



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

February 13, 1975

The Honorable Mark W. White
Secretary of State
Capitol Building
Austin, Texas 78711

Opinion No. H- 526

Re: Whether any retired
judge is required to
file activities report
under art. 6252-9b,
V. T. C. S.

Dear Secretary White:

You have requested our opinion concerning whether retired judges must comply with the financial disclosure provisions of article 6252-9b, V. T. C. S.

Section 3(a) of article 6252-9b requires "every elected officer," to file financial statements. Section 2(2)(c) defines "elected officer" in part as "a judge of a court of civil appeals, a district court, a court of domestic relations, or a juvenile court created by special law," as does section 2(2)(E) concerning persons "appointed to fill a vacancy or newly created office who, if elected rather than appointed, would be an elective officer as defined [above]."

Section 1 of the Act provides:

It is the policy of the State of Texas that no state officer or state employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest. To implement this policy and to strengthen the faith and confidence of the people of Texas in their state government, there are provided standards of conduct and disclosure requirements to be observed by persons owing a responsibility to the people of

Texas and the government of the State of Texas in the performance of their official duties. It is the intent of the legislature that this Act shall serve not only as a guide for official conduct of these covered persons but also as a basis for discipline of those who refuse to abide by its terms.

Section 7 of article 6228b, V. T. C. S., provides in part:

No person who has heretofore retired under the provisions of this Judicial Retirement Act shall be considered to have been a judicial officer of this State after such retirement, unless such person has accepted an assignment by the Chief Justice to sit in a court of this state.

Section 7A(a) of article 6228b provides:

Any person who has retired under the provisions of this Judicial Retirement Act and who within ninety (90) days after such retirement accepts an assignment by the Chief Justice of the Supreme Court or by a Presiding Judge of an Administrative Judicial District shall continue as a judicial officer, in which instance he shall, with his own consent to each assignment, be subject to assignment by the Chief Justice of the Supreme Court or by a Presiding Judge of any Administrative Judicial District to sit in any court of this state of the same dignity, or lesser, as that from which he retired, and if in a District Court, under the same rules as provided by the present Administrative Judicial Act, and while so assigned, shall have all the powers of a judge thereof. While assigned to said court, such person shall be paid an amount equal to the salary of the judge of said court, in lieu of retirement allowance.

It is therefore apparent that a judge who retires and does not accept an appointment to sit in a court of this State is not thereafter a judicial officer, and has no further duties as a judge. Accordingly, it is our opinion that those retired judges who are no longer "judicial officers" within section 7 of article 6228b are also not "elected officers" under section 2(2) of article 6252-9b and are not subject to its disclosure requirements. Of course, were a retired judge to accept an executive or legislative office in state government he may be subject to the statutory financial disclosure requirements. See Attorney General Opinion H-155 (1973).

However, those judges who continue as judicial officers retain duties as judges, and the public policy of the State, as expressed in section 1 of 6252-9b, supra, is applicable to the "discharge of [their] duties." Attorney General Opinion H-190 (1973) held, paraphrasing the language of the statute, that:

The courts whose judges are included by § 2(2)(C) in the definition of 'Elected officers,' therefore, are the courts of civil appeals, district courts, criminal district courts exercising the jurisdiction of district courts, courts of domestic relations, juvenile courts created by special laws, and any other legislatively created courts, if there are any, which exercise district court jurisdiction.

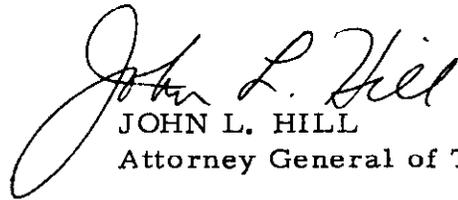
A judge who served in one of these courts prior to his retirement would therefore have been an "elected officer" during his term of office. Since upon accepting assignment to a court under section 7A of article 6228b, a retired judge retains his character as a judicial officer, it is our opinion that insofar as a retired judge serves on one of the courts enumerated in H-190 (1973), supra, he comes within the broad definition of "elected officer" under section 2(2) of article 6252-9b, and in conformity with the State's public policy is subject to the Act's financial reporting requirements.

S U M M A R Y

A retired judge who does not accept assignment under section 7A of article 6228b is not an "elected officer" under article 6252-9b and is not required to file financial reports.

A retired judge who accepts assignment under section 7A of article 5228b to one of the courts covered by section 2(2) of article 6252-9b, is an "elected officer" and must comply with that statute's financial disclosure requirements.

Very truly yours,



JOHN L. HILL
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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee