

The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 56 titled “Grants, Gifts and Donations.” Specifically, amendments are proposed to §56.1 Purpose, §56.2 Definitions, §56.3 Acceptance of Grants, Gifts and Donations, §56.4 Solicitation, §56.5 Restricted/Unrestricted, §56.6 Standards of Conduct between Employees and Officers and Private Donors, and §56.7 Acceptance of Gift From Party to Contested Case Prohibited. The proposed amendments are the result of rule review prescribed by §2001.039 Government Code. Notice of the Commission's intention to review this chapter was published in the May 12, 2023 issue of the Texas Register (47 TexReg 2512).

## BACKGROUND AND PURPOSE

Chapter 56 sets forth rules and guidelines by which the Commission may accept and solicit gifts. The chapter also includes standards of conduct on how commissioners and employees must conduct themselves when dealing with private donors. The Commission proposes amendments to this chapter to update the rule language to reflect the current preferred terminology, for ease of use and readability, and to bring the requirements of gift acceptance in better alignment with statutory requirements.

## SECTION-BY-SECTION DISCUSSION

Section 56.1 states the purpose of Chapter 56 is to establish rules for accepting gifts and for governing conduct between private donors and the Commission. The proposed amendments update rule language to reflect current preferred Commission terminology.

Section 56.2 defines terms used within the chapter. The proposed amendments add definitions for “Commissioner” and “Executive director.” The amendments clarify the definition of “Private donor” and remove the definition of “Officer.”

Section 56.3 outlines rules for accepting donations. The proposed amendments clarify the responsibilities of the executive director and when donations must be acknowledged by a majority of the commissioners in an open meeting. The proposed amendments are designed to bring this section into better alignment with Chapter 575 of the Texas Government Code.

Section 56.4 specifies when the Commission may solicit gifts. The proposed amendments move the reporting requirement to Section 56.3 to clarify that the requirement applies to all accepted grants, gifts, or donations.

Section 56.5 details what type of donations may be made to the Commission. The proposed amendments update rule language for readability and clarifies that donations may be for any amount and with or without restrictions.

Section 56.6 outlines standards of conduct between commissioners, employees, and private donors. The proposed amendments update rule language to reflect current preferred Commission terminology.

Finally, Section 56.7 prohibits acceptance of gifts from a party in a contested case. The proposed amendments update rule language for readability.

## SUMMARY OF COMMENTS RECEIVED AND COMMISSION RESPONSE

During the 30-day comment period of the proposed rule review, the Commission received one comment from an individual.

The commenter explained that funding is available through USDA APHIS Veterinary Services Strategy & Policy for state entities to collaborate with private entities for programs related to the control or prevention of chronic wasting disease. The commenter offered the commenter's expertise to assist with collaborations on chronic wasting disease.

Response: The Commission thanks the commenter for information provided. No changes to Chapter 56 were made as a result of this comment.

#### FISCAL NOTE

Ms. Jeanine Coggeshall, General Counsel for the Texas Animal Health Commission, determined that for each year of the first five years that the rule is in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state or local governments. Commission employees will administer and enforce these rules as part of their current job duties and resources. Ms. Coggeshall also determined for the same period that there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed amendments.

#### PUBLIC BENEFIT NOTE

Ms. Coggeshall determined that for each year of the first five years the rule is in effect, the anticipated public benefits are improved readability from updates to terminology and style, and better alignment of the rules governing gift acceptance with Chapter 575 of the Texas Government Code.

#### TAKINGS IMPACT ASSESSMENT

The Commission determined that the proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. Therefore, the proposed rules are compliant with the Private Real Property Preservation Act in Texas Government Code §2007.043 and do not constitute a taking.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The Commission determined that the proposed rules would not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission pursuant to Texas Government Code §2001.022.

#### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Commission determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This

proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the Commission prepared the following Government Growth Impact Statement. For each year of the first five years the proposed rules would be in effect, the Commission determined the following:

1. The amendment will not create or eliminate a government program;
2. Implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions;
3. Implementation of the amendment will result in no assumed change in future legislative appropriations;
4. The amendment will not affect fees paid to the Commission;
5. The amendment does not create new regulation;
6. The amendment does not expand, limit, or repeal existing regulations;
7. The amendment will not change the number of individuals subject to the rule; and
8. The amendment will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Coggeshall also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities pursuant to Texas Government Code, Chapter 2006. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

#### COSTS TO REGULATED PERSONS

The proposed amendments to Chapter 56 do not impose additional costs on regulated persons and are designed to update terminology and style, and better align the rules governing gift acceptance with Chapter 575 of the Texas Government Code. The proposed rules do not otherwise impose a direct cost on a regulated person, state agency, a special district, or a local government within the state.

#### PUBLIC COMMENT

Written comments regarding the proposed amendments may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by e-mail to [comments@tahc.texas.gov](mailto:comments@tahc.texas.gov). To be considered, comments must be received no later than thirty (30) days from the date of publication of this proposal in the *Texas Register*. When faxing or emailing comments, please indicate " Comments on Proposed Rule-Chapter 56, Grants, Gifts, and Donations " in the subject line.

#### STATUTORY AUTHORITY

The amendments are proposed under §161.0311 of the Texas Agriculture Code which provides that the Commission may solicit and accept gifts, grants, and donations for purposes consistent with Chapter 161.

The amendments are proposed under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with the Texas Agriculture Code.

The amendments conform to the requirements contained in Chapter 575 of the Texas Government Code, relating to Acceptance of Gift by State Agency. The amendments conform to the requirements contained in §2204.002 of the Texas Government Code, relating to restrictions on real property gifts.

No other statutes, articles, or codes are affected by this proposal.

The Commission hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

<rule>

#### §56.1. Purpose.

The purpose of this chapter~~[these sections]~~ is to establish rules for acceptance of private donations and to establish standards of conduct to govern the relationships between commissioners~~[officers]~~ and employees of the Texas Animal Health Commission and private donors.

#### §56.2. Definitions.

The following words and terms, when used in this chapter~~[section]~~, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Commission--~~The~~~~[the]~~ Texas Animal Health Commission.

(2) Commissioner--A member of the commission appointed by the Governor.

(3)~~[(2)]~~ Employee--A regular, acting, or exempt, full- or part-time employee of the commission~~[Commission]~~.

(4) Executive director--The Executive Director of the Texas Animal Health Commission.

~~[(3) Officer--A member of the Commission's governing board.]~~

(5)~~[(4)]~~ Private donor--One or more individuals or organizations that offer and/or~~[to]~~ give gifts or donations, in whatever form,~~[nonpublic financial assistance]~~ to the commission~~[Commission]~~.

#### §56.3. Acceptance of Grants, Gifts, and Donations.

(a) The executive director, on behalf of the commission, may accept gifts, grants, and donations upon a determination ~~[Donations in the amount of less than five hundred dollars may be accepted upon determination of the Commission's executive director]~~ that the donation is for purposes consistent with Texas Agriculture Code, Chapter 161.

(1) The executive director shall report all accepted gifts and donations to the commissioners.

(2) If the value of the donation is \$500 or more, the commissioners must, by a majority vote during an open meeting, acknowledge the donation, no later than the 90th day after the date it is accepted. The minutes of the open meeting will reflect the acknowledgement by recording the name of the donor, a description of the gift, and a general statement of the purpose for which the gift will be used.

~~(b) Gifts, grants, and donations valued at five hundred dollars (\$500.00) or more must be accepted by a majority of the board, in an open meeting not later than the 90th day after the date the gift is received by the Commission. The Commission, when it accepts the gifts in open meeting, will record the name of the donor, a description of the gift, and a statement of the purpose of the gift in the minutes of the Commission's meeting.]~~

~~(b)[(e)] Donations of real property (real estate) shall be accepted by the commission[~~Commission~~] only upon authorization of the legislature.~~

~~[(d) Donations to the Commission may be for any amount and for specified or unspecified purposes.]~~

~~(c)[(e)] The commission shall report to the legislature by December 31 of each year the source and amount of each grant, gift, and donation received under this section.~~

#### §56.4. Solicitation.

~~[(a)] The commission may solicit [~~The solicitation of~~] grants, gifts, and donations [~~by the Commission shall be~~] limited to purposes consistent with Chapter 161 of the Texas Agriculture Code and in accordance with §56.6 of this chapter.~~

~~[(b) The Commission shall report to the legislature by December 31 of each year the source and amount of each grant, gift, and donation received under this section.]~~

#### §56.5. Restricted/Unrestricted Donations.

(a) Donations to the commission may be for any amount and for specified or unspecified purposes.

~~(b)[(a)] Conditional or restricted[~~restrictive~~] donations for purposes specified by the donor may be accepted only if the specified purpose is[~~conditions are~~] consistent with the mission, purpose, legal authority, and goals[~~approved purposes~~] of the commission[~~Commission and consistent with state laws and these rules~~]. Upon acceptance, restricted[~~restrictive~~] donations shall be used only for purposes specified by the donor.~~

~~(c)[(b)] Unconditional donations shall be used to carry out the approved purposes of the commission[~~Commission~~], consistent with state laws and these rules.~~

#### §56.6. Standards of Conduct Between[~~between~~] Commissioners and Employees [~~and Officers~~] and Private Donors.

~~(a) [~~An officer~~]A commissioner or employee shall not accept or solicit any gift, favor, or service from a private donor that might reasonably tend to influence the commissioner's or employee's[~~his/her~~] official conduct.~~

(b) ~~[An officer]~~ A commissioner or employee shall not accept employment or engage in any business or professional activity with a private donor that[which] the ~~[officer]~~ commissioner or employee might reasonably expect would require or induce the commissioner or employee ~~[his/her]~~ to disclose confidential information acquired by reason of the commissioner's or employee's ~~[his/her]~~ official position.

(c) ~~[An officer]~~ A commissioner shall not accept other employment or compensation from a private donor that[which] could reasonably be expected to impair the ~~[officer's]~~ commissioner's or employee's independence of judgment in the performance of the commissioner's or employee's ~~[his/her]~~ official duties.

(d) ~~[An officer]~~ A commissioner or employee shall not make personal investments in association with a private donor that[which] could reasonably be expected to create a substantial conflict between the ~~[officer's]~~ commissioner's or employee's private interest and the interest of the commission.

(e) ~~[An officer]~~ A commissioner or employee shall not solicit, accept, or agree to accept any benefit for having exercised the commissioner's or employee's ~~[his/her]~~ official powers on behalf of a private donor or performed ~~[his]~~ official duties in favor of a private donor.

(f) ~~[An officer]~~ A commissioner or employee who has policy direction over the commission and who serves as an officer or director of a private donor shall not vote on or otherwise participate in any measure, proposal, or decision pending before the private donor if the commission might reasonably be expected to have an interest in such measure, proposal, or decision.

(g) ~~[An officer]~~ A commissioner or employee shall not authorize a private donor to use property of the commission unless the property is used in accordance with a contract between the commission and the private donor, or the commission is otherwise compensated for the use of the property.

#### §56.7. Acceptance of Gift From Party to Contested Case Prohibited.

The commission ~~[Commission]~~ may ~~[will]~~ not accept a gift from a person who is a party to a contested case pending before the commission ~~[agency]~~ from the inception of the case until the 30th day after the date the decision in the case becomes final under §2001.144 of the Texas Government Code. In this section, "contested case" has the meaning assigned by Texas Government Code, §2001.003.