



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 18

*June 4, 1992*

*Whether a nonprofit organization may pay for the transportation, meals and lodging of a legislator invited to address the organization. (AOR-15)*

The Texas Ethics Commission has been asked to consider whether section 305.024 of the Government Code or section 36.07 of the Penal Code would prevent a nonprofit organization that studies local government issues from inviting a member of the legislative or executive branch of state government to speak at a meeting or from paying for the member's transportation, meals, and lodging.

The applicability of section 305.024 of the Government Code to these types of expenditures depends on whether the nonprofit organization is required to register as a lobbyist under section 305.005. Because chapter 305 would not regulate activity by a person not required to register, we assume that the nonprofit organization is required to register. *See Ethics Advisory Opinion No. 5* (1992).

Section 305.024 places restrictions on the expenditures that a registrant can make and that a member can accept. The restriction relevant to this opinion forbids a registrant to offer, or for a member to accept, payments for expenses for transportation and lodging. This section therefore prohibits expenditures for transportation and lodging in general, yet several exceptions are listed in section 305.025. Among these exceptions are

necessary expenditures for transportation and lodging provided in connection with a conference or similar event in which the member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory.

Gov't Code § 305.025(4). Provided the member's participation in the conference is more than "merely perfunctory," the nonprofit organization registered under section 305.005 can pay for the member's necessary expenses for transportation and lodging. The registrant can also provide meals, as long as the registrant is present during the meals. *Id.* § 305.006(f).

The relevant Penal Code provision allows the same type of expenditures. Section 36.09 forbids a person from offering, conferring, or agreeing to confer to a member any benefit the person knows the public servant is not permitted to accept. *See also* Penal Code § 1.07(a)(30). Section 36.07 of the Penal Code sets out the expenditure restrictions and the one exception:

(a) A public servant commits an offence if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

(b) This section does not prohibit a public servant from accepting transportation and lodging expenses permitted under [Section 305.025(4)], Government Code, in connection with a conference or similar event or from accepting meals in connection with such an event.

Thus these sections specifically allow a member to accept, and a person to offer, payment for transportation, meals, and lodging expenses that a member would incur in a speaking engagement of this type. *See Ethics Advisory Opinion No. 17* (1992).

**SUMMARY**

Neither section 305.024 of the Government Code nor section 36.07 of the Penal Code precludes a nonprofit organization from paying the necessary transportation, meals, and lodging expenses for a member of the legislative or executive branch to speak at a conference or similar event hosted by the organization if the member's participation is more than "merely perfunctory." If the nonprofit organization is registered under section 305.005, these expenses must be reported.