

CONNECTICUT STATE ETHICS COMMISSION
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ADVISORY OPINION NUMBER 78-28

"Public Officials" under Public Act Number 77-600

The Connecticut Law Revision Commission has asked whether its members are public officials, as defined in Public Act Number 77-600, solely by virtue of their membership on the Commission.

The Law Revision Commission is a part of the Legislative Department. Section 2-85, Connecticut General Statutes. It is composed of eleven members, two of whom are members of the General Assembly. Section 2-86(a), *id.*, as amended. The two legislators, who serve *ex officio*, are already public officials. Section 1(j), Public Act Number 77-600. The issue is the effect on the other members of their membership on the Commission. The members (except the two legislators) are appointed by the legislative leadership or the Governor. They receive no compensation for their service on the Commission, but appear eligible for reimbursement for necessary expenses incurred in the performance of their official duties, as provided by section 4-1, Connecticut General Statutes.

The duties of the Commission are spelled out in section 2-87, Connecticut General Statutes. The Commission is to review the laws and judicial decisions of the State, and comments and recommendations on the law by others, to discover defects, anachronisms, and inequities in Connecticut law. Based on its review, it is to recommend to the General Assembly revision and reform of the law, and repeal of statutes declared unconstitutional. It is to assist other groups appointed to study the law, and schedule meetings with others associated with the law for discussions of problems in State law. It is to educate the public in the need for law reform and give the public a chance to be heard on revision of State laws.

No funds are appropriated to the Commission. Funds to be used in carrying out its duties are appropriated to the Joint Committee on Legislative Management. See section 2, Public Act No. 77-557. That Committee has final approval on Commission staffing and establishes staff salaries. Section 2-71e, Connecticut General Statutes. The Committee also supervises and approves all Commission budget requests and expenditures. Section 2-71b, *id.*

For the purposes of the Code of Ethics for Public Officials, a public official includes "... any person appointed to any office on the legislative... branch of state government by the governor, with or without the advice and consent of the general assembly and any person appointed... by the general assembly or either house thereof, but shall not include a member of an advisory board...." Section 1(j), Public Act Number 77-600. "'Member of an advisory board' means any individual appointed by a public official as an advisor or consultant or member of a committee, commission or council established to advise, recommend or consult with a public official or branch of government or committee thereof and who receives no public funds other than reimbursement for his

actual and necessary expenses incurred in the performance of his official duties and who has no authority to expend any public funds or to exercise the power of the State." Section 1(g), id.

The Commission members under consideration meet the definition of "public official" insofar as their appointment is concerned, but they also meet the definition of "member of an advisory board" in the same respect. The Commission was established to review, recommend, educate, discuss, and to assist similar bodies studying the law. None of these tentative actions involves exercising the powers of the State. They amount to advising, consulting, and recommending. The Commission does have power to issue regulations. Section 2-88, Connecticut General Statutes, as amended. However, these are simply rules of practice and procedure to permit it to carry out its business. It appears to have no authority to promulgate substantive regulations which affect the rights and duties of others. Commissioners get no compensation, receiving at most reimbursement for expenses incurred in the performance of their duties. Finally, the Commission has no independent authority to expend State funds. No funds are appropriated to the Commission. Its expenditures must be authorized, supervised, and approved by the Joint Committee on Legislative Management.

The General Assembly established, in the Law Revision Commission, an agency which fits squarely within the definition of "advisory board", supra. Therefore, membership on the Commission alone does not make one a public official for purposes of Public Act Number 77-600.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated November 6, 1978