

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §1.82, §1.84 and §1.85, relating to advisory committees, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

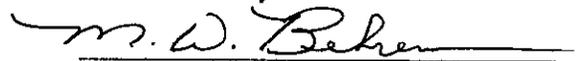
IT IS THEREFORE ORDERED by the commission that the amendments to §1.82, §1.84 and §1.85 are adopted and are authorized for filing with the Office of the Secretary of State.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:


General Counsel

Recommended by:


Executive Director

110309 NOV 17 05

Minute Number Date Passed

1 Adoption Preamble

2 The Texas Department of Transportation (department) adopts
3 amendments to §1.82, §1.84, and §1.85, concerning advisory
4 committees. The amendments to §1.82, §1.84, and §1.85 are
5 adopted without changes to the proposed text as published in the
6 September 9, 2005 issue of the *Texas Register* (30 TexReg 5753)
7 and will not be republished.

8

9 EXPLANATION OF ADOPTED AMENDMENTS

10 The department adopts amendments to its rules governing advisory
11 committees to reflect recently enacted legislation, extend
12 committee sunset dates, and to make minor revisions.

13

14 Section 1.82 prescribes rules governing the operations and
15 procedures of department advisory committees that are created
16 specifically by state law.

17

18 Section 1.82(c) currently requires the filing of an open meeting
19 notice to be coordinated through the department's general
20 counsel. To acknowledge that individuals other than the general
21 counsel may review, approve, and file a notice, §1.82(c) is
22 amended to require notice to be coordinated through the
23 department's Office of General Counsel.

24

25 Section 1.82(d) currently provides that advisory committee

1 members are not entitled to receive compensation for serving as
2 members. This rule was originally adopted due to the lack of
3 authority under the general appropriations act to reimburse
4 committee members for their necessary expenses. The current
5 appropriations act does allow reimbursement if approved by the
6 governor and the Legislative Budget Board. To allow for a
7 circumstance where the department may wish to seek approval to
8 reimburse committee members, §1.82(d) is amended to provide that
9 the department may, if authorized by law and the department's
10 executive director, reimburse a committee member for reasonable
11 and necessary travel expenses.

12
13 Section 1.82(i) currently provides that each statutory advisory
14 committee is abolished December 31, 2005. This sunset date was
15 established to comply with Government Code, §2110.008, which
16 requires a state agency to establish by rule a date on which
17 advisory committees will automatically be abolished unless
18 continued. The commission determines that its statutory
19 advisory committees are necessary to improve communication
20 between the department and the public. Therefore, §1.82(i) is
21 amended to revise the sunset date to December 31, 2007.

22
23 Section 1.84 creates the department's statutory advisory
24 committees and describes the committees' purpose and duties.

25

1 Section 1.84(d) creates the Border Trade Advisory Committee. To
2 comply with Senate Bill 183, 79th Legislature, Regular Session,
3 2005, §1.84(d) is amended to: (1) include the governor as a
4 party to the exchange of communications facilitated by the
5 committee; (2) state that the membership of the committee shall
6 be as provided by Government Code, §772.010; (3) authorize the
7 commission to alter the terms of some members to provide for
8 staggered terms; and (4) provide that the committee may not be
9 abolished as provided by §1.82.

10

11 Section 1.85 provides for the creation and operating procedures
12 of advisory committees that are not created by statute.

13

14 Section 1.85(a)(1) authorizes the creation of project advisory
15 committees for the purpose of facilitating, evaluating, and
16 achieving support and consensus from the affected community and
17 governmental entities in the initial stages of a highway
18 improvement project. Recognizing that the legislature continues
19 to expand the department's authority to develop aviation, rail,
20 and transit projects, §1.85(a)(1) is amended to allow the
21 creation of this type of committee for a "transportation"
22 project, instead of just "highway improvement" project.

23

24 Section 1.85(a)(4) provides for the creation of a Bicycle
25 Advisory Committee. To comply with Senate Bill 602, 79th

1 Legislature, Regular Session, 2005, §1.85(a)(4) is amended to
2 add a new duty for the committee: advise and make
3 recommendations to the commission on the development of bicycle
4 tourism trails. To codify current department practice,
5 §1.85(a)(4) is also amended to add another new duty for the
6 committee: provide recommendations on the selection of projects
7 concerning the Safe Routes to School Program. To be consistent
8 with new §1.85(d), the authority to reimburse members of the
9 committee for their travel expenses is deleted.

10
11 Section 1.85(c) currently provides that each advisory committee
12 created under §1.85 is abolished December 31, 2005. This sunset
13 date was established to comply with Government Code, §2110.008.
14 The commission determines that each committee created under
15 §1.85 is necessary to improve communication between the
16 department and the public. Therefore, §1.85(c) is amended to
17 revise the sunset date to December 31, 2007.

18
19 Section 1.85(d) is added to allow the department, if authorized
20 by law and the department's executive director, to reimburse
21 advisory committee members for reasonable and necessary travel
22 expenses.

23

24 COMMENTS

25 No comments on the proposed amendments were received.

1

2 STATUTORY AUTHORITY

3 The amendments are adopted under Transportation Code, §201.101,
4 which provides the commission with the authority to establish
5 rules for the conduct of the work of the department, and more
6 specifically, Transportation Code, §201.114, which requires the
7 commission to establish a Border Trade Advisory Committee;
8 Transportation Code, §21.003, which establishes an Aviation
9 Advisory Committee; Transportation Code, §455.004, which
10 establishes a Public Transportation Advisory Committee; and
11 Government Code, Chapter 2110, which governs the operations of
12 state agency advisory committees.

13

14 CROSS REFERENCE TO STATUTE

15 Government Code, Chapter 2110, Transportation Code, §21.003,
16 Transportation Code, §201.101, Transportation Code, §201.114,
17 and Transportation Code §455.004.

1 SUBCHAPTER F. ADVISORY COMMITTEES

2 §1.82. Statutory Advisory Committee Operations and Procedures.

3 (a) Applicability. This section applies to statutory
4 advisory committees and governs the operation of statutory
5 advisory committees unless it is superceded by a specific
6 provision in §1.84 of this subchapter.

7 (b) Election of officers and terms of members.

8 (1) Unless otherwise specified with regard to a
9 particular committee, each committee shall elect a chair and
10 vice-chair by majority vote of the members of the committee.
11 The chair and vice-chair shall each be elected for a term of not
12 less than one year and not more than two years. Once elected,
13 the chair and vice-chair may stand for reelection, without limit
14 on the number of consecutive terms.

15 (2) Members shall serve on an advisory committee until
16 new members are appointed.

17 (c) Meetings.

18 (1) Open meeting requirements. Advisory committees shall
19 post and hold all meetings in accordance with the provisions
20 applicable to meetings of the commission under the Texas Open
21 Meetings Act, Government Code, Chapter 551. Filing of notice of
22 open meetings with the Secretary of State shall be coordinated
23 through the department's Office of General Counsel [~~general~~

1 ~~eeounsel]~~.

2 (2) Scheduling of meetings. Meeting dates, times,
3 places, and agendas will be set by the office designated under
4 subsection (f) of this section. Any committee member may
5 suggest the need for a meeting or an agenda item, provided that
6 the committee may only discuss items that are within the
7 committee's and the department's jurisdiction. The office
8 designated under subsection (f) of this section will provide
9 notice of the time, date, place, and purpose of meetings to the
10 members, by mail, email, telephone or any combination of the
11 three [~~or telephone or both~~], at least 10 calendar days in
12 advance of each meeting. All meetings must take place in Texas
13 and must be held in a location that is readily accessible to the
14 general public.

15 (3) Quorum. A majority of the membership of an advisory
16 committee, including the chairman, constitutes a quorum. The
17 committee may act only by majority vote of its membership.

18 (4) Removal. A committee member may be removed at any
19 time without cause by the person or entity that appointed the
20 member or by that person's [~~person~~] or entity's successor.

21 (5) Parliamentary procedure. Parliamentary procedures
22 for all committee meetings shall be in accordance with the
23 latest edition of Robert's Rules of Order, except that the chair

1 may vote on any action as any other member of the committee, and
2 except to the extent that Robert's Rules of Order are
3 inconsistent with any statute or this subchapter.

4 (6) Record. Minutes of all committee meetings shall be
5 prepared and filed with the commission. The complete
6 proceedings of all committee meetings must also be recorded by
7 electronic means.

8 (7) Public information. All minutes, transcripts, and
9 other records of the advisory committees are records of the
10 commission and as such may be subject to disclosure under the
11 provisions of Government Code, Chapter 552.

12 (d) Reimbursement. The department may, if authorized by
13 law and the executive director, reimburse a member of a
14 committee for reasonable and necessary travel expenses. Current
15 rules and laws governing reimbursement of expenses for state
16 employees shall govern reimbursement of expenses for advisory
17 committee members. [~~Advisory committee members are not entitled~~
18 to receive compensation for serving as members.]

19 (e) Conflict of interest. Advisory committee members are
20 subject to the same laws and policies governing ethical
21 standards of conduct as those for commission members and
22 employees of the department.

23 (f) Administrative support. For each advisory committee,

1 the executive director will designate an office of the
2 department that will be responsible for providing any necessary
3 administrative support essential to the functions of the
4 committee.

5 (g) Advisory committee recommendations. In developing
6 department policies, the commission will consider the
7 recommendations submitted by advisory committees.

8 (h) Manner of reporting.

9 (1) The office designated under subsection (f) of this
10 section shall, in writing, report to the commission an official
11 action of a statutory advisory committee, including any advice
12 and recommendations, prior to commission action on the issue.
13 The chair of the advisory committee or the chair's designee will
14 also be invited by the department to appear before the
15 commission prior to commission action on a posted agenda item to
16 present the committee's advice and recommendations.

17 (2) In the event a written report cannot be furnished to
18 the commission prior to commission action, the report may be
19 given orally, provided that a written report is furnished within
20 10 days of commission action.

21 (i) Duration. Except as otherwise specified in this
22 subchapter, each statutory advisory committee is abolished
23 December 31, 2007 [~~2005~~], unless the commission amends its rules

1 to provide for a different date.

2

3 §1.84. Statutory Advisory Committees.

4 (a) Aviation Advisory Committee.

5 (1) Purpose. Created pursuant to Transportation Code,
6 §21.003, the Aviation Advisory Committee provides a direct link
7 for general aviation users' input into the Texas Airport System.
8 The committee provides a forum for exchange of information
9 concerning the users' view of the needs and requirements for the
10 economic development of the aviation system. The members of the
11 committee are an avenue for interested parties to utilize to
12 voice their concerns and have that data conveyed for action for
13 system improvement. Additionally, committee members are
14 representatives of the department and its Aviation Division,
15 able to furnish data on resources available to the Texas
16 aviation users.

17 (2) Membership. The commission will appoint the members
18 of the Aviation Advisory Committee to staggered terms of three
19 years with two members' terms expiring August 31 of each year.
20 A committee member must have five years of successful experience
21 as an aircraft pilot, an aircraft facilities manager, or a
22 fixed-base operator.

23 (3) Duties. The committee shall:

NOTE: Additions underlined
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Exhibit B

1 (A) periodically review the adopted capital improvement
2 program;

3 (B) advise the commission on the preparation and
4 adoption of an aviation facilities development program;

5 (C) advise the commission on the establishment and
6 maintenance of a method for determining priorities among
7 locations and projects to receive state financial assistance for
8 aviation facility development;

9 (D) advise the commission on the preparation and update
10 of a multi-year aviation facilities capital improvement program;
11 and

12 (E) perform other duties as determined by order of the
13 commission.

14 (4) Meetings. The committee shall meet once a calendar
15 year and such other times as requested by the Aviation Division
16 Director.

17 (5) Rulemaking. Section 1.83 of this subchapter does not
18 apply to the Aviation Advisory Committee.

19 (b) Public Transportation Advisory Committee.

20 (1) Purpose. Created pursuant to Transportation Code,
21 §455.004, the Public Transportation Advisory Committee provides
22 a forum for the exchange of information between the department,
23 the commission, and committee members representing the transit

1 industry and the general public. Advice and recommendations
2 expressed by the committee provide the department and the
3 commission with a broader perspective regarding public
4 transportation matters that will be considered in formulating
5 department policies.

6 (2) Membership. Members of the Public Transportation
7 Advisory Committee shall be appointed and shall serve pursuant
8 to Transportation Code, §455.004. Members will be appointed for
9 staggered three-year terms unless removed sooner at the
10 discretion of the commission.

11 (3) Duties. The committee shall:

12 (A) advise the commission on the needs and problems of
13 the state's public transportation providers, including
14 recommending methods for allocating state public transportation
15 funds if the allocation methodology is not specified by statute;

16 (B) comment on proposed rules or rule changes involving
17 public transportation matters during their development and prior
18 to final adoption unless an emergency requires immediate action
19 by the commission;

20 (C) advise the commission on the implementation of
21 Transportation Code, Chapter 461; and

22 (D) perform other duties as determined by order of the
23 commission.

1 (4) Meetings. The committee shall meet as requested by
2 the commission or the office designated under §1.82(f) of this
3 subchapter.

4 (5) Public transportation technical committees.

5 (A) The Public Transportation Advisory Committee may
6 appoint one or more technical committees to advise it on
7 specific issues, such as vehicle specifications, funding
8 allocation methodologies, training and technical assistance
9 programs, and level of service planning.

10 (B) A technical committee shall report any findings and
11 recommendations to the Public Transportation Advisory Committee.

12 (c) Port Authority Advisory Committee.

13 (1) Purpose. Created pursuant to Transportation Code,
14 §55.006, the purpose of the Port Authority Advisory Committee is
15 to provide a forum for the exchange of information between the
16 commission, the department, and committee members representing
17 the port industry in Texas and others who have an interest in
18 ports. The committee's advice and recommendations will provide
19 the commission and the department with a broad perspective
20 regarding ports and transportation-related matters to be
21 considered in formulating department policies concerning the
22 Texas port system.

23 (2) Membership.

1 (A) The commission will appoint seven members to
2 staggered three-year terms unless removed sooner at the
3 discretion of the commission.

4 (B) The commission will appoint:

5 (i) one member from the Port of Houston Authority of
6 Harris County;

7 (ii) three members from ports located on the upper
8 Texas coast; and

9 (iii) three members from ports located on the lower
10 Texas coast.

11 (3) Duties. The committee shall:

12 (A) prepare a port mission plan;

13 (B) review each project eligible to be funded under
14 Transportation Code, Chapter 55, and make recommendations for
15 approval or disapproval to the department;

16 (C) maintain trade data information that will assist
17 ports in this state and international trade;

18 (D) annually prepare a list of projects that have been
19 recommended by the committee, including:

20 (i) the recommended funding level for each project;

21 and

22 (ii) if staged implementation of the project is
23 appropriate, the funding requirements for each stage; and

1 (E) advise the commission and the department on matters
2 relating to port authorities.

3 (4) Meeting. The committee shall meet at least
4 semiannually and such other times as requested by the
5 commission, the executive director, or the executive director's
6 designee. The chair may request the department to call a
7 meeting.

8 (d) Border Trade Advisory Committee.

9 (1) Purpose. Created pursuant to Transportation Code,
10 §201.114, the Border Trade Advisory Committee provides a forum
11 for the exchange of communications among the commission, the
12 department, the governor, and committee members representing
13 border trade interests. The committee's advice and
14 recommendations will provide the governor, the commission, and
15 the department with a broad perspective regarding the effect of
16 transportation choices on border trade in general and on
17 particular communities. The members of the committee also
18 provide an avenue for interested parties to express opinions
19 with regard to border trade issues.

20 (2) Membership. The border commerce coordinator
21 designated under Government Code, §772.010, shall serve as the
22 chair of the committee. The commission will appoint the other
23 members of the committee in accordance with Transportation Code,

1 §201.114. The commission will appoint [~~seven~~] members to
2 staggered three-year terms expiring on August 31 of each year,
3 except that the commission may establish terms of less than
4 three years for some members in order to stagger terms. [The
5 ~~initial membership of the committee will consist of two members~~
6 ~~whose terms expire on August 31, 2002; two members whose terms~~
7 ~~expire on August 31, 2003; and three members whose terms expire~~
8 ~~on August 31, 2004. In appointing members, the commission may~~
9 ~~consider all relevant facts, including the desirability of~~
10 ~~geographic and occupational diversity.]~~

11 (3) Duties. The committee shall:

12 (A) define and develop a strategy for identifying and
13 addressing the highest priority border trade transportation
14 challenges;

15 (B) make recommendations to the commission regarding
16 ways in which to address the highest priority border trade
17 transportation challenges;

18 (C) advise the commission on methods for determining
19 priorities among competing projects affecting border trade; and

20 (D) perform other duties as determined by the
21 commission, the executive director, or the executive director's
22 designee.

23 (4) Meetings. The committee shall meet at least once a

1 calendar year. The dates and times of meetings shall be set by
2 the committee. The committee shall also meet at the request of
3 the department.

4 (5) Rulemaking. Sections 1.82(i) and [~~Section~~] 1.83 of
5 this subchapter do [~~does~~] not apply to the Border Trade Advisory
6 Committee.

7
8 §1.85. Department Advisory Committees.

9 (a) Creation.

10 (1) Project advisory committees.

11 (A) Purpose. The executive director may authorize a
12 district engineer to create, by written order, an ad hoc project
13 advisory committee composed of the following members as may be
14 deemed appropriate by the district engineer: department staff;
15 affected property owners and business establishments; technical
16 experts; professional consultants representing the department;
17 and representatives of local governmental entities, the general
18 public, chambers of commerce, and the environmental community. A
19 project advisory committee shall serve the purpose of
20 facilitating, evaluating, and achieving support and consensus
21 from the affected community and governmental entities in the
22 initial stages of a transportation [~~highway improvement~~]
23 project. Advice and recommendations of a committee provide the

1 department with an enhanced understanding of public, business,
2 and private concerns about a project from the development phase
3 through the implementation phase, thus facilitating the
4 department's communications and traffic management objectives,
5 resulting in a greater cooperation between the department and
6 all affected parties during project development and
7 construction.

8 (B) Duties. A project advisory committee shall:

9 (i) maintain community and local government
10 communication; and

11 (ii) respond in a timely fashion to affected parties'
12 concerns about project development and construction.

13 (C) Manner of reporting. A project advisory committee
14 shall report its advice and recommendations to the district
15 engineer.

16 (D) Duration. A project advisory committee may be
17 abolished at any stage of project development, but in no event
18 may a committee continue beyond completion of the project.

19 (2) Rulemaking advisory committees.

20 (A) Purpose. The commission, by order, may create ad
21 hoc rulemaking advisory committees pursuant to Government Code,
22 Chapter 2001, §2001.031, for the purpose of receiving advice
23 from experts, interested persons, or the general public with

1 respect to contemplated rulemaking.

2 (B) Duties. A rulemaking advisory committee shall
3 provide advice and recommendations with respect to a specific
4 contemplated rulemaking.

5 (C) Manner of reporting. A rulemaking advisory
6 committee shall report its advice and recommendations to the
7 division responsible for the development of the rules.

8 (D) Duration. A rulemaking committee shall be
9 abolished upon final adoption of rules by the commission.

10 (3) Intelligent Transportation Systems (ITS) Steering
11 Committees.

12 (A) Purpose. Federal law encourages the expenditure of
13 federal transportation funds to achieve improvements in the
14 efficiency of transportation operations. A portion of these
15 funds are specifically designated for the planning and testing
16 of Intelligent Transportation Systems technologies. As part of
17 the development and implementation of these projects, a district
18 engineer, in conjunction with local officials, may create a
19 steering committee to provide support for ITS activities. Advice
20 and recommendations expressed by a committee will foster the
21 coordination of state and local benefit in the design,
22 maintenance, and operation of ITS facilities.

23 (B) Duties. A committee shall provide advice and

1 recommendations with respect to:

- 2 (i) ITS project priorities;
- 3 (ii) the approval of projects;
- 4 (iii) seeking project funding;
- 5 (iv) coordinating public and private ventures; and
- 6 (v) promoting ITS at local, state, and national
- 7 levels.

8 (C) Manner of reporting. A committee shall report its

9 advice and recommendations to the local district engineer, or

10 the district engineer's designee.

11 (4) Bicycle Advisory Committee.

12 (A) Purpose. The purpose of the Bicycle Advisory

13 Committee is to advise the commission on bicycle issues. By

14 involving representatives of the public, including bicyclists,

15 the department helps ensure effective communication with the

16 bicycle community, and that the bicyclist's perspective will be

17 considered in the development of departmental policies affecting

18 bicycle use, including the design, construction and maintenance

19 of highways.

20 (B) Duties. The committee shall:

- 21 (i) in accordance with Transportation Code,
- 22 §201.9025, advise and make recommendations to the commission on
- 23 the development of bicycle tourism trails;

1 (ii) provide recommendations on the selection of
2 projects under Chapter 25, Subchapter I of this title (relating
3 to Safe Routes to School Program); and

4 (iii) review and make recommendations on items of
5 mutual concern between the department and the bicycling
6 community.

7 (C) Manner of reporting. The committee shall report
8 its advice and recommendations to the commission.

9 ~~[(D) Reimbursement. The department may reimburse a~~
10 ~~member of the Bicycle Advisory Committee for reasonable and~~
11 ~~necessary travel expenses. Current rules and laws governing~~
12 ~~reimbursement of expenses for state employees shall govern~~
13 ~~reimbursement of expenses for advisory committee members.]~~

14 (5) Trans-Texas Corridor advisory committees.

15 (A) Purpose. The commission by order may create an
16 advisory committee concerning the Trans-Texas Corridor or a
17 project that is part of the Trans-Texas Corridor, for the
18 purpose of facilitating and achieving support and consensus from
19 affected communities, governmental entities, and other
20 interested parties in the planning of the Trans-Texas Corridor
21 and in the establishment of development plans for a project that
22 is part of the Trans-Texas Corridor. A committee may be
23 composed of the following members as deemed appropriate by the

1 commission: department staff; affected property owners and
2 business establishments; technical experts; professional
3 consultants representing the department; representatives of
4 local governmental entities; the general public; chambers of
5 commerce; and the environmental community. Advice and
6 recommendations of a committee will provide the department with
7 an enhanced understanding of public, business, and private
8 concerns about the Trans-Texas Corridor and projects that are
9 part of the Trans-Texas Corridor, thus facilitating the
10 department's communications and project development objectives,
11 resulting in greater cooperation between the department and all
12 affected parties during project planning and development.

13 (B) Duties. A Trans-Texas Corridor advisory committee
14 shall provide advice and recommendations to the department
15 regarding facilities to be included in a development plan for
16 the Trans-Texas Corridor or a project that is part of the Trans-
17 Texas Corridor.

18 (C) Manner of reporting. A Trans-Texas Corridor
19 advisory committee shall report its advice and recommendations
20 to the executive director or designee.

21 (D) Duration. A Trans-Texas Corridor advisory
22 committee may be abolished at any time by the commission, but in
23 no event may a committee continue beyond completion of the

1 Trans-Texas Corridor or the project for which the committee is
2 created.

3 (b) Operating procedures.

4 (1) Membership. Except as otherwise specified in this
5 section, an advisory committee shall be composed of not more
6 than 24 members to be appointed by the office or official to
7 whom the committee is to report. When applicable to the purpose
8 and duties of the committee, the membership shall provide a
9 balanced representation between:

10 (A) industries or occupations regulated or directly
11 affected by the department; and

12 (B) consumers of services provided either by the
13 department or by industries or occupations regulated by the
14 department.

15 (2) Meetings.

16 (A) An advisory committee shall meet once a calendar
17 year and at such other times as requested by the office to which
18 it reports.

19 (B) A majority of the membership of an advisory
20 committee constitutes a quorum. A committee may take formal
21 action only by majority vote of its membership.

22 (3) Officers. Each committee shall elect a chair and
23 vice-chair by majority vote of the members of the committee.

1 (c) Duration. Except as otherwise specified in this
2 section, a committee created under this section is abolished
3 December 31, 2007 [2005], unless the commission amends its rules
4 to provide for a different date.

5 (d) Reimbursement. The department may, if authorized by
6 law and the executive director, reimburse a member of a
7 committee for reasonable and necessary travel expenses. Current
8 rules and laws governing reimbursement of expenses for state
9 employees shall govern reimbursement of expenses for advisory
10 committee members.