



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 9

April 23, 1992

Whether nonprofit water supply corporations are "political subdivisions" for purposes of chapter 305 of the Government Code. (AOR-11)

The Texas Ethics Commission has been asked to consider whether a nonprofit water supply corporation organized under article 1434a, V.T.C.S., is a political subdivision for purposes of chapter 305 of the Government Code and Ethics Commission rules adopted under that chapter.

The significance of this inquiry is to determine whether persons who are acting as officers or employees of nonprofit water supply corporations are excepted from registration as lobbyists pursuant to section 305.003 of the Government Code. Section 305.003(b) excepts from the requirement to register as a lobbyist "an officer or employee of a political subdivision of the state." "Political subdivision" is not defined for purposes of section 305.003 of the Government Code.

The inquiry has further significance with respect to section 305.026 of the Government Code, which prohibits the use of certain public funds for lobbying. The definition of "political subdivision" in section 305.026(b) encompasses any "special district created under the constitution or laws of this state," including any "governmental entity that embraces a geographic area within a definite boundary and exists for the purpose of discharging functions of government and possesses authority for subordinate self-government through officers selected by it." Gov't Code § 305.026(b)(3).

The general rule is that nonprofit water supply corporations are not political subdivisions. *Tarrant County Water Supply Corp. v. Hurst-Eules-Bedford Indep. School Dist.*, 391 S.W.2d 162 (Tex. Civ. App--Fort Worth 1965, writ ref'd n.r.e.); Attorney General Opinions JM-596 (1986), M-1070 (1972). Nonprofit water supply corporations are included within the definition of "political subdivision" in several provisions of the Water Code. See Water Code §§ 15.001(5), 15.731(4), 16.001(7), 16.341(3), 17.001(6), 17.921(3), 20.002(7), 52.001(15). However, each of these provisions includes nonprofit water supply corporations within the term "political subdivision" only with reference to the particular subject matter to which the definition specifically applies.¹ Section 16.002 of the Water Code provides that nonprofit water supply corporations that receive certain state funds are required to comply with the Open Records and Open Meetings Acts. The 72d Legislature amended the Open Meetings and Open Records Acts to add certain nonprofit water supply corporations that are exempt from ad valorem taxation to the definition of "governmental body" for the purpose of each of those acts. Acts 1991, 72d Leg., ch. 306, §§ 4, 5, at 1341-42. Were nonprofit water supply corporations political subdivisions for general purposes, such provisions would be unnecessary. Accordingly, we are of the opinion that nonprofit water supply corporations are, as a general rule, not political subdivisions or special districts, although such corporations may occasionally be treated as such for purposes of specific legislation.

Nothing in chapter 305 of the Government Code evinces a legislative intent to include nonprofit water supply corporations within the term "political subdivision" as it is used in that chapter. Your question is therefore answered in the negative.

SUMMARY

Nonprofit water supply corporations are not political subdivisions for purpose of chapter 305 of the Government Code and Ethics Commission rules adopted under that chapter.

¹ Other provisions of the Water Code define the term "political subdivision" without including nonprofit water supply corporations within the meaning of the term. See Water Code § § 12.013(b), 16.313(1).