

Republican Party of Texas
900 Congress, Suite 300
Austin, Texas 78701
Attn: Tina Benkiser

Ref: Challenge

Madam Chair:

Please deliver the following challenges to the Republican State Officials Committee as constituted in the bylaws of the SREC or in the alternative, if appropriate, to the Temporary Credentials Committee of the State Convention.

As the signer of this challenge I have voted in the Republican General Primary and challenge the delegate status of the following person via RPT Rule 5 authorizing Robert's Rules of Order and therefore the main motion to censure for abuse of authority as noted below:

Tina Benkiser, C/O Republican Party of Texas, 900 Congress, Suite 300, Austin, Texas 78701

RPT Rule 22 b "Transmittal of Precinct Convention Minutes: The Permanent Chairman of the Precinct Convention shall sign and safely transmit to the county chairman no later than the third day after the date of the precinct convention or deposit in the mail not later than the second day after the date of the precinct convention such record (minutes) and a copy thereof, and maintain a third copy for himself at least until the end of that year's biennial state convention. In multidistrict counties, the County Chairman shall deliver the original record to the temporary chairmen of the Senatorial District conventions. The copy shall be public record."

The State Convention intentional phased the above Party Rule to NOT be in conflict with TEC 174.027(f) below. This "intent" is widely known and the State Chair has no excuse for fabricating "ambiguity" in conspiracy with the County Chair to violate the clear rights of all those seeking to exercise their right to obtain a copy of the precinct minutes.

§ 174.027. Records of Convention

(a) The convention chair shall prepare, sign, and make a copy of a list of the names and residence addresses of the delegates and any alternates selected by the convention.

(b) The convention chair shall sign and make a copy of the list of precinct convention participants required by Section 174.025(c).

(c) The convention chair shall deliver the originals and copies of the lists to the county chair not later than the third day after the date of the precinct convention, except that if delivered by mail, they shall be deposited in the mail not later than the second day after the date of the precinct convention.

(d) The county chair shall retain the copies of the lists until the end of the voting year in which they are received.

(e) If senatorial district conventions will be held in the county, the county chair shall deliver the originals of the lists to the temporary chairs of the senatorial district conventions before the conventions convene.

(f) The original lists are not public information.

NO ambiguity exist in the party "rules" a conflict was fabricated by the State Chair and County Chair by miss-using an out of context attorney general opinion (which is NOT "in these rules").

RPT Rule 1d: "Clarification - Any member of the Republican Party who discovers an ambiguity in these rules may request in writing a clarification from the county chairman or the State Chairman. Clarification from the State Chairman shall be binding on all members of the Republican Party until final clarification is made by majority vote of the SREC. Any clarification made shall be to maintain the intent and purpose of these Rules as originally adopted."

On March 26, 2008 I e-mailed Mr. Bertuzzi requesting that I be allowed to view the precinct convention minutes from each of the 126 precincts in Nueces County. His response was as follows:

Under Rule #1 d. Clarification, I have asked the State Chairman about the Conflict of Rule 22 b. last sentence "The copy shall be public record" and Attorney General Greg Abbott's ruling of June 22, 2006. "The Gillespie County Republican Party is not a governmental body, and not required to respond to public records request." Once the conflict in Republican Party of Texas Rules and Government code 552 Public Information Act (the "ACT") is resolved I will let you know.

(A copy of this e-mail is attached.)

My response to this e-mail was as follows:

Mr. Bertuzzi,

Rule 1d applies only to the Republican Party of Texas rules. There has to be ambiguity to utilize this rule.

Rule22b "A copy shall be public record" is in no way ambiguous to anyone who can read the English language. The quotation of the Gillespie county opinion is not relevant as it deals with records other than those mentioned concerning Rule 22b. The Attorney General is correct...all county records not specifically made a public record cannot be forced to be made a public record. However, Rule 22b specifically and clearly makes the copy of the precinct convention a public record therefore you need to make it available to me. Note also that the Texas Election Code 163.004, 163.007 and 161.009 clearly makes the party rules to be treated as though they are statute.

§ 163.004. Adopting Rules

(a) **A political party's rules**, including amendments to rules, governing or affecting its general or runoff primary elections, **conventions held** under this code, or nominees may be adopted only by:

- (1) a state convention; or
- (2) the state executive committee as a temporary rule, if adoption before the next state convention is necessary.

(b) A temporary rule must be considered by the first state convention following its adoption. The state convention may rescind, modify, or ratify the temporary rule. If the state convention fails to act, the temporary rule expires on the day after the date the convention adjourns.

(c) In this chapter, "rule on electoral affairs" means a rule or amendment of the class described by Subsection (a).

§ 163.007. Rules Enforceable by Mandamus

A rule on electoral affairs is enforceable by writ of mandamus in the same manner as if the rule were a statute.

§ 161.009. Party Officer Subject to Mandamus

The performance of a duty placed by this code on an officer of a political party is enforceable by writ of mandamus in the same manner as if the party officer were a public officer.

Please reconsider allowing me the opportunity to view the copy of the minutes of all the precinct conventions in Nueces county. I am available ANY time to meet with you.

As a participant in this process, these are my rights as a member of the Republican Party and you will be challenged if they are denied.

I look forward to hearing from you,

Kay Fischer
(361)887-0625

(A copy of this e-mail is also attached.)

I believe that there has been a clear violation by the state chair in conspiracy with the county chair of my rights to view the precinct convention minutes from the primary election held in Nueces county on March 4, 2008. In the attached e-mail dated March 28, 2008 Mr. Bertuzzi stated that he asked the State Chair for clarification allowing me to view the precinct convention minutes under Rule 1d. On April 23, 2008 having not heard from Mr. Bertuzzi **nor** the State Chair I called the Republican Headquarters in Austin requesting information on the clarification. I stated my request to the receptionist and she routed me to Derek Ryan. His voice mail box was full so I left a message with the receptionist. I called many times that day and the next only to get voice mail again and again. Approximately 4 weeks was given for the State Chair to clarify and either notify Mr. Bertuzzi or me. The attached photos of my request for copies of the precinct minutes of all precinct conventions in Nueces county prove that my request for the information was denied. March 17, 2008, the date on this written request "X'd" out along with "NO" written on it by Mr. Bertuzzi, is approximately 10 days **prior** to the date of my e-mails providing proof that neither Mr. Bertuzzi **nor** the State Chair **ever** had any intention of allowing me to view the precinct

convention minutes as should have been done per the RPT rules and state statute mentioned above.

Therefore I respectfully request that my challenge be upheld.

The above challenge has been sent via certified or registered mail not later than thirty (30) days following the date of the county convention.

Signed,
Kay Lund