



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 117

*February 18, 1993*

*Whether a legislator who is a lawyer may be employed by a law firm that represents clients before either a state agency or a school district. (AOR-115)*

A member of the legislature has asked the Texas Ethics Commission whether a legislator who is a lawyer may be employed by a law firm that represents clients before either a state agency or a school district.<sup>1</sup> The legislator would not appear before state agencies.

Nothing in the laws subject to interpretation by the Ethics Commission would prohibit a legislator's employment by such a firm, although the legislature has restricted the circumstances under which a member of the legislature may, for compensation, personally represent another person before a state agency in the executive branch of state government. *See* V.T.C.S. art. 6252-9b, § 4(g) (legislator must report on financial disclosure statement compensation received for representing person before state agency); *see also id.* § 7(a) (no member of the legislature may, for compensation, represent another person before an executive state agency unless the representation is made in a public hearing that is a matter of record, or involves contact with the agency involving only ministerial acts of the agency). *See generally id.* § 7(b), (d) (legislator may not vote on bill that affects business entity in which legislator has controlling interest, unless measure will affect an entire class of business entities); [Ethics Advisory Opinion No. 72](#) (1992) (regarding section 7C of article 6252-9b). There is nothing to suggest, however, that those restrictions apply to an employer or co-worker of a legislator. Therefore a legislator may be employed by a law firm in which other attorneys represent clients before a state agency. Additionally, nothing in the laws subject to interpretation by the Ethics Commission prohibits a legislator from representing clients before a school district.<sup>2</sup>

A legislator who represents clients, or is employed by a law firm that represents clients before state agencies should, however, be aware of certain statutes that could be relevant to individual situations. We refer first to section 39.03(a) of the Penal Code, which provides as follows:

A public servant commits an offense if, in reliance on information to which he has access in his official capacity and which has not been made public, he:

- (1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or
- (2) speculates or aids another to speculate on the basis of the information.

Section 8(c) of article 6252-9b should also be kept in mind. That provision states that "no state officer . . . should accept other employment or compensation which could reasonably be expected to impair his independence of judgment in the performance of his official duties." V.T.C.S. art. 6252-9b, § 8 (standards of conduct).

### SUMMARY

There is nothing in the laws subject to interpretation by the Ethics Commission that prohibits a legislator from being employed by a law firm in which other lawyers represent clients before state agencies. Nor is there

anything in those laws that prohibits a legislator from representing clients before a school district. A legislator who represents clients before a state agency is subject to certain restrictions.

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<sup>1</sup> The Ethics Commission has authority to interpret six statutory schemes: (1) chapter 305 of the Government Code (lobby); (2) chapter 302 of the Government Code (speaker's race); (3) title 15 of the Election Code (campaign finance); (4) article 6252-9b, V.T.C.S. (financial disclosure and standards of conduct); (5) chapter 36 of the Penal Code (bribery); and (6) chapter 39 of the Penal Code (abuse of office). This opinion addresses the application of those statutes to the question raised.

<sup>2</sup> A member of the legislature may not accept a "benefit" from any person. Penal Code § 36.08(f); [Ethics Advisory Opinions Nos. 75, 69, 64, 60](#) (1992). This prohibition does not apply to a fee for the actual value of services rendered, [Ethics Advisory Opinion No. 41](#) (1992), and would therefore not limit employment by a law firm for actual services rendered.