



# TEXAS ETHICS COMMISSION



**\*\*Overruled, Modified, Clarified, or Superseded\*\***

## ETHICS ADVISORY OPINION NO. 68

*October 23, 1992*

*Whether an officeholder may make a campaign expenditure or officeholder expenditure to purchase and maintain an automobile. (AOR-68)*

A state judge has asked the Texas Ethics Commission whether he may make a campaign expenditure or an officeholder expenditure to purchase an antique or classic car to be used in parades and, if so, whether he may use political funds to insure and maintain such a car. This opinion addresses only the narrow question raised.

There are two types of "political" expenditures: campaign expenditures and officeholder expenditures. Elec. Code § 251.001(10). A "campaign expenditure" is an expenditure made "in connection with a campaign for an elective office." *Id.* § 251.001(7). *See generally id.* §§ 253.031(a) (candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure if the candidate does not have a campaign treasurer appointment in effect), 251.001(1) (defining "candidate"). Thus, if a judge is a candidate for purposes of title 15, he may use political funds to purchase an antique or classic car *for campaign purposes*. *See Ethics Advisory Opinion No. 13* (1992) (regarding purchase of car with campaign funds).

An "officeholder expenditure" is an expenditure made to defray expenses that are not reimbursable by public funds and that are "incurred by an officeholder in performing a duty or engaging in an activity in connection with the office." Elec. Code § 251.001(9); *see id.* § 251.002(b) (a state officer-elect or a member-elect of the legislature is considered an officeholder beginning on the day after the date of the general or special election at which the officer-elect or member-elect was elected). Appearance in a parade may be an activity in connection with a public office, although we think this is most unlikely in the case of a judicial office.

Although it is not impermissible to use campaign funds to purchase, maintain, and insure a car that is used solely for campaign or officeholder purposes, an asset purchased with political contributions may not be converted to personal use. *Id.* § 253.035. Thus a classic or antique car purchased with political funds may not be used in a way that "primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(a), (d); *Ethics Advisory Opinions Nos. 25, 13* (1992) (regarding conversion of assets purchased with political funds to personal use). *See also* Elec. Code §§ 254.203, 254.204 (disposition of assets purchased with political contributions). Consequently, the purchase of a classic or antique car with political contributions seems to be an injudicious expenditure since the permissible uses of the car would be quite limited.

### SUMMARY

It is not illegal for an officeholder or candidate to purchase a car with political funds for the purpose of making campaign appearances in parades. Nor is it illegal to use political funds to maintain and insure a car used for such purposes. The car may not be used in a way that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. Appearance in a parade may be an activity in connection with a public office, although we think this is most unlikely in the case of a judicial office.