



It's real.

MEMORANDUM

To: City of Seguin Mayor and Council
From: Andy Quittner, City Attorney *AQ*
Date: October 27, 2022
Re: Ordinance Amending Ethics Ordinance to add post-employment restrictions

The Ethics Commission requested that I draft an Ordinance that would restrict former employees from representing private clients when such clients are appearing at a board or commission staffed by members of the department where the employee was a member or to take a position against the City's interest. The ordinance that was drafted also includes restrictions against discretionary contracts or sales not made on a competitive bid basis. The time restriction in the Ordinance was placed at two years – which is the same time period seen in similar ordinances in place in larger Texas cities.

There are a number of legal and practical issues related to this type of ordinance. The length of the restrictive period being one of them. Longer periods (four years was suggested) can become problematic as restricting a person's ability to earn a living can be an issue, particularly in cases like Seguin where, with the exception of the City Manager (and the municipal judge), there is no employment contract. At will employment is potentially subject to court interpretation – particularly where laws (and that can include city ordinances) place undue burdens on the employee. There is also a potential practical effect in that certain burdens (particularly on future employment) could negatively impact the recruitment process – which at this point in time is highly competitive.

Additionally, it would be against the City's best interest in restricting the hiring of a former employee from contractual relations wherein the city is benefiting from the employees skill and knowledge. The best example being former engineers – which the city currently hires, in part, due to their particular knowledge of the city's systems.

Finally, other than San Antonio, Austin and San Marcos, no other city in our area has such a restriction. The Ethics Commission voted, unanimously, to recommend that City Council Pass this Ordinance.