

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
November 3, 2023

A. CALL TO ORDER -- Chair Jim Minge called the meeting to order at 9:02 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Texas Government Code, and declared that a quorum was present. Other members present included Liz Bayless, David Bleazard, Karyn Brownlee, Beckie Stockstill Cobb, David Shurtz and Kay Rankin-Swan. The Chair introduced Karen L. Miller, General Counsel for the Department, who will serve as legal counsel for the commission at the meeting. Representing the Department staff were Commissioner Michael S. Riepen, Deputy Commissioner Robert W. Etheridge, Director of Information and Technology Joel Arevalo, and Executive Assistant Isabel Velasquez. Chair Minge appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**October 17, 2023 TRD#2023005973**).

❖ **GENERAL PUBLIC COMMENT** -- Chair Minge invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission. No public comments were received.

B. MINUTES OF PREVIOUS MEETINGS (August 11, 2023) -- The Chair referred the members to the draft minutes of the previous meeting included in the agenda packet and asked for any proposed edits. Hearing none, the Chair asked for a motion to approve the minutes. Mr. Shurtz moved for approval of the minutes of August 11, 2023, as presented. Mrs. Cobb seconded the motion, and the Commission carried the motion unanimously.

C. PROPOSED AMENDMENTS TO RULE 7 TAC, PART 6, CHAPTER 97, SUBCHAPTER B, SECTION 97.113 (FEES AND CHARGES) –

Commissioner Riepen reported that the Department is funded by assessment of an operating fee. Commissioner Riepen reported that the most recent adjustment to the fee schedule was made July 12, 2009. The 2009 Amendment consolidated five brackets and increased the maximum bracket from \$1 billion and over to \$2 billion and over. In 2009, percentages were slightly decreased or remained the same in that amendment. Commissioner Riepen explained the purpose of the proposed amendment is an increased need for funds to support budget flexibility for long range planning, respond to increased reliance on technology (by both the department and the entities it regulates), respond to greater complexity surrounding risks at credit unions, address the need to prepare for retirement of key staff, increase operating reserves and fund deferred facility maintenance costs. Additionally, a large state-chartered credit union converted to a federal charter, which caused a significant revenue decrease. In response to these issues, the operating fee schedule was reviewed to address an equitable methodology to increase potential fees, streamline the operating fee process, minimize the impact on regulated institutions and maintain competitive parity with other financial institution regulators. Commissioner Riepen outlined a comparison between the Department's (CUD) current and proposed fee structure compared to the National Credit Union Administration (NCUA) and the Texas Department of Banking (DOB). This revealed the following:

- Both the NCUA and DOB fee schedules result in significantly more revenue for regulation of a similar portfolio (number and asset size) of institutions. The NCUA operating fees schedule generates over \$8.6 million, compared to the CUD schedule that generates \$5.6 million or 35% less.
- NCUA's fee structure favors smaller institutions.
- DOB's fee structure favors larger institutions.
- CUD's fee structure favors larger institutions.

Overall, the new calculations provide nominal regulator fee relief to institutions under \$200 million in assets and protects the larger institutions with a maximum dollar increase of \$19,640. The new calculations also add a top tier to address when a credit union exceeds assets of \$6.8 billion, with the percentage factor being reduced from .000062 to .000040.

Additionally, we are proposing an amendment to give the Commissioner the authority to reduce the operating fee in addition to simply waiving it. This gives the Department more flexibility in situations where an adjustment to the fee may be appropriate, but waiving the entire fee is unnecessary.

Chair Minge opened the floor to the public for discussion.

- **Melodie Durst, Executive Director, Credit Union Coalition of Texas**, offered her thanks for the opportunity to offer comments. Mrs. Durst acknowledged the many hours that Deputy Commissioner Etheridge and staff spent in preparing not only the budgets, but any rule amendments and the proposed operating fee. Mrs. Durst raised various questions concerning the methodology and the need to raise operating fees at this time. Commissioner Riepen provided an explanation to each of her questions.
- **Suzanne Yashewski, Regulatory & Compliance Counsel**, thanked everybody for their participation in this, from the staff to the Commission and committee members. Ms. Yashewski reported that she met with their Texas Working Group, part of the Cornerstone League, a small group of credit unions in various sizes. She reported that this is just a small portion of their membership in total, but the large ones in the group that she met with understood that they may be paying a bit more. They felt comfortable with pushing the proposal forward for comment, understanding that they may pay more. Furthermore, she expressed that the main issue really is the success of

the Department and keeping good, tenured examiners who know what they are doing on staff. Credit unions are also asking the Department to provide some sort of assurance that if they pay more, they are going to see that sort of return. Credit unions felt more comfortable with that increase if they could see more of a direct return to the credit union industry, not just to large credit unions, but to the credit union industry as a whole.

- **David Bleazard, Commission Member**, stated that regardless of whether this fee change goes forward, the important thing is for us to discuss as a Commission board that the Sunset Commission was very direct in their comments about not rebating fees back. Mr. Bleazard stated that regardless of whether we change this rule or not, he did not think we should be rebating any fees back. We should be billing what we are allowed to bill and collecting and putting any fees raised but not used into our reserve fund. Furthermore, Mr. Bleazard indicated that we have been extremely hesitant to use the reserve fund for anything, but we should not be hesitant to use the reserve fund for things that are prudent and necessary for the operation of the Department. At the end of his discussion, Mr. Bleazard wanted to go on record that regardless of the operating fee discussion outcome, the Commission should make better use of the reserve fund.

After a lengthy discussion, Mr. Shurtz moved that the Commission approve for publication and comment the proposed amendments to 7 TAC, Part 6, Chapter 97, Subchapter B, Section 97.113 concerning fees and charges. The motion coming as a recommendation of the Rules Committee does not require a second. The Chair called the question and on the vote of 7 to 1, Mr. Bleazard opposing, the motion CARRIED.

D. COMMISSIONER EVALUATION COMMITTEE - Chair Brownlee reported that the Commissioner Evaluation Committee met on November 2, 2023,

in a public meeting. It is the Committee's responsibility to develop, establish and review the policies, procedures and forms that are used to carry out the Commissioner's annual performance review. It is also the Committee's responsibility to make recommendations to the Commission regarding performance standards for the upcoming fiscal year. The Committee is to oversee the process and ensure its completion as outlined, and at the last Commission meeting of each calendar year present related recommendations to the Commission for approval. As such, the Committee has prepared a report reflecting the Commissioner's performance for Fiscal Year 2023 and has revised the Commissioner's performance evaluation process document for FY 2024 which includes updated performance standards and goals. We recommend these two documents for adoption by the Commission.

Because these are personnel matters, I request an executive session for private deliberation prior to taking any action.

Chair Minge officially announced that under the Texas Open Meetings Act, Texas Government Code, Section 551.074 for this agenda item, the Commission will now enter Executive Session to deliberate on personnel matters for this agenda item. The Commission entered Executive Session at 10:07 a.m.

At 10:43 a.m., the Commission returned to open session. Chair Minge inquired if there were any members who wished to bring forth any motion. Chair Brownlee thanked the Commissioner for a very good first year at the helm of our department. Your calm, steady leadership style has proven effective in moving our staff forward and promoting a strong credit union system in Texas, and we thank you very much for a very faithful, strong, and great first year.

Mrs. Brownlee moved to adopt the Commissioner Evaluation Performance Evaluation report for FY 2023, and to approve the salary of \$209,000 to begin on

January 1, 2024. Mr. Bleazard second the motion, and the Commission carried the motion unanimously.

Mrs. Brownlee moved to approve the Commissioner's Fiscal Year 2024 Performance Evaluation Process and Plan. Mrs. Bayless second the motion, and the Commission carried the motion unanimously.

E. DEPARTMENT'S FY 2023 BUDGET AND FINANCIAL PERFORMANCE – Commissioner Riepen reported that in 2022 the Commission adopted a strategic plan for Fiscal Years 2023-2027. The \$5.0 million FY 2023 budget approved by the Commission in June 2022 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan. At the end of August 2023, total expenditures were \$737,429 or approximately 14.7 percent less than budgeted projections. Aggregate expenses for each major expense category ended the year below budget estimates. Due to personnel vacancies, total personnel expenses accounted for 57 percent of the budget variance, or \$419,821. Other below budget items include travel related savings and Professional Services and Fees.

After a brief discussion, the Commission took no action.

F. STATUS OF THE STATE CREDIT UNION SYSTEM – Deputy Commissioner Etheridge briefly discussed the Texas economy performance, and that the Texas economy continues to withstand economic pressures and perform well. However, inflationary pressures have resulted in higher interest rates and labor costs, and slowing job growth and manufacturing, resulting in the potential for a noticeable slowdown in economic growth in Texas. During the first half of 2023, Texas employment rose at an annualized rate of 3.2 percent, exceeding the national average of 2.2 percent. Economic expansion is anticipated to continue through year-end, but at a slower pace than the first half of the year.

The unemployment rate for Texas was 4.1 percent at month-end September 2023, unchanged from May 2023. The number of new jobs in Texas for 2023 is the highest of any state and the percentage increase is the second highest of any state in the country. Overall, the financial performance of Texas chartered credit unions for the first six months of 2023 remains good. Capital levels for the Texas industry continue to grow, and earnings and asset quality ratios are being maintained at some of their strongest levels over the last seven years. Earnings performance data for Texas credit unions reflects favorable levels of net income, and when coupled with controlled asset growth and slow deposit growth, resulted in a strengthening of net worth ratios. Ultimately, while the performance outlook for the Texas industry still appears satisfactory, it remains essential for credit unions to adapt to the ever-changing economic trends (i.e., inflation, higher cost of funds, etc.), and the increasing political and warfare concerns to safeguard the financial interests of Texas credit unions and its members.

After a short discussion of some of the key financial trends, no formal action was taken by the Commission.

G. ADMINISTRATIVE PENALTIES AND LATE FEES – Commissioner Riepen reported that in its report dated August 2020, the Sunset Advisory Commission directed the Department to develop a penalty matrix, and the recommendation would ensure the Department has clear standards to assess administrative penalties and late fees in a fair and consistent manner. A review has been conducted of all existing civil money and criminal penalties under the Credit Union Act and Rules for Credit Unions, and a penalty matrix was developed which is consistent with the Sunset Commission's recommendations.

After a brief discussion, Mrs. Cobb moved that the Commission approve the Penalty Matrix as proposed by the Department. Mr. Bleazard second the motion, and the Commission carried the motion unanimously.

H. DEPARTMENT'S EQUAL EMPLOYMENT AND WORKFORCE PLAN – Commissioner Riepen explained that Finance Code Section 15.313 requires the Commission to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel decisions are made without regard to race, color, sex, religion, age, or national origin.

After a short discussion, Mrs. Brownlee moved that the Commission adopt the Department's Equal Employment and Workforce Plan as recommended by staff. Mrs. Swan second the motion, and the commission carried the motion unanimously.

I. PENDING LITIGATION – Commissioner Riepen reported to the Commission that since the last meeting report, there have been no significant updates.

J. AGENDA ITEMS, ARRANGEMENTS, AND DATES. Chair Minge reminded everyone that the next regular meeting of the Commission has been moved from Friday, March 8, 2024, to **March 22, 2024** at 9:00 a.m., in Austin. Due to schedule conflicts, the scheduled meeting from Friday, July 12, 2024, has been moved to **Friday, July 19, 2024**. Mr. Minge inquired if anyone had any suggested agenda items for our March 22nd meeting. No requests were received.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 11:04 a.m.

Jim Minge
Chairman

Isabel Velasquez
Recording Secretary

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