



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 5, 1960

Honorable William S. Fly, Chairman
Texas Commission on State and
Local Tax Policy
Drawer C
Capitol Station
Austin 11, Texas

Opinion No. WW-899

Re: Term of office of
members of the
Commission on State
and Local Tax Policy.

Dear Senator Fly:

You have requested an opinion concerning the term of office of members of the Commission on State and Local Tax Policy of legislators who are not re-elected to the Legislature. Your specific questions read as follows:

"Does membership on the Commission on State and Local Tax Policy of these legislators continue until expiration of their terms of office as members of the 56th Legislature or did it terminate with their failure to receive the nomination of their party as members of the 57th Legislature?"

"Is this member an 'ex officio member' as that term is used in Attorney General's Opinion No. S-139 so that, regardless of the ruling on the status of the other members who failed to receive nomination to the 57th Legislature, this member would continue to serve on the Commission until the expiration of his term in the 56th Legislature?"

The Texas Commission on State and Local Tax Policy was created by the provisions of House Bill 354, Acts of the 56th Legislature, 1959, chapter 486, page 1063. Section 1 of this Act provides as follows:

"There is hereby established a Texas Commission on State and Local Tax Policy. It shall consist of nine (9) members, of whom three (3) shall be Members of the House of Representatives to be chosen by the Speaker of the House, one (1) of whom shall be Chairman of the House Revenue and Taxation Committee; three (3) shall be Members of the Senate to be chosen by the Lieutenant Governor; and three (3) shall be representatives of the public to be appointed by the Governor. All such members shall be appointed and begin their service as soon as practicable after this Act becomes effective. Appointments of such members shall be for a two-year period, and they may be reappointed. (Emphasis added)

"Vacancies occurring on the Texas Commission on State and Local Tax Policy, hereinafter referred to as 'the Commission,' may be filled as soon as they occur by the respective appointment officer as the vacancy may indicate.

"As soon as the membership of the Commission is complete, the members shall meet and by majority vote elect one (1) member Chairman and one (1) member Vice-Chairman. A vacancy in the Chairmanship shall be filled by the Vice-Chairman, and a new Vice-Chairman elected by the Commission. A majority of the Commission's membership shall constitute a quorum for the transaction of official business."

Article 5429e, Vernon's Civil Statutes, provides:

"The membership of any duly appointed Senator or Representative on the Legislative Budget Board or on the Legislative Council, or on any other interim Committee, shall, on the following contingencies, terminate, and the vacancy created thereby shall be immediately filled by appointment for the unexpired term in the same manner as other appointments to the Legislative Budget Board and the Legislative Council are made:

"(a) Resignation of such membership;

"(b) Cessation of membership in the Legislature for death or any reason;

"(c) Failure of such member to secure nomination or election to membership in the Legislature for the next succeeding term."

It is noted that the provisions of Article 5429e apply only to membership on the (1) Legislative Budget Board; (2) Legislative Council; (3) Interim Committee of the Legislature. Therefore, Article 5429e has no application to the membership of the Texas Commission of State and Local Tax Policy. Furthermore, assuming arguendo, that Article 5429e had some application to the Texas Commission on State and Local Tax Policy, the provisions of House Bill 354, Acts of the 56th Legislature, Regular Session, 1959, Chapter 486, page 1063, would control over the provisions of Article 5429e, since it is the latest enactment of the Legislature. Ex parte de Jesus de la O, 227 S.W. 2d 212 (Tex. Crim., 1950); Wright v. Broeter, 145 Tex. 142, 196 S.W. 2d 82 (1946); Townsend v. Terrell, 118 Tex. 463, 16 S.W. 2d 1063 (1929); Stevenson v. State, 70 Tex. Crim. 565, 159 S.W. 505 (1913); Parshall v. State, 138 S.W. 759 (Tex. Crim., 1911); 39 Texas Jurisprudence 147; 59 Corpus Juris 929; Attorney General's Opinion V-990 (1950).

You are, therefore, advised that the membership of Legislators on the Texas Commission on State and Local Tax Policy continues until the expiration of their term of office as Legislators or the expiration of a two-year period from the date of their appointment on the Commission, whichever date is earlier.

S U M M A R Y

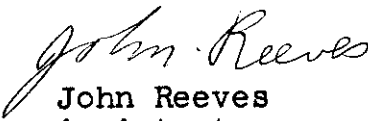
The term of office of members of the Texas Commission on State and Local Tax Policy is two years from the date of appointment, provided their term

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of office as Legislators does not
terminate at an earlier date.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
John Reeves
Assistant

JR:zt

APPROVED:

OPINION COMMITTEE
C.K.Richards, Chairman

J. C. Davis
Marietta Payne
Fred Werkenthin

REVIEWED FOR THE ATTORNEY GENERAL
BY: Leonard Passmore