



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 121

February 18, 1993

Whether members of four committees that advise the Department of Transportation are required to file financial disclosure statements. (AOR-138)

The Texas Ethics Commission has been asked whether members of four committees that advise the Department of Transportation are "state officers" for purposes of article 6252-9b, V.T.C.S. See V.T.C.S. arts. 46c-3 (aviation advisory committee), 6663b (public transportation advisory committee), 6673g (environmental advisory committee), 6673h (rules advisory committee regarding bicycle road use). Under section 3(a) of article 6252-9b, V.T.C.S., "every state officer" is required to file with the Ethics Commission, on or before April 30, a personal financial disclosure statement. [Ethics Advisory Opinion No. 1](#) (1992).

Section 2A of article 6663b, V.T.C.S., provides for a nine-member committee to give advice "on the needs and problems of the state's public transportation providers" and to "comment on rules changes involving public transportation during their development and before their final adoption." V.T.C.S. art. 6663b, § 2A(c). Members are appointed by the governor, lieutenant governor, and speaker of the house, and serve at the pleasure of the appointing officers. *Id.* § 2A(a), (b). Section 2 of article 6673g, V.T.C.S., provides for a six-member advisory body to give advice on rules "that may affect the environment." V.T.C.S. art. 6673g, § 2(a). Members are appointed by the governor, the lieutenant governor, and the speaker of the house, and serve at the pleasure of the appointing officers. *Id.* § 2(a), (b). Section 3 of article 6673h, V.T.C.S., provides for a five-member advisory committee to advise the commission "regarding bicycle road use on the state highway system." V.T.C.S. art. 6673h, § 3(a). Members are appointed by the Texas Transportation Commission and serve at the pleasure of the commission. *Id.* § 3(a), (b). Article 46c-3, V.T.C.S., provides for a six-member advisory committee, with members appointed by the Texas Transportation Commission, to advise the commission "on aviation matters." V.T.C.S. art. 46c-3, § (a). Members serve at the pleasure of the commission. *Id.*

Article 6252-9b defines a "state officer" as "an elected officer, an appointed officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency as defined in this section." V.T.C.S. art. 6252-9b, § 2(1). Since members of the committees in question are unsalaried, do not serve as members of the board of a major state agency, and are appointed to their positions, the only category in which a member might fall would be that of "an appointed officer."¹

Section 2(3) of article 6252-9b, V.T.C.S., defines an "appointed officer" as:

- (A) the secretary of state;
- (B) an individual appointed with the advice and consent of the senate to the governing board of any state-supported institution of higher education;
- (C) an officer of a state agency who is appointed for a term of office specified by the constitution or a statute of this state, excluding a person appointed to fill a vacancy in an elective office; or
- (D) a person who is not otherwise within the definition of elected officer, appointed officer, or executive head of a state agency, but who holds a position as a member of the governing board or

commission of a state agency acquired through a method other than appointment.

Under those statutory provisions, the members of the advisory bodies in question are not appointed state officers. These members do not serve as the secretary of state, nor do they serve on the governing board of a higher education institution. Each committee member acquires his position by appointment, but they do not serve a set term of office that is specified by constitution or statute. Because these members fit none of the definitions of a "state officer" under article 6252-9b, they are not required to file annual financial disclosure statements. *See also Ethics Advisory Opinion No. 26* (1992) (members of boards that are purely advisory are not required to file financial disclosure statements).

SUMMARY

Members of Texas Transportation Commission committees appointed under V.T.C.S. articles 46c-3, 6663b, 6673g, and 6673h are not required to file financial disclosure statements.

¹ Article 6252-9b requires a "salaried appointed officer" to file a financial statement. A "salaried appointed officer" is defined as one who "receives or is authorized to receive for his services to the state a salary as opposed to a per diem or other form of compensation." V.T.C.S. art. 6252-9b, § 2(4). The focus of this opinion is on non-salaried appointed state officers.