

Common Cause Texas & Texans for Public Justice

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Ethics Commission to Public Officials: No Need to Report Cash Gift Amounts

Austin, TX: According to a draft opinion (attached) which is expected to be adopted by the Texas Ethics Commission at its regular meeting on Friday, September 22, the TEC will not require public officials receiving cash gifts to report the amount of such gifts. A suitcase full of money, according to the draft opinion, could literally be described only as “currency.”

Two government watchdog groups labeled the draft opinion absurd and wrong. Both Common Cause Texas and Texans for Public Justice criticized the draft opinion and called upon the commission to reject its adoption. The groups called on the Commission to instead do its job by adopting a rule clarifying that when reported on a financial disclosure statement a description of a gift of money must include the amount.

“If the Texas Ethics Commission adopts this opinion on Friday, public officials can take millions of dollars in cash and legally write “currency” on their disclosure form. This interpretation of the disclosure law is absurd and dangerous,” said Craig McDonald, director of Texans for Public Justice.

“Texans are incensed that the TEC is not doing its job,” said Suzy Woodford, director of Common Cause Texas. “The purpose of the Ethics Commission—enshrined in law—is ‘to ensure the public’s confidence and trust in government.’ Clearly, they are not living up to their purpose.”

The groups specifically criticized the opinion because:

- The Code specifically cites the sections governing gifts to public officials as a law that the TEC shall “administer and enforce.” (Section 571.061(a)) Then, in the next section: “The commission, on the affirmative vote of at least six members of the commission, **may adopt rules to administer this chapter or any other law administered and enforced by the commission.**” (Section 571.062).
- Section 571.030 of the Government Code specifically says the Commission has “**policy making responsibilities.**” The Commission does not—as Commissioner Fischer will most likely claim Thursday—have to wait for the Legislature to tell them what to do on this matter.
- In their draft opinion, the TEC writes, “We must presume that words relating to value, amounts, and categories of amounts were excluded from section 572.023(b)(7) for a purpose.” But the word “value” does appear in the statute. Reporting is required for “a gift of anything of value in excess of \$250 and a description of each gift.”
- Also in the draft opinion: “In our opinion, **the requirement to describe a gift of cash or cash equivalent may be satisfied by including in the description the following: ‘currency,’** or a description of the gift, such as ‘check’ or ‘money order.’”

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