



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 373

August 8, 1997

Whether members of a state commission whose responsibilities and funding will terminate as of August 31, 1997, must file personal financial statements in 1998 and subsequent years. (AOR-410)

The Texas Ethics Commission has been asked whether members of the Texas National Research Laboratory Commission must file the personal financial statements annually required of state officers under Chapter 572, Government Code, in 1998 and subsequent years. The National Research Laboratory Commission was created as a state agency to represent the State of Texas on all matters relating to the siting, operation, and termination of the Superconducting Super Collider project, a research facility sponsored, authorized, and funded by the United States government. Acts 1985, 69th Leg., ch. 836, at 2901. In 1993, the United States Congress declined to continue funding for the project, and the requestor states that by August 31, 1997, the Texas National Research Laboratory Commission will have completed its responsibilities, terminated all activities, and released all its employees. Energy and Water Development Appropriations Act of 1994, Pub. L. No. 103-126, 107 Stat. 1312, 1326-27 (1993). The agency neither requested nor received an appropriation from the Texas Legislature for the next fiscal biennium, which commences September 1, 1997. The agency has not, however, been abolished by action of the Texas Legislature. Technically, therefore, certain appointed members of the Commission will continue to hold office after September 1, 1997.

Government Code Chapter 572 requires appointed officers of state agencies to file personal financial statements each year by April 30. Gov't Code §§ 572.021, .026. The requirement extends to any state officer who serves any portion of the period between January 1 and April 30 of the year the statement is due. [Ethics Advisory Opinion No. 28](#) (1992) at 5. A state agency is defined in Chapter 572 as a department, commission, board, office, or other agency that:

- (i) is in the executive branch of state government;
- (ii) has *authority* that is not limited to a geographical portion of the state; and
- (iii) was created by the Texas Constitution or a statute of this state.

Gov't Code § 572.002(10)(A) (emphasis added). Although the Texas National Research Laboratory Commission was created by Texas statute as an agency within the executive branch of state government, the Commission will have no authority once it has completed all its responsibilities, disposed of all its assets, and released all its employees. In previous advisory opinions we have stated that an agency that does not provide services, distribute funds, implement policy, or engage in rulemaking or adjudication is not a state agency whose officers are required to file personal financial statements under Chapter 572, Government Code, because the agency has no "authority." See [Ethics Advisory Opinion No. 26](#) (1992). After September 1, 1997, the National Research Laboratory will have no funds, employees, or responsibilities. Because the members of the board and the executive director of the National Research Laboratory Commission will have no authority in 1998 and subsequent years, they will not be required to file the personal financial statement after 1997.¹

SUMMARY

Because the members of the board and the executive director of the Texas National Research Laboratory Commission will have no authority in 1998 and subsequent years, they will not be required to file the personal financial statement after 1997.

¹ In [Ethics Advisory Opinion No. 140](#) (1993), we determined that members of the State Conservatorship Board were state officers required to file personal financial statements despite the fact that the agency was currently inactive. The State Conservatorship Board, however, could be activated at any time by proclamation of the Governor if the Legislative Audit Committee notified the Governor that a case of gross fiscal mismanagement existed in a state agency. In contrast, the mission of the Texas National Research Laboratory Commission has been completed and the agency will be permanently inactive.