



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 138

April 1, 1993

Whether members of the Commission on Law Enforcement Officer Standards and Education, the Law Enforcement Management Institute, and the Texas Peace Officers' Memorial Advisory Committee are required to file annual financial statements under article 6252-9b, V.T.C.S. (AOR-159)

The Texas Ethics Commission has been asked whether members of the Commission on Law Enforcement Officer Standards and Education (the commission), the Law Enforcement Management Institute (LEMI), and the Texas Peace Officers' Memorial Advisory Committee (POMAC) are required to file annual financial statements under article 6252-9b, V.T.C.S.¹ Article 6252-9b requires that each state officer file an annual financial statement. V.T.C.S. art. 6252-9b, § 3. "State officer" includes an "appointed officer." *Id.* § 2(1). An "appointed officer" includes, among others, "an officer of a state agency who is appointed for a term of office specified by . . . a statute of this state." *Id.* § 2(3)(C). For purposes of article 6252-9b, a "state agency" includes any commission created by statute that is in the executive branch of state government and that has authority² not limited to a geographical portion of the state. *Id.* § 2(8)(A).

The commission is a statutorily created agency within the executive branch of state government. Gov't Code ch. 415; General Appropriations Act, Acts 1991, 72d Leg, 1st C.S., art. I, § 1, at 538-40. The commission exercises authority that is not limited to a geographical region of the state. Gov't Code 415.010 (general powers, including authority to establish minimum standards for licensing peace officers), 415.031, 415.051-.056 (authority to license or certify certain law enforcement personnel and training schools), 415.060 (authority to revoke license); see [Ethics Advisory Opinion No. 28](#), at 2 n.3 (1992) (including rulemaking and licensing as examples of actual authority). Commission members are appointed by the governor with the advice and consent of the senate to serve staggered six-year terms. Gov't Code § 415.004. Therefore, members of the commission are state officers for purposes of article 6252-9b and are required to file annual financial disclosure statements. See *id.* § 415.002 (commission defined as state agency).

The Law Enforcement Management Institute (LEMI) was created to provide training for police management personnel. Gov't Code § 415.092. LEMI board members are appointed for two-year terms by the commissioners of the Commission on Law Enforcement Officer Standards and Education to govern the institute. *Id.* 415.093, 415.095. The board's authority³ is not limited to a geographical portion of the state. See *id.* § 415.098. Thus the Law Enforcement Management Institute is a state agency and its board members are required to file annual financial statements.

The Texas Peace Officers' Memorial Advisory Committee (POMAC) was established to fund, design, and construct on the Capitol grounds a memorial to peace officers who have died in the line of duty. *Id.* § 415.112. The advisory committee comprises various state officers: four persons appointed by the governor, nine persons appointed by the commission, and the Capitol architect. *Id.* § 415.113. Committee members serve at the pleasure of the authority who appointed them. *Id.* § 415.115. Because members of POMAC have no set term of office, they do not meet any of the definitions of "appointed officer" in section 2(3) and are not required to file annual financial disclosure statements.⁴ See [Ethics Advisory Opinion No. 121](#) (1993).

SUMMARY

Members of the Commission on Law Enforcement Officer Standards and Education and of the Law Enforcement Management Institute are "state officers" for purposes of article 6252-9b, V.T.C.S., and must file annual financial disclosure statements as required by that statute. Members of the Texas Peace Officers' Memorial Advisory Committee are not required to file financial statements.

¹ We note, initially, that the ex-officio members and some other members of the entities discussed in this opinion may be required to file financial statements for their service as state officers in other capacities. We are here concerned only with filing responsibilities with respect to service with the commission, LEMI, and POMAC.

² If a governmental body does not exercise actual authority, it does not meet the definition of "state agency" under article 6252-9b, and its officers are not required to file an annual financial statement. Therefore, bodies that function in an advisory capacity only are not state agencies for purposes of article 6252-9b. [Ethics Advisory Opinions Nos. 124, 121 \(1993\), 27, 26 \(1992\)](#); see also [Ethics Advisory Opinion No. 70 \(1992\)](#) (defining "state officer" for purposes of article 6252-9b).

³ As indicated in footnote 2, a body that serves in an advisory capacity is not a state agency for purposes of article 6252-9b. Although one of the board's functions is to advise the commission on issues related to the operation of the institute, the board is also assigned specific responsibilities. The board develops the institute's curriculum, selects instructors, establishes admission standards, develops certification standards for classes taught through the institute, and determines the location of the institute's campuses. The board also establishes charges for out-of-state participants in the institute's programs. Gov't Code § 415.098; see generally 37 T.A.C. ch. 213 (rules of the LEMI).

⁴ The fact that members of POMAC do not serve a set term makes the definition of "appointed officer" in section 2(3)(C) inapplicable. Members of POMAC do not meet any of the other definitions of "appointed officer" in section 2(3). Interestingly, one of the definitions of appointed officer is a person who acquires a position on the governing body of a state agency through a method other than appointment. V.T.C.S. art. 6252-9b, § 2(3)(D).