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TEXAS COMMISSION ON HUMAN RIGHTS

December 3, 2001

FILE # ML-42305-01
I.D. # 42305

DEC 04 2001

OPINION COMMITTEE

Honorable John Cornyn
Attorney General for the State of Texas
P. O. Box 12548
Austin, Texas 78711
Attn: Susan Gusky, Chair, Opinion Committee

CM RRR 7099 3400 0004 7777 6774
and Facsimile (512) 463-2092

RD-0472-JC

Re: Whether the Employees Retirement System (ERS) is considered a state agency for purposes of the Texas Commission on Human Rights Act.

Dear General Cornyn:

During the 76th Legislative Session of 1999, the Texas Legislature mandated the Texas Commission on Human Rights review the personnel policies and procedures of each state agency to determine whether the policies and procedures comply with the Texas Commission on Human Rights Act, Texas Labor Code §§21.451- .456. The statute provides for review, a compliance report, reimbursement for expenses, and an administrative penalty for failure to comply. A copy of the Texas Labor Code is attached.

Section 21.002 (14) of the Texas Labor Code defines "state agency" as:

- (A) a board, commission, committee, council, department, institution, office, or agency in the executive branch of state government having statewide jurisdiction;
- (B) the supreme court, the court of criminal appeals, a court of appeals, or the State Bar of Texas or another judicial agency having statewide jurisdiction; or
- (C) an institution of higher education as defined by Section 61.003, Education Code.

During the course of scheduling a review of personnel policies and procedures for the Employees Retirement System (ERS), the supervisor for policy reviews was notified by ERS that, in fact, the ERS was not a state agency and therefore not required to comply with Texas Labor Code §§21.451-.456.

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In order to clarify this discrepancy within the meaning of a "state agency," the Commission hereby requests the Office of the Attorney General review the pertinent statutes and issue an opinion whether the Employees Retirement System is a state agency and therefore required to comply with the Texas Commission on Human Rights Act, Texas Labor Code §§21.451- .456.

Please feel free to contact me if there are any questions. Thank you for your consideration.

Sincerely,



J. D. Powell
Executive Director

Attachment

Xc: Laura Ayoub Keith, TCHR, Chairman
Margaret Brendlinger, TCHR Training Supervisor