



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 240

January 13, 1995

Whether the clerk of a court of appeals is required to file an annual financial disclosure statement with the Ethics Commission. (AOR-269)

The Texas Ethics Commission has been asked whether the clerk of a court of appeals is required to file an annual financial disclosure statement with the Ethics Commission. Under section 572.021 of the Government Code every "state officer" must file an annual financial disclosure statement. A "state officer" is "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." Gov't Code § 572.002(12); *see also id.* § 572.002(1), (9), (5) (defining "appointed officer," "salaried appointed officer," and "executive head of a state agency," respectively). None of the above terms includes the clerk of a court of appeals.

It has been suggested that a clerk of a court of appeals is a "salaried appointed officer." The Texas Constitution provides that each court of appeals in Texas shall appoint a clerk, whose compensation is to be fixed by law. Tex. Const. art. V, § 6; *see also* Gov't Code ch. 51, subch. C (laws applicable to clerks of courts of appeals). Because a clerk of a court of appeals is "appointed" and receives a salary, the term "salaried appointed officer" might in some contexts be used to refer to the clerk of a court of appeals. The clerk of a court of appeals is not an "appointed officer" or a "salaried appointed officer" for purposes of chapter 572 of the Government Code, however, because those terms apply to an officer of a "state agency."¹ "State agency," for purposes of chapter 572, refers to agencies in the executive branch of state government. *Id.* § 572.002(10). It does not include agencies in the judicial or legislative branches of government. *See generally* [Ethics Advisory Opinion No. 141](#) (1993) (appointed officers of Texas Judicial Council are not within the executive branch and thus are not required to file a financial statement). Because a clerk of a court of appeals works in the judicial branch of state government, he or she is not an "appointed officer" or a "salaried appointed officer" for purposes of chapter 572 of the Government Code. *See* Tex. Const. art. V (position of clerk of court established under article of the Texas Constitution that creates the judicial department of state government).

It has also been suggested that a clerk of a court of appeals is the "executive head" of a state agency. Although the definition of "executive head of a state agency" includes the "chief clerk" of a state agency, the term does not apply to the clerk of a court of appeals because a court of appeals is not a "state agency" for purposes of chapter 572.

In some instances, the legislature has required that individuals in certain positions are required to file annual financial disclosure statements even though those individuals are not within the definition of "state officer." *See* Gov't Code § 572.003(b)(3), (5) (administrative director of the Office of Court Administration of the Texas Judicial System and the executive director of the State Bar of Texas are "appointed officers of a major state agency"); *id.* at appendix amending V.T.C.S. art. 6252-9b (directors of the bingo, lottery, and security divisions at the Lottery Commission are "appointed officers of a major state agency"). There is no such provision applicable to a clerk of a court of appeals. Therefore, the clerk of a court of appeals is not required to file an annual financial disclosure statement under chapter 572 of the Government Code.

SUMMARY

A clerk of a court of appeals is not required to file an annual financial disclosure statement under chapter 572 of the Government Code.

¹ In addition to officers of state agencies, appointed officers include the secretary of state and members of the governing board of institutions of higher education. Gov't Code § 572.002(1).