



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 140

*April 28, 1993*

*Whether members of the State Conservatorship Board are state officers required to file annual financial disclosure statements under article 6252-9b, V.T.C.S. (AOR-174)*

The Texas Ethics Commission has been asked if members of the State Conservatorship Board are required by article 6252-9b, V.T.C.S., to file annual financial disclosure statements, despite the fact that the board currently is inactive and has no employees. We have determined that the members of the State Conservatorship Board are indeed subject to the financial disclosure requirement.

Section 3 of article 6252-9b, V.T.C.S., requires all state officers to file a financial disclosure statement with the Texas Ethics Commission each year. Section 2 of article 6252-9b defines 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." State agency means

any department, commission, board, office, or other agency that:

- (i) is in the executive branch of state government;
- (ii) has authority that is not limited to a geographical portion of the state; and
- (iii) was created by the constitution or a statute of this state.

V.T.C.S. art. 6252-9b, § 2(8)(A).

Section 3 of article 4413(203), V.T.C.S., establishes the State Conservatorship Board ("the board") as a three-member board appointed by the governor with the advice and consent of the senate. The board is thus in the executive branch of state government. It has authority that is not limited to a geographical portion of the state. Therefore the board is a state agency, and its members are appointed members<sup>1</sup> of a state agency required to file financial disclosure statements under article 6252-9b. See [Ethics Advisory Opinion No. 28](#) (1992).

The fact that the board is currently inactive and has no employees does not alter this conclusion. The board may be activated at an appropriate time by proclamation of the governor. If a condition of gross fiscal mismanagement exists in a state agency, the Legislative Audit Committee notifies the governor. On receipt of the notice, the governor by proclamation may order the board to act as conservator of the agency. If the governor directs the board to act as conservator of an agency, the board assumes all the powers and duties of the officer or officers responsible for policy direction of the agency, and that officer or officers may not act unless authorized to do so by the board. V.T.C.S. art. 4413(203), §§ 7, 8. The conservatorship continues until the governor proclaims, or the Legislative Audit Committee finds and certifies to the governor, that the condition of gross fiscal mismanagement in the agency no longer exists. *Id.* § 12.

When called into action, the members of the State Conservatorship Board have authority equal to that of the most powerful agency heads in the state. Public policy as well as the plain language of article 6252-9b therefore demands that these state officers be subject to the same financial disclosure requirements as any other state officers.

## SUMMARY

The State Conservatorship Board is a state agency whose board members are required to file annual financial disclosure statements with the Texas Ethics Commission under article 6252-9b, V.T.C.S.

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<sup>1</sup> One meaning of "appointed officer" in section 2(3) of article 6252-9b, V.T.C.S., is: 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.