

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TDHCA Governing Board Approved Draft of
10 TAC §1.10. Public Comment Procedures

Disclaimer

Attached is a draft of proposed new 10 TAC §1.10, Public Comment Procedures, that was approved by the TDHCA Governing Board on June 28, 2018. This action will entail the repeal of the current rules at 10 TAC §1.10, Public Comment Procedures, and a contemporaneous new rule being proposed to replace it. This document, including its preamble, is expected to be published in the July 13, 2018, edition of the Texas Register and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on July 16, 2018
End: 5:00 p.m. Austin local time on August 16, 2018

Comments received after 5:00 p.m. Austin local time on August 16, 2018, will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs
Attn: Brooke Boston
Rules Comments
P.O. Box 13941
Austin, Texas 78711-3941
Email: brooke.boston@tdhca.state.tx.us

Written comments may be submitted in hard copy or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657
Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

Preamble for proposed new 10 TAC §1.10. Public Comment Procedures

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC §1.10, Public Comment Procedures. The purpose of the proposed new section is to provide compliance with Tex. Gov't Code §2161.003, clarify the use of handouts and large-size displays at Board meetings during public comment, provide for the Board having the ability to place reasonable limitations on comment, provide for the requirement that the speaker must sign in, and make other revisions to readability and clarity.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT. Mr. Irvine also has determined that, for the first five years a rule would be in effect:

1. The proposed rule does not create or eliminate a government program;
2. The proposed rule will not require a change in the number of employees of the Department;
3. The proposed rule will not require additional future legislative appropriations;
4. The proposed rule will result in neither an increase nor a decrease in fees paid to the Department;
5. The proposed rule will not create a new regulation, except that it is replacing a rule being repealed simultaneously to provide for the updating and improved clarity of that rule;
6. The proposed rule will not expand an existing regulation;
7. The proposed rule will not increase the number of individuals subject to the rule's applicability; and
8. The proposed rule will neither positively nor negatively affect this state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be ensuring a rule that provides for clear guidelines for public dialogue with the Department's Board and improves the clarity of the rules. There will not be any economic cost to any individuals required to comply with the new section, because the processes described by the rule have been in place through the rule found at this section being repealed.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held July 16, 2018, to August 16, 2018, to receive input on the new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220, or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time AUGUST 16, 2018.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

§1.10. Public Comment Procedures

(a) Purpose. The purpose of this section is to establish procedures for hearing public comments at Governing Board meetings open to the public held by the Texas Department of Housing and Community Affairs in accordance with §2306.032(f) and §2306.066(d) of the Texas Government Code.

(b) Procedures for taking public comment.

(1) At each meeting open to the public the Governing Board ("Board") shall provide opportunity for members of the public to make:

(A) After the Board has taken action on all posted agenda items on which it intends to take action, general public comment on matters of relevance to the Department's business or requests that the Board place specific items on future agendas for consideration. It is the prerogative of the Board Chair to place reasonable limits on public comment. Handouts of printed materials are permitted only as provided for in paragraph (6) of this section; and

(B) Specific public comment on each posted agenda item after the presentation made by Department staff and motions made by the Board. For purposes of this rule, the Board may consider the staff's presentation to be staff's written presentation in the Board's meeting book and posted on the Department's website. It is the prerogative of the Board Chair to place reasonable limits on such comment. Handouts of printed materials are permitted only as provided for in paragraph (6) of this section.

(2) The opportunity for general public comment under paragraph (1)(A) of this subsection may not be used to advocate for or against any specific action relating to any posted item or for or against any pending application, the opportunity for any such testimony is to be limited to the appointed time when action on such matter is requested to be formally considered as a posted agenda item.

(3) At the time general or specific public comment is taken, speakers should be prepared to come promptly to the podium or other place designated for speakers. They may, if they wish, agree among themselves on an order in which they will speak. If a large number of speakers wish to testify, the chair may, in his or her reasonable discretion, establish appropriate limits on the total amount of time to be devoted to testimony on any given item or items. As each individual speaker begins his or her testimony, they must state on the record their name and on whose behalf they are speaking, and sign in on a sheet provided by staff to indicate the correct spelling of their name and on whose behalf they are speaking.

(4) Individuals not speaking who wish to register positions for or against a posted agenda item may register their positions, for or against, with the secretary of the meeting, or another person designated by the chair, on a form, which the person wishing to register must sign, stating their name, whom they represent, the action item to which their comment relates, and their position. At the end of the public comment on the item the chair will have registered positions for and against read into the record.

(5) Additional limits on public comment.

(A) The Board Chair, in her/his sole discretion, may additionally limit the number and length of presentations of public comment, both general and specific, at any time during a meeting based on a consideration of:

- (i) the number of persons wishing to give public comment;
- (ii) the number of agenda items to be heard;
- (iii) the time available for the meeting; and
- (iv) the risk of losing a quorum of Board members.

(B) If the Board Chair limits presentations, she or he will not limit them in a manner that inappropriately favors a particular point of view.

(C) The Board Chair may, in her or his reasonable discretion, grant deference to elected officials and other persons who have traveled great distances.

(6) Presenting printed materials. An individual providing testimony to the Board may provide printed materials only if they are provided as outlined in subparagraphs (A) - (C) of this paragraph:

(A) In order to ensure that members of the Board and the public are given an opportunity to review any such materials, they must be provided to the Department staff not less than five (5) business days prior to the meeting at which they are to be used. This is to enable staff to post them on the Department's website not later than the third day before the date of the meeting, as provided for in Tex. Gov't Code §2306.032(c). They must be made available in Adobe Acrobat (pdf) electronic format;

(B) Department staff will post such materials to the Department's website no later than the third day before the meeting at which they are to be used;

(C) In exceptional circumstances the Board Chair may, in her/his sole discretion, and only after giving Board members an opportunity to object, allow materials to be provided at a meeting in hard copy format provided:

(i) they are delivered to staff prior to the start of the meeting so that staff may log in the materials and the Board Chair may review for acceptance under this subsection. Materials may not be handed directly by the public to a Board member on the dais;

(ii) they are not so voluminous as to cause inordinate delay while members of the Board and public review them;

(iii) they are provided in hard copy format to all members of the public in attendance;

(iv) they are also provided to staff in Adobe Acrobat (pdf) format for inclusion in the electronic records of Board materials available to the public via the Department's website; and

(v) if the materials involve large size photos, maps, charts, or other information to be displayed for the Board, an identical copy must be displayed to the public attendees.

(7) Persons seeking allowance of written materials under paragraph (6)(C) of this subsection should be aware that their proffered materials may be disallowed, and they should always be prepared to proceed with a verbal presentation within the time constraints for public speaking at Board meetings.