




TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 212

May 13, 1994

Whether the "revolving door" provisions of Government Code chapter 572 apply where an individual previously employed by a regulatory agency to perform public relations services in connection with an issue subsequently seeks to perform similar services for a private foundation. (AOR-235)



The Texas Ethics Commission has been asked to issue an advisory opinion concerning the application of section 572.054 of the Government Code, which prohibits certain former employees of state regulatory agencies from representing any person or receiving compensation for services rendered on behalf of any person *regarding a particular matter* in which the former employee participated during the period of state employment. Gov't Code  572.054(b) (emphasis added).¹ The statute defines the term "particular matter" to mean "a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding." *Id.* subsec. (h)(2).

In this instance, the former employee's duties for the state agency consisted mainly of public relations work directed toward building public support for a plan of action that the agency wishes to pursue. The agency seeks public support because legislation will be necessary to authorize the agency's plan.² The individual has now been asked to perform public relations work for a private foundation that also seeks to build public support for the agency's plan. The former state employee's position with the foundation would be funded by a grant from a federal agency. We are informed that the agency and the private foundation at issue have worked together closely to promote the agency's plan both during and after the former employee's tenure with the agency.³

Government Code section 572.054(b) would prohibit the former employee from accepting the position described only if working toward building public support for proposed legislation could be considered a "particular matter." We do not think working to build public support for proposed legislation meets the statutory definition of "particular matter." Therefore, an individual formerly employed by a state regulatory agency to perform public relations work for the purpose of achieving public support for proposed legislation may perform public relations work for the same purpose for a private foundation without violating Government Code section 572.054(b).

SUMMARY

An individual formerly employed by a state regulatory agency to perform public relations work for the purpose of achieving public support for proposed legislation may perform public relations work for the same purpose for a private foundation without violating Government Code section 572.054(b).

¹ Subsection (b) applies to former employees of a regulatory agency who ceased employment on or after January 1, 1992, and who were compensated, as of the last date of employment, at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, including an employee exempt from the position classification plan. The provision also applies to former state officers of regulatory agencies whose service ceased on or after January 1, 1992. Gov't Code  572.054(b), (c). An individual violating this provision commits a Class A misdemeanor. *Id.*  572.054(f).

² The Ethics Commission does not have jurisdiction to consider the applicability, if any, of the appropriations act rider that restricts the use of appropriated funds to influence the passage or defeat of legislation. General Appropriations Act, Acts 1993, 73d Leg., ch. 1051, art. V, § 5, at 5326.

³ The agency, upon the recommendation of the former employee, has in the past awarded several contracts to the foundation for studies and projects. The foundation has not hired the former employee to perform services under one of those contracts.