



TEXAS COMMISSION OF LICENSING AND REGULATION

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September 16, 1997

The Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711

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via INTERAGENCY MAIL

FILE # ML-39786-97

I.D. # 39786

Attn: OPINION COMMITTEE

Opinion Committee

Re: Staff Leasing Services Act (SLS), TEX. LAB. CODE ANN. CHPT. 91 (VERNON 1997); TEX. REV. CIV. STAT. Art. 6252-33, (State Agency Advisory Committees): MAY THE COMMISSION CREATE AN ADVISORY BOARD ABSENT SPECIFIC LEGISLATIVE, EXECUTIVE OR AGENCY AUTHORITY?

Dear General Morales:

The Texas Department of Licensing and Regulation (TDLR) regulates the Staff Leasing Service industry. Article 9100 TEX. CIV. STAT. ANN. (Vernon 1995) is this agency's enabling statute. The agency has an Executive Director who serves as Commissioner and there are six Commission members appointed by the Governor.

TDLR regulates fifteen industries; there are seven advisory boards and one council with quasi judicial power. All boards and councils are created through the specific statute regulating the particular industry.

The Staff Leasing Services Act has been in existence since 1992. There are no provisions for an advisory committee in the Staff Leasing Services Act, nor a procedural mechanism for creating advisory boards in this agency's enabling statute.

The advisory committees which are presently with TDLR carry forth a variety of duties; the hall mark of all the boards is that they advise staff, the Commissioner and Commission on policy and procedures.

The Commission would like to create a Staff Leasing Advisory Committee and therefore, asks the following:

May the Commission create an advisory committee absent specific statutory, executive or agency authority?

If the Commission may create such a committee, would that committee be subject to the requirements of the Open Meetings Act and Article 6252-33?

We are aware of the definition of an advisory board in Article 6252-33 (created by law) and A.G. opinion JM382 (1985) (boards are creatures of statute, executive order or agency authority). Do these definitions preclude a state agency from creating an advisory board?

I appreciate your service in answering these questions.

Sincerely,

Signature of Earl L. Yeakel, III
Earl L. Yeakel, III
Chairman

cc: Tommy V. Smith, Commissioner

Attach: Article 6252-33
Article 9100
16 T.A.C. Chapter 60
Staff Leasing Services Act, Title 2, Labor Code, Subtitle E, Chapter 91
JM 382 (1985)