

CONNECTICUT STATE ETHICS COMMISSION  
97 ELM STREET (REAR)  
HARTFORD, CONNECTICUT 06106

In the Matter of a Request  
for a Declaratory Ruling

89-C

Mr. Bill Garrett  
Applicant

Mr. Bill Garrett has asked the Ethics Commission to issue a declaratory ruling on whether the members of the Bridgeport Financial Review Board ("Board") are bound by the provisions of the Code of Ethics for Public Officials and State Employees.

The Bridgeport Financial Review Board was created by Special Act No. 88-80. This act declared that a financial emergency existed in the city of Bridgeport. The act provided for the financing of deficits through the issuance of bonds, the imposition of financial management controls and the creation of the Board to review the city's financial affairs.

The Board is comprised of the following members: the treasurer of the State, the secretary of the Office of Policy and Management, the mayor of Bridgeport, two members appointed by the mayor, one member appointed jointly by the speaker of the house and the president pro tempore of the senate, one member appointed jointly by the minority leader of the house of representatives and the minority leader of the senate and two members appointed by the governor. The members serve without receiving a salary or per diem allowance but are entitled to reimbursement by the city for expenses.

One of the Board's primary responsibilities is consultation with the city in the preparation of the financial plan the city is required, under Special Act 88-80, to produce. The Board is also required to approve or disapprove the financial plan. If the Board disapproves a financial plan, or the city fails to

submit or comply with a financial plan, the Board must formulate and adopt a financial plan to be effective until the Board approves a financial plan submitted by the city.

Additionally, the Board's responsibilities include, among others: 1) review and approval of the terms of each proposed long-term and short-term borrowing by the city during the emergency period; 2) review of the efficiency and productivity of city operations and management; and 3) auditing of compliance with the financial plan.

The determinative factor in answering Mr. Garrett's question is whether the Board members are either public officials or state employees. "Public official" is defined in subsection 1-79(k), General Statutes, as "any statewide elected officer, any member or member-elect of the general assembly, any person appointed to any office of the legislative, judicial or executive branch of state government by the governor, with or without the advice and consent of the general assembly, any sheriff or deputy sheriff, any person appointed or elected by the general assembly or by any member of either house thereof; and any member or director of a quasi-public agency; but shall not include a member of an advisory board, a judge of any court either elected or appointed or a senator or representative in Congress." "State employee" is defined in subsection 1-79(n) as "any employee in the executive, legislative or judicial branch of state government, whether in the classified or unclassified service and whether full or part-time, and any employee of a quasi-public agency, but shall not include a judge of any court, either elected or appointed."

Each member of the Board must be addressed individually. The treasurer of the State is a public official since he is a statewide elected officer. The secretary of the Office of Policy and Management, part of the executive branch of state government, is also a public official since he is appointed to his office by the Governor. The mayor and the two members appointed by the mayor are not public officials or state employees.

The two members appointed to the "Board" by the governor would qualify as public officials if the Board is an "office of the legislative, judicial or executive branch of state government." The Board is clearly not part of the legislative or judicial branches. The question, therefore, is whether the Board is part of the executive branch of State government.

The Ethics Commission previously ruled that the Greater Hartford Transit District is not part of the executive branch.

Ethics Commission Advisory Opinion No. 78-18, 40 Conn. L.J. No. 8, p. 14 (August 22, 1978). In that opinion, one of the factors that the Commission relied on was that the District exercised its powers in a limited geographic area, not statewide. The Board likewise exercises its powers in a limited geographic area. Additionally, the Board members' expenses are reimbursed by the city, not by the State. The argument that since the Board's actions affect the State's bond rating, the Board is performing a state function and, therefore, must be part of the executive branch of State government is not persuasive. In Cheshire v. McKenney, 182 Conn. 253 (1980), the Connecticut Supreme Court ruled that the members and employees of local boards of education are town, not state, officers and employees, even though the boards perform a state function.

The above factors suggest that, for purposes of the Code of Ethics, the Board is not part of the executive branch of State government. Since the Board is not part of the executive branch, the two members appointed by the Governor are not public officials. In ruling that the Board is not part of the executive, legislative or judicial branches, the Commission is in no way suggesting that the Board is a municipal body.

The two members appointed by legislators are public officials if the Board is not an advisory board. "Member of an advisory board" is defined in subsection 1-79(h) as "any individual (1) appointed by a public official as an advisor or consultant or member of a committee, commission or council established to advise, recommend, or consult with a public official or branch of government or committee thereof, (2) who receives no public funds other than per diem payments or reimbursements for his actual and necessary expenses incurred in the performance of his official duties and (3) who has no authority to expend any public funds or to exercise the power of the state." Since the Board has the power to disapprove the city's financial plan, it exercises the power of the State. See Ethics Commission Advisory Opinion No. 83-8, 45 Conn. L.J. No. 9, p. 23B (August 30, 1983). Therefore, it is not simply an advisory board and the two members appointed by legislators are public officials.

The members of the Board who are either public officials or state employees, i.e., the treasurer of the State, the secretary of the Office of Policy and Management and the members appointed by the legislators, are bound by the provisions of the Code of Ethics for Public Officials and State Employees. While the

other members of the Board are not bound by the Code of Ethics, it is recommended that they follow its provisions in order to avoid the appearance of impropriety.

By order of the Commission,



William A. Elrick  
Chairperson

Dated 4-24-89