




TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****  **Opinion History**

ETHICS ADVISORY OPINION NO. 178

November 18, 1993

Whether a legislator may represent a client before a metropolitan transit authority. (AOR-199)

The Texas Ethics Commission has been asked whether a legislator may represent a client before a metropolitan transit authority. In general, a legislator is not prohibited from accepting employment and receiving compensation for legitimate services performed in a capacity other than as a public servant. [Ethics Advisory Opinions Nos. 156](#) (1993), [41](#) (1992). There are, however, provisions in the law that place certain restrictions on a legislator's private employment. Although the requestor has not listed any facts to suggest that the employment in question would be prohibited by law or would violate established standards of conduct, legislators should be aware of these restrictions.

A legislator may not accept compensation for representing another person before a state agency,¹ unless the representation is made in a public hearing that is a matter of record or requires only ministerial acts of the agency. Gov't Code § 572.052; [Ethics Advisory Opinions Nos. 155, 117](#) (1993). A legislator may not accept an honorarium for services that he would not have been asked to provide but for his official position. Penal Code § 36.07; [Ethics Advisory Opinion No. 148](#) (1993). A legislator may not accept payment for lobbying the legislature, since he cannot do so in a capacity other than as a legislator. Penal Code § 36.08(f); [Ethics Advisory Opinions Nos. 155, 148, 123](#) (1993); *see also* Penal Code § 36.02 (bribery prohibition).

The law also prescribes standards of conduct for public officials to ensure that an individual's private interest does not conflict with his duties in the public service. Gov't Code [§§ 572.001, 572.051](#).² If a legislator has a private interest in any measure or bill requiring a vote of the legislator, he must disclose that fact and may not vote on the matter. Tex. Const. art. III, § 22; Gov't Code § 572.053.

SUMMARY

In general, a legislator is not prohibited from accepting employment and receiving compensation for legitimate services performed in a capacity other than as a public servant.

¹ A metropolitan transit authority is a political subdivision, not a state agency. See *City of Humble v. Metropolitan Transit Auth.*, 636 S.W.2d 484, 494 (Tex. App.--Austin 1982, writ ref'd n.r.e.); [Ethics Advisory Opinion No. 101](#) n.4 (1992).

² For example, section 572.051 of the Government Code states, in part, that a state officer should not: (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position; (3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties.