TEXAS ETHICS COMMISSION

ETHICS ADVISORY OPINION NO. 72

October 23, 1992

Whether a legislator may provide legal services to a special-purpose district under section 7C of article 6252-9b, V.T.C.S. (AOR-93)

A state legislator has asked the Texas Ethics Commission whether section 7C of article 6252-9b, V.T.C.S., would prohibit a legislator from providing legal services to a special-purpose district. The statutes now in effect that are subject to interpretation by the Ethics Commission do not prohibit a state legislator from providing legal services to a special-purpose district. Ethics Advisory Opinion No. 41 (1992). Section 7C(a) of article 6252-9b, which takes effect on January 1, 1993, provides as follows:

> A state officer may not solicit or accept from the state, a political subdivision of the state, or a governmental entity created under the constitution or laws of the state a commission, fee, bonus, retainer, or rebate that is compensation for the officer's personal solicitation for the award of a contract for services or sale of goods to the state, a political subdivision of the state, or a governmental entity created under the constitution or laws of the state, excluding contracts that are awarded by competitive bid as provided by law and that are not otherwise prohibited by law and all court appointments.

As indicated, at present section 7C has no effect on a contract between a legislator and a special-purpose district. Further, it is difficult to determine what section 7C will prohibit when it takes effect. The due process clause of the United States Constitution requires that a penal statute define a criminal offense with sufficient definiteness that an ordinary person can understand what conduct is prohibited. *United States v. Daniel*, 813 F.2d 661, 663 (5th Cir. 1987). This commission, therefore, will recommend to the legislature that it clarify this provision.

SUMMARY

Section 7C of article 6252-9b, V.T.C.S., does not take effect until January 1, 1993. The Ethics Commission will recommend that the legislature clarify section 7C.