



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 30

June 4, 1992

Application of the lobby statute to an event sponsored by a nonprofit organization that features a golf tournament and the opportunity to win valuable prizes, and related questions. (AOR-26)

The Texas Ethics Commission has been asked to consider the application of chapter 305 of the Government Code to an event sponsored by a nonprofit organization. Participants in the event would include representatives of the federal, state, and local governments. Activities would include a tour of a local business facility, a luncheon, and a golf tournament. The golf tournament is the featured event. A participant who made a hole-in-one would receive a valuable prize such as a car. After the tournament, valuable door prizes such as golf equipment would be awarded at a drawing. Participants would receive transportation to and from the airport and a packet of gifts such as a tote bag, shirt, and golf balls.

The requestor's first question is whether the nonprofit entity would be prohibited from providing transportation to and from a local airport.¹ Section 305.024(a)(3) of the Government Code prohibits a person required to register as a lobbyist² from making an expenditure for transportation.³ The statutory exceptions to this prohibition are for (1) "necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, but not including attendance at merely ceremonial events or pleasure trips" and (2) "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(3), (4). The event described above would not fall within either of those exceptions. This commission has, however, adopted a rule providing that the term "transportation" in chapter 305 does not include "transportation of incidental value, such as a ride of short duration by personal car or taxi-cab." Tex. Ethics Comm'n, 17 Tex. Reg. 360 (emergency rule to be codified at title 1, section 10.27, of the Texas Administrative Code).⁴ Transportation between an airport and a local entertainment event would generally be within this exception.

The requestor also asks whether a person or entity other than the nonprofit organization may provide transportation to the golf tournament for a member of the legislative or executive branch. Again, the prohibition on expenditures for transportation is not applicable to transportation of incidental value. We note, however, that the general prohibition on the provision of transportation by a lobbyist applies not only to a registrant but also to a person who makes an expenditure "on the registrant's behalf and with the registrant's consent or ratification."

The requestor's next question is whether a prize awarded to a member of the legislative or executive branch of state government on the basis of golf performance or a drawing at a reception would be prohibited by section 305.024(a)(5) of the Government Code. That section prohibits an expenditure or series of expenditures for gifts that in the aggregate exceed \$500 in a calendar year.⁵ Thus a lobbyist could not, in the circumstances described above, give a member of the legislative or executive branch of state government a prize or series of prizes worth more than \$500.⁶

The requestor also asks whether a prize would have to be reported on a financial disclosure statement required under article 6252-9b, V.T.C.S. See generally [Ethics Advisory Opinion No. 1](#) (1992) (regarding requirement that

"state officers" file financial disclosure statements). A financial disclosure statement must include the "identification of any person, business entity, or other organization from whom the person or his spouse or dependent children received a gift of anything of value in excess of \$250 in value." V.T.C.S. art. 6252-9b, § 4(c) (7). Excepted from that requirement, however, are "expenditures required to be reported by a person required to be registered under Chapter 305, Government Code." *Id.* In the situation described, the prizes would be expenditures required to be reported under chapter 305. See [Ethics Advisory Opinion No. 29](#) (1992). Therefore the prizes would not need to be reported on a personal financial statement.

The final question is whether expenditures made in connection with an event to which all legislators are invited are to be reported only under section 305.0062 and not under any other section of chapter 305. Section 305.0062 requires a report that attributes expenditures to different categories such as state senators and state representatives or events to which all legislators are invited. Gov't Code § 305.0062(a). Subsection (d) of that section provides as follows:

If a registrant cannot reasonably determine the amount of an expenditure under Section 305.006(b) that is directly attributable to a member of the legislative or executive branch or to the registrant as required by Subsection (a), the registrant shall apportion the expenditure made by that registrant or by others on the registrant's behalf and with the registrant's consent or ratification according to the total number of persons in attendance. *However, if an expenditure is for an event to which all legislators are invited, the registrant shall report the expenditure under Subsection (a)(8) and not under any other subdivision of that subsection or any other provision of this chapter.* (Emphasis added.)

Subsection (a)(8) of section 305.0062, which is referred to in the provision set out above, requires expenditures to be reported in the category of "events to which all legislators are invited." By the plain language of subsection (d) of section 305.0062, expenditures reported under section 305.0062(a)(8) need not be reported under any other section of chapter 305.

We note that this opinion addresses only the specific questions asked. It does not address any other questions that may be raised by the facts described.

SUMMARY

A person required to register as a lobbyist may make a lobby expenditure for transportation between a local airport and the site of a local golf tournament. A state officer is not required to report on his financial disclosure statement a prize awarded by an organization required to register as a lobbyist. Expenditures reported under section 305.0062(a)(8) of the Government Code need not be reported under any other section of chapter 305.

¹ Because the requestor asks about the application of various provisions of the lobby statute, chapter 305 of the Government Code, we assume the requestor considers the activity in question to be covered by that statute.

² Chapter 305 applies only to expenditures made for the benefit of members of the legislative and executive branches of state government.

³ Chapter 305 also prohibits a member of the executive or legislative branch from accepting transportation under the same circumstances in which a lobbyist is prohibited from making expenditures for transportation. Gov't Code § 305.024(b).

⁴ The rules of the Ethics Commission that were proposed for codification at chapter 10 of title 1 of the Texas Administrative Code actually should have been proposed for codification at chapter 40 of that title. For purposes of this opinion, we have cited to the rules as published.

⁵ Again, a member of the legislative or executive branch is prohibited from accepting a gift that a lobbyist is prohibited from giving. Gov't Code § 305.024(b).

⁶ See [Ethics Advisory Opinions Nos. 29, 12](#) (1992) (regarding the application of chapter 36 of the Penal Code.)