



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 283

October 13, 1995

Whether a legislator may accept payment from a law firm for services rendered before the legislator held public office. (AOR-317)

A legislator has asked about the permissibility of accepting payments from a law firm. At a time when he held no public office, the requestor assisted a law firm in obtaining a contract to provide services to a school district and contracted to receive annual payments from the law firm during the life of the contract. The question raised is whether the requestor may continue to accept the annual payments now that he is a member of the legislature.

Members of the legislature are subject to a general prohibition on the acceptance of "benefits." Penal Code § 36.08(f). A salary or other payment is a "benefit," but a legislator is expressly permitted to accept a payment "for which he gives legitimate consideration in a capacity other than as a public servant." *Id.* § 36.10(a)(1). Therefore, a legislator may accept payment for services rendered to a law firm as long as the services were rendered in a capacity other than as a public servant.

The request letter also asks about the application of section 572.056(a) of the Government Code, which provides:

A state officer may not solicit or accept from a governmental entity a commission, fee, bonus, retainer, or rebate that is compensation for the officer's personal solicitation for the award of a contract for services or sale of goods to a governmental entity.

By its terms that provision is not applicable to the situation at hand because the legislator is not accepting a fee from a governmental body. In any case, we noted in [Ethics Advisory Opinion No. 72](#) (1992) that section 572.056¹ is so vague as to be unenforceable.

SUMMARY

A legislator may accept payment from a law firm for services rendered to the law firm as long as the services were rendered in a capacity other than as a public servant.

¹ At the time of the opinion, the provision that is now section 572.056 was codified as section 7C of article 6252- 9b, V.T.C.S.