



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 369

May 9, 1997

Whether a member of the Agriculture Resources Protection Authority is required to file a personal financial statement. (AOR-406)

The Texas Ethics Commission has been asked whether a member of the Agriculture Resources Protection Authority (ARPA) is required to file a personal financial statement under Government Code section 572.021. A member of a state board that functions only in an advisory capacity is not required to file a personal financial statement. [Ethics Advisory Opinion Nos. 243](#) (1995); 138 n.2, 124 (1993); 28, 27, 26 (1992). The question raised here is whether ARPA functions in an advisory capacity only.

The statute that creates ARPA provides that ARPA is the "coordinating body" for six state agencies' policies and programs regulating pesticides. Agric. Code § 76.009(g). ARPA's duties include reviewing and commenting on the six state agencies' rules regarding pesticides; cooperating with and advising state agencies in regard to the regulation of pesticides; collecting, analyzing, and disseminating information regarding the regulation of pesticides; providing professional advice to private agencies and citizens on matters relating to pesticides; and informing the governor and the legislature on matters involving pesticides. *Id.* § 76.009(g)(2)-(5), (7). Also, ARPA may adopt rules relating to its duties; it may accept gifts and grants to accomplish any of its purposes; and it may adopt policies that allow the public to comment on state regulation of pesticides. *Id.* § 76.009(g)(1), (6); (i). In addition, ARPA may require that the six state agencies provide quarterly reports regarding "pesticide regulatory enforcement activity" so that ARPA may review and comment on the activity. *Id.* § 76.009(k), (l).

The Department of Agriculture, which provides administrative support for ARPA, has expressed the view that ARPA functions only in an advisory capacity.¹ In our opinion, the statute creating ARPA supports the department's interpretation. Although ARPA has rule-making authority, it may adopt rules only relating to its duties, all of which are advisory. Similarly, ARPA has authority to accept gifts, but it may accept gifts only to carry out its purposes, all of which are advisory. Further, although ARPA may require certain state agencies to provide reports on their enforcement activities, ARPA may use the reports only to review and comment on the agencies' activities. ARPA may not impose any requirements regarding agency enforcement activities. *Cf.* [Ethics Advisory Opinion Nos. 28](#) n.3 (listing agencies that are not advisory because they exercise authority that affects the rights of private parties), 27 n.4 (agency that exercises authority over the distribution of funds does not function in an advisory capacity only) (1992). Consequently, we concur with the view of the Department of Agriculture that ARPA functions only in an advisory capacity. Therefore, a member of ARPA is not, by virtue of his or her ARPA membership, required to file a personal financial disclosure statement under chapter 572 of the Government Code.²

SUMMARY

A member of the Agriculture Resources Protection Authority (ARPA) is not, by virtue of his or her ARPA membership, required to file a personal financial disclosure statement under chapter 572 of the Government Code.

¹ Before September 1, 1995, ARPA 's functions were not advisory only. In 1995 the legislature amended section 76.009 of the Agriculture Code to limit ARPA 's authority. Acts 1995, 74th Leg., ch. 419, § 6.01.

² Some members of ARPA must file personal financial statements by virtue of other positions in state government.