



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 278

October 13, 1995

Whether the "revolving door" provisions restrict former members of the Texas Commission on Fire Protection from serving on statutory advisory committees and councils of the commission. (AOR-311)

The Texas Ethics Commission has been asked whether the "revolving door" provision in section 572.054(a) of the Government Code restricts former members of the Texas Commission on Fire Protection from serving on statutory advisory committees and councils of the commission. Section 572.054(a) provides as follows:

(a) A former member of the governing body or a former executive head of a regulatory agency may not make any communication to or appearance before an officer or employee of the agency in which the member or executive head served before the second anniversary of the date the member or executive head ceased to be a member of the governing body or the executive head of the agency if the communication or appearance is made:

(1) with the intent to influence; and

(2) *on behalf of any person* in connection with any matter on which the person seeks official action. (Emphasis added.)

The prohibition lasts two years from the time the former board member or executive head leaves the agency.

Various advisory committees and councils have been established under the Government and Insurance Codes to assist the Texas Commission on Fire Protection in rulemaking.¹ The members of these boards are appointed according to statutory criteria.² The requestor asks first whether Government Code section 572.054(a) prohibits a former member of the Commission on Fire Protection from serving on one of these committees during the two-year restricted period.

As a member of an advisory committee, the former board member would communicate with members of the commission in order to influence commission action. The issue before us is whether the communications would be "on behalf of any person in connection with any matter on which the person seeks official action." Chapter 572 of the Government Code defines a "person" as an individual or business entity. Gov't Code § 572.002(7); *see Ethics Advisory Opinion No. 232* at 2-3 (1994) (revolving door restrictions do not apply to communications on behalf of governmental bodies or nonprofit organizations). Communications made to the commission as a member of an advisory committee would be, in our opinion, communications made on behalf of that advisory committee. Because the advisory committee is neither an individual nor a business entity, the revolving door prohibitions would not apply to such communications.

Our conclusion also applies to the revolving door provision set out in Government Code section 572.054(b). Section 572.054(b) prohibits representation of any *person* in regard to certain *matters*. Again, a former commission member acting in his official capacity as a member of an advisory board would not be representing a "person" for purposes of that provision.

We note that the revolving door provisions would apply to a former commission member serving on an advisory committee who was acting on behalf of another individual or business entity, rather than as a member of an advisory committee.

SUMMARY

The revolving door provisions in section 572.054 of the Government Code do not prohibit a former member of the Texas Commission on Fire Protection from serving on an advisory committee to the commission.

¹ See Gov't Code §§ 419.023 (Fire Protection Personnel Advisory Committee), 419.054 (Funds Allocation Advisory Committee), 419.072 (Volunteer Fire Fighter Advisory Committee); Ins. Code art. 5.43-1, § 9 (Fire Extinguisher Advisory Council), art. 5.43-2, §§ 2(3), 6 (advisory council for fire alarm or fire detection devices), art. 5.43-3, §§ 1(4), 6 (Fire Protection Advisory Council), art. 5.43-4, § 5B (advisory council for fireworks).

² The Funds Allocation Advisory Committee is an exception. The members of this committee are selected by the State Firemen's and Fire Marshals' Association of Texas and the Texas State Association of Fire Fighters. A member serves at the will of the appointing association. Gov't Code § 419.054(a).