



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

September 11, 1989

Honorable Frank Collazo, Jr.
Representative, District 23
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78769

LO-89-72

Dear Representative Collazo:

By letter of August 3 you asked us to provide you with guidelines in regard to whether a company may do business with the state if a state representative owns stock in the company or is a 50 percent owner of a company. By letter of August 31 you ask the following question:

In reference to the 'Disadvantaged Business Enterprise in Federal Aid Construction' with in [sic] the State Highway Department can a Legislator own 51% of a DBE and the DBE contract thru a General Contractor as a Sub Contractor or Contract directly. Would a conflict of interest apply?

Chapter 402 of the Government Code sets out the persons who may request an attorney general opinion. Individual legislators are not among the authorized requestors. Committees of either house of the legislature are authorized to request opinions. We can, however, provide some information that may be helpful to you.

Article III, section 18, of the Texas Constitution provides that no member of the legislature shall "be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected." (Emphasis added.) Whether a legislator's interest in a business is significant enough to prevent that business from contracting with the State is a question of fact. We have enclosed a copy of Attorney General Opinion M-625 (1970), which sets out guidelines for making that determination. See also Director of Dep't of Agric. and Env't v. Printing Indus.

Ass'n, 600 S.W.2d 264, 270 (Tex. 1980) (concluding that the state is not liable for materials furnished it pursuant to a contract between the state and a company owned, controlled, or operated by a member of the legislature if the contract was authorized by an act passed during the legislator's term of office); Attorney General Opinions JM-162 (1984); H-696 (1975); O-1519 (1939).

We have also enclosed a copy of article 6252-9b, which sets standards of conduct for state officers and employees. Section 8 of that statute sets out certain prohibited activities. Whether a violation of section 8 has occurred is a question of fact to be determined by the house of the Legislature of which the individual in question is a member. Attorney General Opinions H-696, H-614 (1975).

Yours very truly,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/lcd

Ref.: ID# 7134
ID# 7444

Enclosure: M-625
Art. 6252-9b