the contrary.

The filing deadline is 5:00 p.m. 78 days prior to the election day if the election is held in November of an even-numbered year.

The candidate **must** sign this statement indicating his awareness of the nepotism law. The nepotism prohibitions of chapter 573, Government Code, are summarized below:

No officer may appoint, or vote for or confirm the appointment or employment of any person related within the second degree by affinity (marriage) or the third degree by consanguinity (blood) to himself, or to any other member of the governing body or court on which he serves when the compensation of that person is to be paid out of public funds or fees of office. However, nothing in the law prevents the appointment, voting for, or confirmation of anyone who has been continuously employed in the office or employment for the following period prior to the election or appointment of the officer or member related to the employee in the prohibited degree: six months, if the officer or member is elected at the general election for state and county officers.

No candidate may take action to influence an employee of the office to which the candidate is seeking election or an employee or officer of the governmental body to which the candidate is seeking election regarding the appointment or employment of a person related to the candidate in a prohibited degree as noted above. This prohibition does not apply to a candidate's actions with respect to a bona fide class or category of employees or prospective employees.

Examples of relatives within the third degree of consanguinity are as follows:

- (1) First degree: parent, child;
- (2) Second degree: brother, sister, grandparent, grandchild;
- (3) Third degree: great-grandparent, great-grandchild, uncle, aunt, nephew, niece.

These include relatives by blood, half-blood, and legal adoption.

Examples of relatives within the second degree of affinity are as follows:

- (1) First degree: spouse, spouse's parent, son-in-law, daughter-in-law;
- (2) Second degree: brother's spouse, sister's spouse, spouse's brother, spouse's sister, spouse's grandparent.

Persons related by affinity (marriage) include spouses of relatives by consanguinity, and, if married, the spouse and the spouse's relatives by consanguinity. These examples are not all inclusive.

FOOTNOTE

¹If the territory for which the office is elected is citywide (at large) the length of residence in district/precinct is not required.

²All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by a judge, clerk, or commissioner of any court of record, a notary public, a justice of the peace, city secretary, and the Secretary of State of Texas.

Se requiere toda la información, a menos que haya alguna indicación que no es obligatoria.

APLICACION PARA UN LUGAR EN LA BOLETA DE LA CIUDAD DE _____ ELECCIÓN GENERAL														
A: Secretario(a) de la Ciudad Solicito que mi nombre esté puesto en la arriba nombrada boleta como candidato para puesto oficial indicado abajo.														
PUESTO OFICIAL SOLICITADO Incluye cualquier número de lugar u otro número que hace el puesto oficial diferente a otros, si hay alguno.				INDIQUE TÉRMINO <input type="checkbox"/> TÉRMINO COMPLETO <input type="checkbox"/> NO COMPLETADO										
NOMBRE COMPLETO (Nombre de Pila, Segundo Nombre, Apellido)			ESCRIBA SU NOMBRE COMO DESEA QUE APAREZCA EN LA BOLETA											
DIRECCION DE RESIDENCIA PERMANENTE: Calle y Número de Departamento: si no tiene, describa la localidad de su residencia. No incluya su caja postal o ruta rural.			DIRECCIÓN POSTAL (Si es diferente a su dirección de residencia)											
CIUDAD	ESTADO	ZONA POSTAL	CIUDAD	ESTADO	ZONA POSTAL									
CORREO ELECTRÓNICO (Optativo)	EMPLEO (No lo deje en blanco)		FECHA DE NACIMIENTO / /	NUM. DE VUID DE VOTANTE (si aplica)										
NÚMERO DE TELEFONO – Incluya el código de área (Optativo) DE SU OFICINA: DE SU DOMICILIO:		TIEMPO EN QUE HA RESIDIDO EN UN SOLO LUGAR EN LA FECHA EN QUE PRESTÓ JURAMENTO SOBRE LA SOLICITUD <table border="1" style="width:100%; border-collapse: collapse; margin-top: 5px;"> <tr> <th style="padding: 2px;">EN EL ESTADO</th> <th style="padding: 2px;">EN LA CIUDAD</th> <th style="padding: 2px;">EN EL DISTRITO O PRECINTO¹</th> </tr> <tr> <td style="padding: 2px;">____ (año(s))</td> <td style="padding: 2px;">____ (año(s))</td> <td style="padding: 2px;">____ (año(s))</td> </tr> <tr> <td style="padding: 2px;">____ (mes(es))</td> <td style="padding: 2px;">____ (mes(es))</td> <td style="padding: 2px;">____ (mes(es))</td> </tr> </table>				EN EL ESTADO	EN LA CIUDAD	EN EL DISTRITO O PRECINTO ¹	____ (año(s))	____ (año(s))	____ (año(s))	____ (mes(es))	____ (mes(es))	____ (mes(es))
EN EL ESTADO	EN LA CIUDAD	EN EL DISTRITO O PRECINTO ¹												
____ (año(s))	____ (año(s))	____ (año(s))												
____ (mes(es))	____ (mes(es))	____ (mes(es))												
Para poder incluir un apodo como parte de su nombre completo el la papeleta, Ud. deberá firmar la siguiente constancia: Además, juro que se me ha conocido por este apodo por más de tres años. Además, juro que el apodo no es un lema político ni una indicación de mis creencias o afiliaciones políticas, económicas, sociales, o religiosas.														
Ante mí, la autoridad, suscrita apareció en persona _____, quien habiendo aquí y ahora prestado juramento debido, bajo juramento dice: “Yo, _____, del condado de _____, Texas, siendo candidato para el puesto oficial de _____ solemnemente juro que apoyaré y defenderé la Constitución y las leyes de los Estados Unidos y del Estado de Texas. Soy ciudadano de los Estados Unidos elegible para ocupar tal puesto oficial bajo la Constitución y las leyes de este Estado. No me han determinado por un juicio final de una corte de la legalización de un testamento, ser totalmente incapacitado mentalmente o parcialmente incapacitado sin el derecho de votar, ni he sido probado culpable finalmente de una felonía por la cual no he sido perdonado o por la cual no se me han restituido enteramente mis derechos de ciudadanía por medio de otra acción oficial. Yo tengo conocimiento de la ley sobre el nepotismo según el capitulo 573 de Código Gobierno.														
Además juro que las anteriores declaraciones que incluyo en mi solicitud son verdaderas y están correctas en todos sentidos.”														
X _____ FIRMA DEL CANDIDATO														
Jurado y suscrito ante mi en _____, este día _____ de _____, _____. <div style="text-align: right;">SELLO</div>														
Firma del oficial administrando el juramento ²			Título del oficial administrando el juramento											
TO BE COMPLETED BY CITY SECRETARY: (See Section 1.007)														
			Date Received		Signature of City Secretary									

INSTRUCCIONES

Una aplicación para que le nombre de un candidato aparezca en la boleta para cualquier elección no deberá registrarse antes de 30 días antes del último día para registrar la aplicación como prescribe este código. Una aplicación registrada antes de ese día se declara inválida.

El último día para registrarse es a las 5 de la tarde 71 días antes del día de elección, si la elección es administrada en mayo o en noviembre de los años nones menos en casos donde la ley especifique lo contrario.

El último día para registrarse es a las 5 de la tarde 78 días antes del día de elección si la elección es administrada en noviembre de los años pares.

El candidato **deberá** firmar esta declaración indicando que él/ella está enterado(a) de la ley sobre el nepotismo. Lo siguiente es un resumen de las prohibiciones del nepotismo al acuerdo al capítulo 573 de Código Gobierno:

Ningún oficial podrá nombrar, o votar por o confirmar el nombramiento o empleo de alguna persona que está emparentada con él dentro del segundo grado por afinidad (matrimonio) o dentro del tercer grado por consanguinidad (sangre), o que está emparentada con cualesquier otro miembro del cuerpo directivo o corte en que él/ella celebra sesión cuando la compensación de esa persona estará pagada con fondos públicos o los honorarios del puesto oficial. Sin embargo, la ley no prohíbe el nombramiento, el votar por, o la confirmación de alguna persona que continuadamente ha sido empleado de la oficina o ha sido empleado durante el siguiente plazo antes de la elección o el nombramiento del oficial o miembro que está emparentado con el empleado en el grado prohibido: seis meses, si el oficial o miembro está elegido en una elección otra de la elección general para oficiales del estado y del condado.

Ningún candidato podrá obrar para influir a un empleado del puesto oficial al cual el candidato desea estar elegido o un empleado o oficial del cuerpo fiscal al cual el candidato desea estar elegido en cuanto al nombramiento o al empleo de una persona que está emparentada con el candidato en un grado prohibido como notado arriba. Esta restricción no se dirige a las acciones de un candidato respecto a una clase o categoría de buena fe de empleados o empleados anticipados.

Los ejemplos de parientes dentro del tercer grado de consanguinidad son los siguientes:

- (1) Primer grado: padre, madre, hijo(a);
- (2) Segundo grado: hermano(a), abuelo(a), nieto(a) primo(a);
- (3) Tercer grado: bisabuelo(a), bisnieto(a), tío(a), sobrino(a).

Los siguientes incluyen parientes de linaje (sangre), medios hermanos, y adopción legal.

Los ejemplos de parientes dentro del segundo grado de afinidad son los siguientes:

- (1) Primer grado: esposo(a), suegro(a), yerno(a);
- (2) Segundo grado: cuñado(a), abuelo(a) del esposo o esposa.

Las personas que están emparentadas por afinidad (matrimonio) están incluyen los esposos o esposas de parientes que están emparentados por consanguinidad, y, si casados, el esposo o esposa y los parientes del esposo o esposa por consanguinidad. No todos estos ejemplos son inclusivos.

NOTA

¹Si el territorio del puesto que se elige abarca la ciudad entera (plurinominal), no se requiere la duración de residencia en el distrito/precinto.

²Todo juramento, testimonio o afirmación hecho dentro de este Estado se podrá administrar y se podrá dar un certificado del hecho por un juez, escribano, o comisionado de alguna corte de registro, un notario público, un juez de paz, secretario de la ciudad, y el Secretario del Estado de Texas.

**APPOINTMENT OF
CAMPAIGN
TREASURER (CTA)**

CANDIDATE MODIFIED REPORTING DECLARATION

FORM CTA
PG 2

11 CANDIDATE
NAME

12 MODIFIED
REPORTING
DECLARATION

COMPLETE THIS SECTION ONLY IF YOU ARE CHOOSING MODIFIED REPORTING

•• This declaration must be filed no later than the 30th day before the first election to which the declaration applies. ••

•• The modified reporting option is valid for one election cycle only. ••
(An election cycle includes a primary election, a general election, and any related runoffs.)

•• Candidates for the office of state chair of a political party may NOT choose modified reporting. ••

I do not intend to accept more than \$500 in political contributions or make more than \$500 in political expenditures (excluding filing fees) in connection with any future election within the election cycle. I understand that if either one of those limits is exceeded, I will be required to file pre-election reports and, if necessary, a runoff report.

Year of election(s) or election cycle to
which declaration applies

Signature of Candidate

This appointment is effective on the date it is filed with the appropriate filing authority.

INSTRUCTION GUIDE FOR CTA

TEXAS ETHICS COMMISSION

APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

FORM CTA – INSTRUCTION GUIDE



Revised July 14, 2010

Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711
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Visit us at <http://www.ethics.state.tx.us> on the Internet.

AN EQUAL OPPORTUNITY EMPLOYER

The Texas Ethics Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

FORM CTA–INSTRUCTION GUIDE

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APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

GENERAL INSTRUCTIONS

These instructions are for the APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (Form CTA). Use Form CTA only for appointing your campaign treasurer. Use the AMENDMENT (Form ACTA) for changing information previously reported on Form CTA and for renewing your choice to report under the modified schedule. Note: Candidates for most judicial offices use Form JCTA to file a campaign treasurer appointment.

DUTIES OF A CANDIDATE OR OFFICEHOLDER. As a candidate or officeholder, you alone, not the campaign treasurer, are responsible for filing this form and all candidate/officeholder reports of contributions, expenditures, and loans. Failing to file a report on time or filing an incomplete report may subject you to criminal or civil penalties.

QUALIFICATIONS OF CAMPAIGN TREASURER. A person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that has outstanding filing obligations (including outstanding penalties). This prohibition does not apply if the committee in connection with which the ineligibility arose has not accepted more than \$5,000 in political contributions or made more than \$5,000 in political expenditures in any semiannual reporting period. A person who violates this prohibition is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this provision. Note: A candidate may appoint himself or herself as his or her own campaign treasurer.

DUTIES OF A CAMPAIGN TREASURER. State law does not impose any obligations on a candidate's campaign treasurer.

REQUIREMENT TO FILE BEFORE BEGINNING A CAMPAIGN. If you plan to run for a public office in Texas (except for a federal office), you must file this form when you become a candidate even if you do not intend to accept campaign contributions or make campaign expenditures. A "candidate" is 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 the 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.

Additionally, the law provides that you must file this form before you may accept a campaign contribution or make or authorize a campaign expenditure, including an expenditure from your personal funds. A filing fee paid to a filing authority to qualify for a place on a ballot is a campaign expenditure that may not be made before filing a campaign treasurer appointment form with the proper filing authority.

If you are an officeholder, you may make officeholder expenditures and accept officeholder contributions without having a campaign treasurer appointment on file. If you do not have a campaign treasurer appointment on file and you wish to accept *campaign* contributions or make *campaign* expenditures in connection with your office or for a different office, you must file this form before doing so. In such a case, a sworn report of contributions, expenditures, and loans will be due no later than the 15th day after filing this form.

WHERE TO FILE A CAMPAIGN TREASURER APPOINTMENT. The appropriate filing authority depends on the office sought or held.

a. Texas Ethics Commission. The Texas Ethics Commission is the appropriate filing authority for the Secretary of State and for candidates for or holders of the following offices:

- Governor, Lieutenant Governor, Attorney General, Comptroller, Treasurer, Land Commissioner, Agriculture Commissioner, Railroad Commissioner.
- State Senator or State Representative.
- Supreme Court Justice, Court of Criminal Appeals Judge, and Court of Appeals Judge.*
- State Board of Education.
- A multi-county district judge* or multi-county district attorney.
- A single-county district judge.*

- An office of a political subdivision other than a county if the political subdivision includes areas in more than one county and if the governing body of the political subdivision has not been formed.
 - A chair of the state executive committee of a political party with a nominee on the ballot in the most recent gubernatorial election.
 - A county chair of a political party with a nominee on the ballot in the most recent gubernatorial election if the county has a population of 350,000 or more.
- * Judicial candidates use FORM JCTA to appoint a campaign treasurer.

b. County Clerk. The county clerk (or the county elections administrator or tax assessor, as applicable) is the appropriate local filing authority for a candidate for:

- A county office.
- A precinct office.
- A district office (except for multi-county district offices).
- An office of a political subdivision other than a county if the political subdivision is within the boundaries of a single county and if the governing body of the political subdivision has not been formed.

c. Local Filing Authority. If a candidate is seeking an office of a political subdivision other than a county, the appropriate filing authority is the *clerk or secretary of the governing body* of the political subdivision. If the political subdivision has no clerk or secretary, the appropriate filing authority is the governing body's presiding officer. Basically, any political subdivision that is authorized by the laws of this state to hold an election is considered a local filing authority. Examples are cities, school districts, and municipal utility districts.

FILING WITH A DIFFERENT AUTHORITY. If you have a campaign treasurer appointment on file with one authority, and you wish to accept campaign contributions or make or authorize campaign expenditures in connection with another office that would require filing with a different authority, you must file a new campaign treasurer appointment *and* a copy of your old campaign treasurer appointment (certified by the old authority) with the new filing authority before beginning your campaign. You should also provide written notice to the original filing authority that your future reports will be filed with another authority.

FORMING A POLITICAL COMMITTEE. As a candidate, you must file an APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM CTA). You may also form a specific-purpose committee to support your candidacy. Remember that filing a campaign treasurer appointment for a political committee does not eliminate the requirement that a candidate file his or her own campaign treasurer appointment (FORM CTA) and the related reports.

NOTE: See the *Campaign Finance Guide for Political Committees* for further information about specific-purpose committees.

CHANGING A CAMPAIGN TREASURER. If you wish to change your campaign treasurer, simply file an amended campaign treasurer appointment (FORM ACTA). This will automatically terminate the outgoing campaign treasurer appointment.

AMENDING A CAMPAIGN TREASURER APPOINTMENT. If *any* of the information reported on the campaign treasurer appointment (FORM CTA) changes, file an AMENDMENT: APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM ACTA) to report the change.

REPORTING REQUIREMENT FOR CERTAIN OFFICEHOLDERS. If you are an officeholder who appoints a campaign treasurer after a period of not having one, you must file a report of contributions, expenditures, and loans no later than the 15th day after your appointment is effective. This requirement is not applicable if you are a candidate or an officeholder who is merely changing campaign treasurers.

TERMINATING A CAMPAIGN TREASURER APPOINTMENT. You may terminate your campaign treasurer appointment at any time by:

- 1) filing a campaign treasurer appointment for a successor campaign treasurer, or
- 2) filing a final report.

Remember that you may not accept any campaign contributions or make or authorize any campaign expenditures without a campaign treasurer appointment on file. You may, however, accept officeholder contributions and make or authorize officeholder expenditures.

If your campaign treasurer quits, he or she must give written notice to both you and your filing authority. The termination will be effective on the date you receive the notice or on the date your filing authority receives the notice, whichever is later.

FILING A FINAL REPORT. For filing purposes, you are a “candidate” as long as you have an appointment of campaign treasurer on file. If you do not expect to accept any further campaign contributions or to make any further campaign expenditures, you may file a final report of contributions and expenditures. A final report terminates your appointment of campaign treasurer and relieves you of the obligation of filing further reports as a candidate. If you have surplus funds, or if you retain assets purchased with political funds, you will be required to file annual reports. (*See instructions for FORM C/OH - UC.*) If you are an officeholder at the time of filing a final report, you may be required to file semiannual reports of contributions, expenditures, and loans as an officeholder.

If you do not have an appointment of campaign treasurer on file, you may not accept *campaign* contributions or make *campaign* expenditures. A payment on a campaign debt is a campaign expenditure. An officeholder who does not have an appointment of campaign treasurer on file may accept *officeholder* contributions and make *officeholder* expenditures.

To file a final report, you must complete the CANDIDATE/OFFICEHOLDER CAMPAIGN FINANCE REPORT (FORM C/OH), check the “final” box on Page 1, Section 9, and complete and attach the DESIGNATION OF FINAL REPORT (FORM C/OH-FR).

ELECTRONIC FILING. All persons filing campaign finance reports with the Texas Ethics Commission are required to file those reports electronically unless the person is entitled to claim an exemption. Please check the Ethics Commission’s website at <http://www.ethics.state.tx.us> for information about exemptions from the electronic filing requirements.

GUIDES. All candidates should review the applicable Ethics Commission’s campaign finance guide. Guides are available on the Ethics Commission’s website at <http://www.ethics.state.tx.us>.

SPECIFIC INSTRUCTIONS

Each numbered item in these instructions corresponds to the same numbered item on the form.

PAGE 1

- 1. TOTAL PAGES FILED:** After you have completed the form, enter the total number of pages of this form and any additional pages. A “page” is one side of a two-sided form. If you are not using a two-sided form, a “page” is a single sheet.
- 2. CANDIDATE NAME:** Enter your full name, including nicknames and suffixes (e.g., Sr., Jr., III), if applicable. Enter your name in the same way on Page 2, Section 11, of this form.
- 3. CANDIDATE MAILING ADDRESS:** Enter your complete mailing address, including zip code. This information will allow your filing authority to correspond with you. If this information changes, please notify your filing authority immediately.
- 4. CANDIDATE PHONE:** Enter your phone number, including the area code and extension, if applicable.
- 5. OFFICE HELD:** If you are an officeholder, please enter the office you currently hold. Include the district, precinct, or other designation for the office, if applicable.
- 6. OFFICE SOUGHT:** If you are a candidate, please enter the office you seek, if known. Include the district, precinct, or other designation for the office, if applicable.
- 7. CAMPAIGN TREASURER NAME:** Enter the full name of your campaign treasurer, including nicknames and suffixes (e.g., Sr., Jr., III), if applicable.
- 8. CAMPAIGN TREASURER STREET ADDRESS:** Enter the complete street address of your campaign treasurer, including the zip code. You may enter either the treasurer’s business or residential street address. If you are your own treasurer, you may enter either your business or residential street address. Please do not enter a P.O. Box.

- 9. CAMPAIGN TREASURER PHONE:** Enter the phone number of your campaign treasurer, including the area code and extension, if applicable.
- 10. CANDIDATE SIGNATURE:** Enter your signature after reading the summary. Your signature here indicates that you have read the following summary of the nepotism law; that you are aware of your responsibility to file timely reports; and that you are aware of the restrictions on contributions from corporations and labor organizations.
- The Texas nepotism law (Government Code, chapter 573) imposes certain restrictions on both officeholders and candidates. You should consult the statute in regard to the restrictions applicable to officeholders.
 - A candidate may not take an affirmative action to influence an employee of the office to which the candidate seeks election in regard to the appointment, confirmation, employment or employment conditions of an individual who is related to the candidate within a prohibited degree.
 - A candidate for a multi-member governmental body may not take an affirmative action to influence an officer or employee of the governmental body to which the candidate seeks election in regard to the appointment, confirmation, or employment of an individual related to the candidate in a prohibited degree.
 - Two people are related within a prohibited degree if they are related within the third degree by consanguinity (blood) or the second degree by affinity (marriage). The degree of consanguinity is determined by the number of generations that separate them. If neither is descended from the other, the degree of consanguinity is determined by adding the number of generations that each is separated from a common ancestor. Examples: (1) first degree - parent to child; (2) second degree - grandparent to grandchild; or brother to sister; (3) third degree - great-grandparent to great-grandchild; or aunt to niece who is child of individual's brother or sister. A husband and wife are related in the first degree by affinity. A wife has the same degree of relationship by affinity to her husband's relatives as her husband has by consanguinity. For example, a wife is related to her husband's grandmother in the second degree by affinity.

PAGE 2

- 11. CANDIDATE NAME:** Enter your name as you did on Page 1.
- 12. MODIFIED REPORTING DECLARATION:** Sign this option if you wish to report under the modified reporting schedule.

The modified reporting option is not available for candidates for the office of state chair of a political party.

To the left of your signature, enter the year of the election or election cycle to which your selection of modified reporting applies.

Your selection of modified reporting is valid for an entire election cycle. For example, if you choose modified reporting before a primary election, your selection remains in effect for any runoff and for the general election and any related runoff. You must make this selection at least 30 days before the first election to which your selection applies.

An opposed candidate in an election is eligible to report under the modified reporting schedule if he or she does not intend to accept more than \$500 in political contributions or make more than \$500 in political expenditures in connection with an election. The amount of a filing fee paid to qualify for a place on the ballot does not count against the \$500 expenditure limit. An opposed candidate who reports under the modified schedule is not required to file pre-election reports (due 30 days and 8 days before an election) or runoff reports (due 8 days before a runoff). (Note: An *unopposed* candidate is not required to file pre-election reports in the first place.) The obligations to file semiannual reports, special pre-election reports (formerly known as telegram reports), or special session reports, if applicable, are not affected by selecting the modified schedule.

The \$500 maximums apply to each election within the cycle. In other words, you are limited to \$500 in contributions and expenditures in connection with the primary, an additional \$500 in contributions and expenditures in connection with the general election, and an additional \$500 in contributions and expenditures in connection with a runoff.

EXCEEDING \$500 IN CONTRIBUTIONS OR EXPENDITURES. If you exceed \$500 in contributions or expenditures in connection with an election, you must file according to the regular filing schedule. In other words, you must file pre-election reports and a runoff report, if you are in a runoff.

If you exceed either of the \$500 limits *after the 30th day before the election*, you must file a sworn report of contributions and expenditures within 48 hours after exceeding the limit. After that, you must file any pre-election reports or runoff reports that are due under the regular filing schedule.

Your selection is not valid for other elections or election cycles. Use the amendment form (ACTA) to renew your option to file under the modified schedule for a different election year or election cycle.

For more information, see the Ethics Commission's campaign finance guide that applies to you.

**AMENDMENT:
APPOINTMENT OF A
CAMPAIGN
TREASURER (ACTA)**

**AMENDMENT:
CANDIDATE MODIFIED REPORTING DECLARATION**

**FORM ACTA
PG 2**

13 CANDIDATE
NAME

14 MODIFIED
REPORTING
DECLARATION

NEW

**COMPLETE THIS SECTION ONLY IF YOU ARE
CHOOSING MODIFIED REPORTING**

**•• This declaration must be filed no later than the 30th day before
the first election to which the declaration applies. ••**

•• The modified reporting option is valid for one election cycle only. ••
(An election cycle includes a primary election, a general election, and any related runoffs.)

**•• Candidates for the office of state chair of a political party
may NOT choose modified reporting. ••**

I do not intend to accept more than \$500 in political contributions
or make more than \$500 in political expenditures (excluding filing
fees) in connection with any future election within the election cycle.
I understand that if either one of those limits is exceeded, I will be
required to file pre-election reports and, if necessary, a runoff
report.

Year of election(s) or election cycle to
which declaration applies

Signature of Candidate

This appointment is effective on the date it is filed with the appropriate filing authority.

INSTRUCTION GUIDE FOR FORM ACTA

TEXAS ETHICS COMMISSION

AMENDMENT: APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

FORM ACTA—INSTRUCTION GUIDE



Revised July 14, 2010

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FORM ACTA–AMENDMENT: APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE

GENERAL INSTRUCTIONS

These instructions are for the AMENDMENT: APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (Form ACTA). Use this form for changing information previously reported on Form CTA and for renewing your choice to report under the modified schedule. The information you enter on this form will replace the information from your previous APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (Form (CTA).

If any of the information required to be reported on your CAMPAIGN TREASURER APPOINTMENT changes, you should file an amendment. Use the AMENDMENT form (Form ACTA) to report the changes. Do not use the APPOINTMENT form (Form CTA).

You must also use the AMENDMENT form to renew your option to file under the modified schedule.

Except for your name at the top of the form (and your account number, if you file with the Ethics Commission), enter only the information that is *different* from what is on your current campaign treasurer appointment. Do not repeat information that has not changed. The “NEW” boxes emphasize that the information entered on this form should only be information that is different from what was previously reported. Any information entered in a space with a “NEW” box will replace the existing information.

SPECIFIC INSTRUCTIONS

Each numbered item in these instructions corresponds to the same numbered item on the form.

PAGE 1

- 1. CANDIDATE NAME:** Enter your name as it is on your current campaign treasurer appointment. Enter your name in the same way on Page 2, Section 13, of this form. If you are reporting a name change, enter your new name under Section 4.
- 2. ACCOUNT #:** If you are filing with the Ethics Commission, you were assigned a filer account number when you filed your initial campaign treasurer appointment. You should have received a letter acknowledging receipt of the form and informing you of your account number. Enter this number wherever you see “ACCOUNT #.” If you do not file with the Ethics Commission, you are not required to enter an account number.
- 3. TOTAL PAGES FILED:** After you have completed the form, enter the total number of pages of this form and any additional pages. A “page” is one side of a two-sided form. If you are not using a two-sided form, a “page” is a single sheet.

4. **CANDIDATE NAME:** Complete this section only if your name has *changed*. If your name has changed, enter your complete new name, including nicknames and suffixes (e.g., Sr., Jr., III) if applicable.
5. **CANDIDATE MAILING ADDRESS:** Complete this section only if your mailing address has *changed*. If your mailing address has changed, enter your complete new address, including zip code. This information will allow your filing authority to correspond with you.
6. **CANDIDATE PHONE:** Complete this section only if your phone number has *changed*. If your phone number has changed, enter your new phone number, including the area code and extension, if applicable.
7. **OFFICE HELD:** If you are an officeholder, complete this section only if your office has *changed*. If your office has changed, please enter the new office held. Include the district, precinct, or other designation for the office, if applicable.
8. **OFFICE SOUGHT:** If you are a candidate, complete this section only if the office you seek has *changed*. If the office has changed, please enter the office you now seek, if known. Include the district, precinct, or other designation for the office, if applicable.

Note: Changing the office you are seeking may require you to file your reports with a different filing authority. See the Campaign Finance Guide for further information on filing with a different authority.

9. **CAMPAIGN TREASURER NAME:** Complete this section only if your campaign treasurer has *changed*. If your campaign treasurer has changed, enter the full name of your new campaign treasurer, including nicknames and suffixes (e.g., Sr., Jr., III), if applicable.

Qualifications of Campaign Treasurer. A person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that has outstanding filing obligations (including outstanding penalties). This prohibition does not apply if the committee in connection with which the ineligibility arose has not accepted more than \$5,000 in political contributions or made more than \$5,000 in political expenditures in any semiannual reporting period. A person who violates this prohibition is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this provision.

10. **CAMPAIGN TREASURER STREET ADDRESS:** Complete this section only if your campaign treasurer's street address has *changed*. If your campaign treasurer's street address has changed, enter the complete new address of your campaign treasurer, including the zip code. You may enter either the treasurer's new business or residential street address. If you are your own treasurer, you may enter either your business or residential street address. Please do not enter a P.O. Box.

11. CAMPAIGN TREASURER PHONE: Complete this section only if your campaign treasurer’s phone number has *changed*. If your campaign treasurer’s phone number has changed, enter the new phone number of your campaign treasurer, including the area code and extension, if applicable.

12. CANDIDATE SIGNATURE: Enter your signature after reading the summary. Your signature here indicates that you have read the following summary of the nepotism law; that you are aware of your responsibility to file timely reports; and that you are aware of the restrictions on contributions from corporations and labor organizations.

- The Texas nepotism law (Government Code, chapter 573) imposes certain restrictions on both officeholders and candidates. You should consult the statute in regard to the restrictions applicable to officeholders.
- A candidate may not take an affirmative action to influence an employee of the office to which the candidate seeks election in regard to the appointment, confirmation, employment or employment conditions of an individual who is related to the candidate within a prohibited degree.
- A candidate for a multi-member governmental body may not take an affirmative action to influence an officer or employee of the governmental body to which the candidate seeks election in regard to the appointment, confirmation, or employment of an individual related to the candidate in a prohibited degree.
- Two people are related within a prohibited degree if they are related within the third degree by consanguinity (blood) or the second degree by affinity (marriage). The *degree of consanguinity* is determined by the number of generations that separate them. If neither is descended from the other, the degree of consanguinity is determined by adding the number of generations that each is separated from a common ancestor. **Examples:** (1) first degree - parent to child; (2) second degree - grandparent to grandchild; or brother to sister; (3) third degree - great-grandparent to great-grandchild; or aunt to niece who is child of individual’s brother or sister. A husband and wife are related in the first degree by affinity. A wife has the same degree of relationship by affinity to her husband’s relatives as her husband has by consanguinity. For example, a wife is related to her husband’s grandmother in the second degree by affinity.

Note: The changes you have made on this form will replace the information on your previous APPOINTMENT form (Form CTA).

PAGE 2

13. CANDIDATE NAME: Enter your name as you did on Page 1, Section 1.

14. MODIFIED REPORTING DECLARATION: Sign this option if you wish to report under the modified reporting schedule.

The modified reporting option is not available for candidates for the office of state chair of a political party.

To the left of your signature, enter the year of the election or election cycle to which your selection of modified reporting applies.

Your selection of modified reporting is valid for an entire election cycle. For example, if you choose modified reporting before a primary election, your selection remains in effect for any runoff and for the general election and any related runoff. You must make this selection at least 30 days before the first election to which your selection applies.

An opposed candidate in an election is eligible to report under the modified reporting schedule if he or she does not intend to accept more than \$500 in political contributions or make more than \$500 in political expenditures in connection with an election. The amount of a filing fee paid to qualify for a place on the ballot does not count against the \$500 expenditure limit. An opposed candidate who reports under the modified schedule is not required to file pre-election reports (due 30 days and 8 days before an election) or runoff reports (due 8 days before a runoff). (Note: An *unopposed* candidate is not required to file pre-election reports in the first place.) The obligations to file semi-annual reports, special pre-election reports (formerly known as telegram reports), or special session reports, if applicable, are not affected by selecting the modified schedule.

The \$500 maximums apply to each election within the cycle. In other words, you are limited to \$500 in contributions and expenditures in connection with the primary, an additional \$500 in contributions and expenditures in connection with the general election, and an additional \$500 in contributions and expenditures in connection with a runoff.

Exceeding \$500 in contributions or expenditures. If you exceed \$500 in contributions or expenditures in connection with an election, you must file according to the regular schedule. In other words, you must file pre-election reports and a runoff report, if you are in a runoff.

If you exceed either of the \$500 limits *after the 30th day before the election*, you must file a sworn report of contributions and expenditures within 48 hours after exceeding the limit. After that, you must file any pre-election reports or runoff reports that are due under the regular filing schedule.

Your selection is not valid for other elections or election cycles. Use another amendment form (ACTA) to renew your option to file under the modified schedule.

For more information, see the Ethics Commission's campaign finance guide that applies to you.

**CODE OF FAIR
CAMPAIGN
PRACTICES (CFCP)**

CODE OF FAIR CAMPAIGN PRACTICES

FORM CFCP COVER SHEET

Pursuant to chapter 258 of the Election Code, every candidate and political committee is encouraged to subscribe to the Code of Fair Campaign Practices. The Code may be filed with the proper filing authority upon submission of a campaign treasurer appointment form. Candidates or political committees that already have a current campaign treasurer appointment on file as of September 1, 1997, may subscribe to the code at any time.

Subscription to the Code of Fair Campaign Practices is voluntary.

OFFICE USE ONLY
Date Received
Date Hand-delivered or Postmarked
Date Processed
Date Imaged

1 ACCOUNT NUMBER (Ethics Commission Filers)	2 TYPE OF FILER CANDIDATE <input type="checkbox"/> POLITICAL COMMITTEE <input type="checkbox"/> <i>If filing as a candidate, complete boxes 3 - 6, then read and sign page 2.</i> <i>If filing for a political committee, complete boxes 7 and 8, then read and sign page 2.</i>		
3 NAME OF CANDIDATE (PLEASE TYPE OR PRINT)	TITLE (Dr., Mr., Ms., etc.)	FIRST	MI NICKNAME LAST SUFFIX (SR., JR., III, etc.)
4 TELEPHONE NUMBER OF CANDIDATE (PLEASE TYPE OR PRINT)	AREA CODE ()	PHONE NUMBER	EXTENSION
5 ADDRESS OF CANDIDATE (PLEASE TYPE OR PRINT)	STREET / PO BOX;	APT / SUITE #;	CITY; STATE; ZIP CODE
6 OFFICE SOUGHT BY CANDIDATE (PLEASE TYPE OR PRINT)			
7 NAME OF COMMITTEE (PLEASE TYPE OR PRINT)			
8 NAME OF CAMPAIGN TREASURER (PLEASE TYPE OR PRINT)	TITLE (Dr., Mr., Ms., etc.)	FIRST	MI NICKNAME LAST SUFFIX (SR., JR., III, etc.)

GO TO PAGE 2

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play that every candidate and political committee in this state has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional rights to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I will conduct the campaign openly and publicly and limit attacks on my opponent to legitimate challenges to my opponent’s record and stated positions on issues.
- (2) I will not use or permit the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or the candidate’s personal or family life.
- (3) I will not use or permit any appeal to negative prejudice based on race, sex, religion, or national origin.
- (4) I will not use campaign material of any sort that misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations that aim at creating or exploiting doubts, without justification, as to the personal integrity or patriotism of my opponent.
- (5) I will not undertake or condone any dishonest or unethical practice that tends to corrupt or undermine our system of free elections or that hampers or prevents the full and free expression of the will of the voters, including any activity aimed at intimidating voters or discouraging them from voting.
- (6) I will defend and uphold the right of every qualified voter to full and equal participation in the electoral process, and will not engage in any activity aimed at intimidating voters or discouraging them from voting.
- (7) I will immediately and publicly repudiate methods and tactics that may come from others that I have pledged not to use or condone. I shall take firm action against any subordinate who violates any provision of this code or the laws governing elections.

I, the undersigned, candidate for election to public office in the State of Texas or campaign treasurer of a political committee, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct the campaign in accordance with the above principles and practices.

Signature

Date

FAIR CAMPAIGN PRACTICES ACT

TEXAS ETHICS COMMISSION

CHAPTER 258, ELECTION CODE

FAIR CAMPAIGN PRACTICES ACT



Effective September 1, 1997
(Revised 01/23/1998)

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**CHAPTER 258, ELECTION CODE
FAIR CAMPAIGN PRACTICES ACT**

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CHAPTER 258. FAIR CAMPAIGN PRACTICES

§ 258.001. Short Title

This chapter may be cited as the Fair Campaign Practices Act.

§ 258.002. Purpose

- (a) The purpose of this chapter is to encourage every candidate and political committee to subscribe to the Code of Fair Campaign Practices.
- (b) It is the intent of the legislature that every candidate and political committee that subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play to encourage healthy competition and open discussion of issues and candidate qualifications and to discourage practices that cloud the issues or unfairly attack opponents.

§ 258.003. Delivery of Copy of Code

- (a) When a candidate or political committee files its campaign treasurer appointment, the authority with whom the appointment is filed shall give the candidate or political committee a blank form of the Code of Fair Campaign Practices and a copy of this chapter.
- (b) The authority shall inform each candidate or political committee that the candidate or committee may subscribe to and file the code with the authority and that subscription to the code is voluntary.

§ 258.004. Text of Code

The Code of Fair Campaign Practices reads as follows:

CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play that every candidate and political committee in this state has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional rights to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I will conduct the campaign openly and publicly and limit attacks on my opponent to legitimate challenges to my opponent's record and stated positions on issues.
- (2) I will not use or permit the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or the candidate's personal or family life.

- (3) I will not use or permit any appeal to negative prejudice based on race, sex, religion, or national origin.
- (4) I will not use campaign material of any sort that misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations that aim at creating or exploiting doubts, without justification, as to the personal integrity or patriotism of my opponent.
- (5) I will not undertake or condone any dishonest or unethical practice that tends to corrupt or undermine our system of free elections or that hampers or prevents the full and free expression of the will of the voters, including any activity aimed at intimidating voters or discouraging them from voting.
- (6) I will defend and uphold the right of every qualified voter to full and equal participation in the electoral process, and will not engage in any activity aimed at intimidating voters or discouraging them from voting.
- (7) I will immediately and publicly repudiate methods and tactics that may come from others that I have pledged not to use or condone. I shall take firm action against any subordinate who violates any provision of this code or the laws governing elections.

I, the undersigned, candidate for election to public office in the State of Texas or campaign treasurer of a political committee, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct the campaign in accordance with the above principles and practices.

void--copy only--void¹

Date

Signature

¹This document is a copy of chapter 258, Election Code. To subscribe to the Code of Fair Campaign Practices, a candidate or campaign treasurer of a political committee must submit Texas Ethics Commission FORM CFCP, not a signed copy of this document.

§ 258.005. Forms

The commission shall print copies of the Code of Fair Campaign Practices and shall supply the forms to the authorities with whom copies of the code may be filed in quantities and at times requested by the authorities.

§ 258.006. Acceptance and Preservation of Copies

- (a) An authority with whom a campaign treasurer appointment is filed shall accept each completed copy of the code submitted to the authority that is properly subscribed to by a candidate or the campaign treasurer of a political committee.
- (b) Each copy of the code accepted under this section shall be preserved by the authority with whom it is filed for the period prescribed for the filer's campaign treasurer appointment.

§ 258.007. Subscription to Code Voluntary

The subscription to the Code of Fair Campaign Practices by a candidate or a political committee is voluntary.

§ 258.008. Indication on Political Advertising

A candidate or a political committee that has filed a copy of the Code of Fair Campaign Practices may so indicate on political advertising in a form to be determined by the commission.

§ 258.009. Civil Cause of Action

This chapter does not create a civil cause of action for recovery of damages or for enforcement of this chapter.

**TEXAS CONFLICT OF
INTEREST LAWS
MADE EASY**

2012 Texas Conflict of Interest Laws MADE EASY

Answers to the most frequently asked questions about
the Texas Conflict of Interest Laws



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT



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Texas Conflict of Interest Laws Made Easy

Every time a local public official participates in contracting with his or her governmental entity or owns real property that may be affected by that entity's actions, the official must consider whether his or her discussion, decision or vote on an item will violate either Texas conflict of interest laws or local conflict of interest provisions. Public officials need to be aware of the applicable standards for determining when such a conflict of interest may exist and how such conflicts must be handled. The following questions and answers provide a lay person's explanation of the general conflict of interest laws that apply to Texas local officials. This handbook provides general guidance on the issues raised in this area. While the Local Government section of the Office of the Attorney General is available to answer general questions about this article from local officials, local officials should consult with their legal counsel regarding the application of the law to the facts of each particular situation.

1. What conflict of interest laws apply to local public officials in Texas?

The general conflict of interest laws for Texas city and county officials, as well as officials of other Texas political subdivisions, is found in chapter 171 of the Local Government Code.¹ Chapter 171 establishes the standard for determining when a local official has a conflict of interest that would affect his or her ability to discuss, decide or vote on a particular item.² Chapter 171 conflict of interest provisions apply to all local public officials.³ Within a governmental unit, "local public officials" are defined to include:

1. elected officials such as the members of the city council or county commissioners (whether paid or unpaid); and
2. appointed officials (paid or unpaid) who exercise responsibilities that are more than advisory in nature.⁴

It should be noted that other state and federal laws, as well as local provisions, may be applicable to officials in a particular situation. Whether a law is applicable depends on the activity that the official is undertaking. Officials should work with their own legal counsel to determine whether their activities are subject to any such additional provisions.

2. Do conflict of interest laws apply to persons appointed to local boards and commissions (e.g., planning and zoning commission members)?

Chapter 171 conflict of interest laws apply to persons appointed to local boards and commissions if the board or commission exercises powers that are more than advisory in nature.⁵ For example, members of a city's planning and zoning commission would likely be subject to chapter 171 conflict of interest provisions. Accordingly, the ability of such officials to discuss or vote on an item would potentially be limited by these laws if the official is considered to have a conflict of interest on the issue.

¹ TEX. LOC. GOV'T CODE ANN. §§ 171.001 - .010 (West 2008).

² *Id.* § 171.002.

³ *Id.* §171.001(1).

⁴ *Id.*

⁵ *Id.*

3. ***Do conflict of interest laws apply to members of purely advisory committees that are established by the local entity?***

No, chapter 171 conflict of interest provisions apply only to an officer who exercises responsibilities beyond those that are advisory in nature.⁶ Whether an officer exercises such responsibilities depends on the authority vested in him or her by law and not necessarily on the title of a committee to which he or she belongs.

A city may adopt other additional provisions defining and prohibiting conflicts of interest.⁷

4. ***What types of issues are covered by Texas conflict of interest laws?***

Texas conflict of interest statutes do not address every conceivable conflict that may arise for a local official. In fact, chapter 171 conflict laws are generally financial in nature and cover two main types of conflicts:⁸

1. **Business entity conflicts:** Conflicts due to a local official's substantial financial interest in a "business entity" that has an issue before his or her governmental unit;⁹ or
2. **Real property conflicts:** Conflicts due to a local official's substantial financial interest in "real property" that would be affected by his or her governmental unit's action.¹⁰

5. ***What is the definition of a "business entity" for purposes of the conflict of interest laws?***

For purposes of Texas conflict of interest laws, a "business entity" means:

a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.¹²

Governmental entities such as cities or school districts are not considered business entities.¹³ Accordingly, if the issue before a city council involves a governmental entity, an official's relationship with that entity would not subject that official to chapter 171 conflict of interest laws. However, an economic development corporation is a business entity, so an official with a substantial interest in the corporation would have to comply with chapter 171.¹⁴

⁶ *Id.*

⁷ *Id.* § 171.007.

⁸ A less commonly seen conflict is covered in section 171.003, which prohibits an official from acting either as a surety for businesses doing business with the governmental entity or as a surety on bonds involving public officials.

⁹ *Id.* § 171.002(a).

¹⁰ *Id.* § 171.002(b).

¹² TEX. LOC. GOV'T CODE ANN. § 171.001(2) (West 2008).

¹³ Tex. Att'y Gen. Op. Nos. DM-267 (1993); GA-31 (2003).

¹⁴ Tex. Att'y Gen. Op. No. JC-547 (2002).

6. *What is considered a “substantial interest” in a business entity (such that it would amount to a potential conflict of interest)?*

There are four ways that a person could be deemed to have a “substantial interest” in a business entity that would raise a potential conflict of interest. A person has a substantial interest in a business entity if the person has a(n):

1. **Stock interest:** If the official owns 10 percent or more of the total voting stock or shares of the business entity;¹⁵
2. **Other ownership interest:** If the official owns either 10 percent or more, or \$15,000 or more, of the fair market value of the business entity;¹⁶
3. **Income interest:** If the official received more than 10 percent of his or her gross income for the previous year from the business entity;¹⁷
4. **Close family member with any of the above interests:** If a close relative of the local official has any of the above types of interest in a business entity. A local official is considered to have the same interest in a business entity that his or her close relatives have in that business entity. In this context, close relatives of an official would include persons who are related to the official within the first degree by consanguinity (blood) or affinity (marriage).¹⁸ Such relatives would include an official’s father, father-in-law, mother, mother-in-law, daughter, daughter-in-law, son, son-in-law and the spouse of the official.

7. *Is the fact that a local official is employed by a business entity sufficient to create a potential conflict?*

Being employed by a business entity will prevent a local official from discussing or voting on a matter involving that business, provided more than 10 percent of the official’s previous year’s gross income came from his or her employment with that business.

8. *What is the test for conflict of interest regarding a business entity?*

State law provides a two-part test for ascertaining whether a local official has a conflict of interest regarding a business entity that would prevent the official from participating in a vote or discussion on that item.¹⁹ To determine whether a conflict exists that would prevent that official’s participation in a vote or a discussion, one should apply the following two-step analysis:

1. **Step one (substantial interest analysis):** First, the official must determine if he or she received more than 10 percent of his or her gross income in the previous year from that business entity or if he or she owns 10 percent or more of the voting stock or shares of the business entity or has some other substantial ownership interest in the business entity.²⁰ (See Question 6, part 2, above.) If the official has such an interest or a close

¹⁵ TEX. LOC. GOV’T CODE ANN. § 171.002(a)(1) (West 2008).

¹⁶ *Id.*

¹⁷ *Id.* § 171.002(a)(2).

¹⁸ *Id.* § 171.002(c).

¹⁹ *Id.* § 171.004.

²⁰ *Id.* § 171.002(a)(2).

relative of the official has such an interest,²¹ the official must consider the second part of the test for determining if a conflict of interest exists.

2. **Step two (special economic effect analysis):** The official must determine whether the action that the local entity is considering would have a special economic effect on the business entity that is distinguishable from its general effect on the public.²²

If it is determined that the official has a substantial interest in the business entity and it is likely that the action would have a special economic effect on the business entity that is distinguishable from its effect on the general public,²³ a conflict of interest would exist. If a conflict of interest exists, the official is prevented from discussing or voting on an issue involving that business entity.²⁴

9. ***May an indirect benefit from a contract with a business constitute a possible conflict of interest?***

In certain situations, an indirect benefit that a local official may receive regarding a business entity may be sufficient to constitute a conflict of interest. For example, the Dallas Court of Appeals concluded that the definition of “substantial interest” did not distinguish between funds received directly from a business entity and funds received indirectly. Whether a particular interest is a “substantial interest” is a question of fact.²⁵

10. ***What is considered a “substantial interest” in real property (such that it would amount to a potential conflict of interest)?***

There are two ways that a person could be deemed to have a “substantial interest” in real property (such that it would amount to a potential conflict of interest).²⁶ A person has a substantial interest in real property if he or she has:

1. **A \$2,500 ownership interest in the real property:** If the official has a legal or equitable ownership interest in real property worth \$2,500 or more²⁷ or
2. **A close family member with a \$2,500 ownership interest in the real property:** If a close relative of the local official has a legal or equitable ownership interest in real property worth \$2,500 or more then the official is considered to have the same interest in the piece of real property that his or her close relative has in the real property. In this context, close relatives of an official would include persons who are related to the official within the first degree by consanguinity (blood) or affinity (marriage).²⁸ Such relatives would include an official’s father, father-in-law, mother, mother-in-law, daughter, daughter-in-law, son, son-in-law and the spouse of the official.

²¹ *Id.* § 171.002(c).

²² *Id.* § 171.004(a)(1).

²³ *Id.*

²⁴ *Id.* § 171.004(a).

²⁵ *Dallas County Flood Control Dist. No. 1 v. Cross*, 773 S.W.2d 49, 55 (Tex. App.—Dallas 1989, no writ).

²⁶ TEX. LOC. GOV’T CODE ANN. § 171.002(b)-(c) (West 2008).

²⁷ *Id.*

²⁸ *Id.* § 171.002(c).

11. *What is the test for conflict of interest regarding real property?*

State law provides a two-part test for ascertaining whether a local official has a conflict of interest regarding real property that would prevent the official from participating in a vote or discussion on that item.²⁹ To determine whether a conflict exists that would prevent that official's participation in a vote or discussion, one should apply the following two-step analysis:

1. **Substantial interest analysis:** The official must determine if the official has a legal or equitable ownership interest in real property worth \$2,500 or more. If the official has such an interest or a close relative of the official has such an interest,³⁰ the official must consider the second part of the test for determining if a conflict of interest exists.
2. **Special economic effect analysis:** The official must determine whether it is reasonably foreseeable that the action the local entity is considering would have a special economic effect on the value of the property that is distinguishable from its general effect on the public.³¹

If it is determined that the official has a substantial interest in the real property and it is reasonably foreseeable that the action would have a special economic effect on the value of the property that is distinguishable from its effect on the general public,³² a conflict of interest would exist. If a conflict of interest exists, the official is prevented from discussing or voting on an issue involving that business entity.³³

The fact that an action would affect property physically close to an official's own property does not, in and of itself, establish a conflict of interest that would prevent an official from discussing or voting on that item. The official must consider whether the proposed governmental action would have a special economic effect on the value of his or her own property that is distinguishable from its effect on the general public.³⁴ For example, if a zoning, variance or platting request would have a special economic effect on a city official's own property or the real property of a close relative of the official, the official could not participate in the discussion or vote on that matter.

12. *Might the part-time or summer job of an official's child create a conflict of interest?*

If a local official's child worked at a job that constituted more than 10 percent of the child's income for the previous year, that might create a potential conflict of interest for the parent. If the child had such an interest, the parent could not vote on or discuss local governmental business that would have a special economic effect on the child's employer.³⁵

²⁹ *Id.* § 171.004.

³⁰ *Id.* § 171.002(c).

³¹ *Id.* § 171.004(a)(2).

³² *Id.*

³³ *Id.* § 171.004(a).

³⁴ *Id.* § 171.004(a)(2); Tex. Att'y Gen. Op. No. GA-796 (2010).

³⁵ Tex. Att'y Gen. Op. No. JC-63 (1999).

13. *May a local official discuss or vote on an item if the effect of the vote on the official's business or property interest is no different than its effect on the general public?*

Yes, an official may discuss and vote on an item if there is no distinguishable difference between the item's effect on the local official and its effect on the general public.³⁶ For example, a city may be considering the adoption of a setback requirement that would apply to all residential lots. Such a requirement arguably would not impact a city official's property in a more significant manner than it would impact the property of other members of the general public. In such a situation, the official could fully participate in the discussion and vote. Of course, if the official's property would be specially enhanced by a change in the setback requirement, then it would be more likely to present a conflict of interest issue for the official.

14. *What actions must a local official take if the official has a conflict of interest under chapter 171?*

If a local official has a conflict of interest under the two-part test of chapter 171, the official must take three actions:

1. **File an affidavit:** The official must file an affidavit with the local unit's official record keeper stating the nature and extent of the official's interest in the matter.³⁷ This affidavit must be filed before any vote or decision on the matter is made by the entity.³⁸ A sample conflict of interest affidavit is attached at the end of this article;
2. **Abstain from discussion on the item:** The official must abstain from discussions or other proceedings regarding the item;³⁹ and
3. **Abstain from voting on the item:**⁴⁰ The official must not vote on the item.

15. *May a local official deliberate about an issue with which the official has a conflict of interest if the official abstains from voting on the issue?*

No, a local official may not discuss an issue with which he or she has a conflict of interest even if he or she abstains from voting on the item.⁴¹ The statute prohibits "further participation" in a matter if a conflict exists.⁴² If a conflict of interest exists, the official must file the required affidavit and abstain from both discussing and voting on the item.⁴³

The attorney general has opined that a member of a governmental body does not "participate in a matter" for purposes of the conflict of interest laws by merely attending an executive session on the matter and remaining silent during the deliberations.⁴⁴ However, it may be wise, the opinion noted, for the interested public officer to refrain from attending open or closed meetings that address the matter in which he or she is interested.

³⁶ TEX. LOC. GOV'T CODE ANN. § 171.004 (West 2008).

³⁷ *Id.* § 171.004(a)-(b).

³⁸ *Id.* § 171.004(a).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* § 171.004(a)-(b).

⁴⁴ Tex. Att'y Gen. Op. No. GA-334 (2005).

16. *May a local entity separate out an item from a budget to allow the official with the conflict to vote on the budget?*

Yes, a governing body of a local entity shall take a separate vote on any budget item involving a business entity in which a local official has a substantial interest.⁴⁶ The remaining officials without a conflict may separately discuss and vote on the item involving that business entity. The official with the conflict may then vote on the final overall budget once the matter for which there was a conflict is resolved.⁴⁷ The official with the conflict must also have filed the required affidavit with the official record keeper regarding the conflict.⁴⁸

17. *What may a local entity do if a majority of the members of the governmental body have a conflict of interest regarding an item to be considered?*

Chapter 171 conflict of interest laws do not prevent discussion or voting on the item if a majority of the members of a governmental body have similar conflicts of interest on the same item.⁴⁹ However, prior to any deliberations on the matter, each of the members of the governmental body with a conflict must have filed the required affidavit noting their interest in the item.⁵⁰

18. *May a home rule city provide further conflict of interest limitations on its city officials and employees?*

Yes, a home rule city (a city with a population of 5,000 or more that has adopted a city charter) may provide further and more restrictive conflict of interest limitations on its officials and employees.⁵¹ Such restrictions may be contained in a city ordinance, city policy or within the city charter. For example, some cities have ethics ordinances or city charter provisions that prevent their city officials from discussing or voting on items if the official has any financial interest in the item.

19. *Are there state statutes that provide stricter conflict of interest restrictions for particular situations or for certain public officials or that contain additional reporting requirements?*

Yes, there are certain state statutes that provide stricter conflict of interest restrictions in particular areas. For example, there are conflict of interest statutes within chapter 312 of the Tax Code that completely prohibit a local entity's governing body from approving a tax abatement if a member of that body owns the property that is the subject of the tax abatement.⁵² If a local official has some type of interest in the item before the governing body, the official will want to visit with local counsel as to whether the interest constitutes a chapter 171 conflict of interest or presents a conflict pursuant to some other state law.

Chapter 176 of the Local Government Code requires members of the governing body and executive officers of local government entities to file a conflicts disclosure statement relating to a person that the governmental entity has contracted with or is considering contracting with if the

⁴⁶ TEX. LOC. GOV'T CODE ANN. § 171.005(a) (West 2008).

⁴⁷ *Id.* § 171.005(b).

⁴⁸ *Id.* § 171.004(b).

⁴⁹ *Id.* § 171.004(c).

⁵⁰ *Id.*

⁵¹ *Id.* § 171.007(b); Tex. Att'y Gen. Op. No. GA-68 (2003).

⁵² TEX. TAX CODE ANN. § 312.204(d) (West 2008).

local officer or his or her family member has a certain business relationship or gift history with that person exceeding certain threshold amounts.⁵³ It also requires a person who contracts or seeks to contract with the local governmental entity to file a completed questionnaire disclosing the person's affiliation and business relationship with each member of the governing body and executive officers of the entity.⁵⁴ The disclosure forms are prepared by the Texas Ethics Commission, available at www.ethics.state.tx.us/whatsnew/conflict_forms.htm. These must be filed with the entity's records administrator and, in certain instances, posted on the Internet.⁵⁵

20. *Are there special conflict of interest provisions that apply to the selection of a local depository?*

Yes, there are special conflict of interest provisions that apply to the selection of a local depository. Prior to 1967, local entities were prohibited from using a bank as a depository if a member of the governing body was an officer, director or shareholder of the bank.⁵⁶ However, this prohibition has been substantially diminished under current law.⁵⁷ Local units can now contract with a depository even if a local official or employee with the duty to select the depository is also an officer, director or shareholder of the bank, unless the official or employee, either individually or collectively, owns more than 10 percent of the bank's stock.⁵⁸ In such a situation, the entity is required to have the interested official or employee follow all of the procedures required for a chapter 171 conflict of interest. These procedures would include filing an affidavit, abstaining from deliberations and abstaining from the vote regarding the depository.⁵⁹ If a majority of the remaining members of the governing body vote to select the bank as a depository, it may serve as the local entity's depository.

A home rule city may adopt stricter conflict of interest provisions that would be applicable to the selection of a city depository. For example, a city ordinance or city charter provision may prohibit the selection of a city depository if a city official or employee has any financial interest in the bank.

21. *Are there special conflict of interest laws that apply to judges?*

Chapter 171 of the Local Government Code does not contain special conflict of interest laws that apply to judges. However, judges are subject to the Code of Judicial Conduct.⁶⁰ In basic terms, these rules require that judges avoid actions that would suggest even the appearance of impropriety.⁶¹ They also prohibit judges from having any financial interest in any aspect of a case that they handle as judges. Furthermore, Article V, Section 11 of the Texas Constitution prohibits a judge from presiding over any case where he or she may have either a direct personal or pecuniary interest. Additionally, a judge may not preside over any case where he or she is

⁵³ TEX. LOC. GOV'T CODE ANN. § 176.003 (West 2008). *See also* Tex. Att'y Gen. Op. No. GA-446 (2006).

⁵⁴ TEX. LOC. GOV'T CODE ANN. § 176.006 (West Supp. 2011).

⁵⁵ *Id.* §§ 176.003(b), 176.009 (West 2008).

⁵⁶ Tex. Att'y Gen. Op. Nos. V-640 (1948); WW-957 (1960).

⁵⁷ TEX. GOV'T CODE ANN. § 404.0211 (state agencies) (West 2005); TEX. LOC. GOV'T CODE ANN. § 131.903 (other political subdivisions) (West 2008).

⁵⁸ TEX. LOC. GOV'T CODE ANN § 131.903(a)(2) (West 2008).

⁵⁹ *Id.* § 171.004.

⁶⁰ TEX. CODE JUD. CONDUCT, *reprinted in* TEX. GOV'T CODE ANN., tit. 2, subtit. G app. B (West 2005 & Supp. 2010).

⁶¹ TEX. CODE JUD. CONDUCT, Canon 2 (West 2005).

related to either party by affinity or consanguinity.⁶² For further information on the conflict of interest provisions that apply to judges, contact the State Commission on Judicial Conduct. The staff of the Commission can be reached at (512) 463-5533 or (877) 228-5750. If the judge is a lawyer, the judge would also be subject to the canons of ethics applicable to lawyers as described in the following question.

22. *Are there special conflict of interest laws that apply to lawyers (e.g., city attorneys)?*

Lawyers are subject to a special canons of ethics, the Texas Disciplinary Rules of Professional Conduct, as a part of their state licensing as attorneys.⁶³ In basic terms, these rules require that a lawyer advise his or her clients of any potential conflict of interest that the lawyer may have in his representation of a client. The lawyer must also avoid any action that would compromise the interests of his or her client.⁶⁴ For further information on the conflict of interest provisions that apply to lawyers, contact the State Bar of Texas. The staff of the State Bar can be reached at (512) 427-1463 or (800) 204-2222.

23. *If an official's vote on a contract violates the conflict of interest laws, is the contract illegal and void?*

Not automatically and not necessarily. It is important to note that the term “void” is not the same thing as the term “voidable.” The law says that an action taken in violation of the conflict of interest laws is voidable, meaning that it could be declared void by a court but that the action is not void automatically. If a court finds that an official’s vote or other action on a matter violated the conflict of interest laws, the violation would not render the ultimate action or contract voidable unless it would not have passed without the vote of the official who violated the conflict of interest law.⁶⁵

24. *Must a local official be removed from office if the official violates the conflict of interest laws?*

State law does not provide for an automatic removal of a local official from office due to an alleged or proven violation of a conflict of interest law.⁶⁶ However, if such a violation is proven, it may be used as the basis for a removal of a member of a governing body for misconduct under state law or other statutory or city charter criteria that allow a local official to be removed for cause.⁶⁷

⁶² TEX. CONST. art. V § 11; *City of Oak Cliff v. State*, 79 S.W. 1068, 1069 (Tex. 1904); Tex. Att’y Gen. Op. No. DM-109 (1992).

⁶³ TEX. DISCIPLINARY R. PROF’L CONDUCT 1.01 - 9.01, *reprinted in* TEX. GOV’T CODE ANN. tit. 2, subtitle. G app. A (West 2005 & Supp. 2011).

⁶⁴ *Id.* 1.06 - 1.09.

⁶⁵ TEX. LOC. GOV’T CODE ANN. § 171.006 (West 2008); Tex. Att’y Gen. Op. No. JC-155 at 3 (1999).

⁶⁶ TEX. LOC. GOV’T CODE ANN § 171.003 (West 2008).

⁶⁷ *Id.* §§ 21.025, 22.077.

25. *May a person be charged with a crime if the official violates the conflict of interest laws?*

Yes, chapter 171 of the Local Government Code provides four situations in which a public official may be prosecuted for his or her actions or inaction regarding a conflict of interest.⁶⁸ Specifically, a local official can be prosecuted for:

1. **Failure to File an Affidavit Noting a Conflict:** Failing to file an affidavit with the official record keeper noting the official's substantial interest in an item if such a filing is required by Local Government Code section 171.004;⁶⁹
2. **Participating in Discussions Regarding an Item for Which There is a Conflict:** Discussing or otherwise participating on an item if such participation is prohibited under Local Government Code section 171.004 due to a conflict of interest on that item;⁷⁰
3. **Serving as a Surety for Certain Businesses:** Acting as a surety for any business entity that has work, business or a contract of any amount with the local entity;⁷¹ or
4. **Serving as a Surety for Local Official Bonds:** Acting as a surety on any official bond that is required for an official of a governmental body of the local entity.⁷²

Violation of any of the above four items can be prosecuted as a class A misdemeanor⁷³ and is punishable by a fine not to exceed \$4,000 and/or up to one year in jail.⁷⁴ Whether to prosecute an alleged violation of the conflict of interest laws is subject to the prosecutorial discretion of the local district attorney or prosecuting criminal county attorney. The attorney general does not have original jurisdiction to prosecute violations of conflict of interest laws by public officials.

26. *Does the conflict of interest law apply to directors of an economic development corporation?*

Chapter 171 of the Local Government Code does not apply to the directors of an economic development corporation created under the Development Corporation Act of 1979 because such corporations are not considered to be governmental entities.⁷⁵ However, state laws governing corporations may have their own provisions governing certain conflicts. For instance, state law governing nonprofit corporations prohibits loans being made by the corporation to its director.⁷⁶ "If a loan is made to a director, the directors who vote for making the loan and any officers participating in making the loan 'shall be jointly and severally liable to the corporation for the amount of such loan until repayment thereof.'"⁷⁷ A corporation's board members should also check the corporate bylaws for any discussion of board conflicts.

⁶⁸ *Id.* § 171.003.

⁶⁹ *Id.* § 171.003(a)(1).

⁷⁰ *Id.*

⁷¹ *Id.* § 171.003(a)(2).

⁷² *Id.* § 171.00(a)(3).

⁷³ *Id.* § 171.003(b).

⁷⁴ TEX. PEN. CODE ANN. § 12.21 (West 2011).

⁷⁵ Tex. Att'y Gen. Op. No. JC-338 (2001).

⁷⁶ TEX. BUS. ORGS. CODE ANN. § 22.225(a) (West Supp. 2011).

⁷⁷ *Id.* § 22.225(b); Tex. Att'y Gen. Op. No. JC-338 (2001).

27. Do the conflict of interest laws apply to board members of a municipal utility district?

Yes, Chapter 171 of the Local Government Code does apply to members of a municipal utility district (MUD).⁷⁸ MUD board members may not participate in a discussion or vote on a matter involving a business entity or real property if they have substantial interests in the matter and it is reasonably foreseeable that action on the matter would confer an economic benefit on the business entity or real property.⁷⁹ Chapter 171 also imputes to a MUD board member the substantial interests of certain near relatives in a business entity or real property.⁸⁰

28. Do the conflict of interest laws apply to members of a local governing body who have a direct, personal matter pending before the governing body?

Chapter 171 of the Local Government Code does not apply to direct, personal matters of a member of a local governing body. It only applies to public officials who have a substantial financial interest in a business entity or real property. However, public policy in Texas bars public officials from casting a deciding vote in a matter concerning an issue in which the official has a direct, personal interest.⁸¹ For example, a member of a governing body would be disqualified from voting on a resolution to pay his or her legal fees or the legal fees of another member indicted on charges for Open Meetings Act violations.⁸²

⁷⁸ Tex. Att’y Gen. Op. No. JC-184 (2000).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Tex. Att’y Gen. Op. No. JC-294 (2000); *Hager v. State ex rel. TeVault*, 446 S.W.2d 43, 49 (Tex. Civ. App.—Beaumont 1969, writ ref’d n.r.e.).

⁸² Tex. Att’y Gen. Op. No. JC-294 (2000).

Sample Affidavit

THE STATE OF TEXAS

COUNTY OF _____

I, _____, as a member of the
(Name)

_____, make this affidavit
(governing body, board, commission)

and hereby under oath state the following:

I have a substantial interest in a business entity or real property that may receive a special economic effect by a vote or decision of the _____, and the
(governing body, board, commission)

economic effect on my business entity or real property is distinguishable from its effect on the general public. What constitutes a “substantial interest,” “business entity,” “real property” and a “special economic effect” are terms defined in chapter 171 of the Texas Local Government Code. The business entity or real property is (*name/address of business or description of property*):

The nature of my substantial interest in this business entity or real property is:

- an ownership interest of 10 percent or more of the voting stock or shares of the business entity;
- an ownership interest of 10 percent or \$15,000 or more of the fair market value of the business entity;
- funds received from the business entity exceed 10 percent of _____ (my, his, her) gross income for the previous year;
- real property is involved and _____ (I, he, she) have/has an equitable or legal ownership with a fair market value of at least \$2500;

- a person who is related to me within the first degree of consanguinity (blood) or affinity (marriage) has a substantial interest in the involved real property or business entity. I have also checked which of the above types of interests my relative has in the item.

Upon the filing of this affidavit with the official record keeper for the local governmental entity, I affirm that I shall abstain from any discussion, vote, or decision involving this business entity or real property and from any further participation in this matter whatsoever.

Signed this the _____ day of _____, 20____.

Signature of public official

Title

BEFORE ME, the undersigned authority, this day personally appeared _____ and by oath swore that the facts herein above
(Name of affiant)
stated are true and correct to the best of his/her knowledge or belief.

Sworn to and subscribed before me on this the _____ day of _____, 20____.

Notary Public in and for the State of Texas
My commission expires: _____