



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 205

May 13, 1994

Whether a member of the legislature may enter into "conversations or negotiations for future employment" with a state agency, a local governmental body, or a nongovernmental entity that does business with the state. (AOR-227)

A member of the legislature who is not planning to run for re-election has asked the Texas Ethics Commission whether he may enter into "conversations or negotiations for future employment" with a state agency, a local governmental body, or a nongovernmental entity that does business with the state. The legislator has also asked whether he would be restricted in performing any duties as a public official if he were engaged in such negotiations.

Although nothing in the laws subject to interpretation by the Ethics Commission¹ specifically addresses the issue of negotiations for future employment, several provisions subject to interpretation by the Ethics Commission are relevant to both of the questions raised. The bribery law would prohibit a legislator from accepting or soliciting future employment in exchange for some official action on the part of the legislator during the remainder of his term of office. Penal Code § 36.02. Also, the statutory standards of conduct for state officers and employees provide that a state officer or employee (including a member of the legislature) should not "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." Gov't Code § 572.051(3). *See generally Ethics Advisory Opinion Nos. 41, 28* at 7-8 (1992). There is no "revolving door" prohibition applicable to members of the legislature. *Cf.* Gov't Code § 572.054 ("revolving door" prohibition applies to officers and employees of regulatory agencies in executive branch).

SUMMARY

Nothing in the laws subject to interpretation by the Ethics Commission specifically addresses the issue of a legislator engaging in negotiations for future employment. The bribery law would prohibit a legislator from accepting or soliciting future employment in exchange for some official action on the part of the legislator during the remainder of his term of office.

¹ The Ethics Commission has authority to interpret six statutory schemes: (1) chapter 302 of the Government Code (speaker's race); (2) chapter 305 of the Government Code (lobby); (3) chapter 572 of the Government Code (financial disclosure and standards of conduct); (4) title 15 of the Election Code (campaign finance); (5) chapter 36 of the Penal Code (bribery); and (6) chapter 39 of the Penal Code (abuse of office). The request letter asks only about the application of those statutes to the question raised.

There may be laws outside of the commission's jurisdiction that would be applicable. For example, The Texas Constitution contains a "contracts clause," which bars legislators from entering into any contract with the state *or county* when such contract has been authorized or funded by a legislature of which the individual was a member. Tex. Const. art. III, § 18; *see also id.* art. III, § 22 (requiring disclosure and recusal by legislator who has an interest in a pending bill); Gov't Code § 572.053 (member of the legislature prohibited on voting on a measure benefitting certain business transactions in which legislator has a current interest).