



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 81

November 5, 1992

Application of chapter 305 of the Government Code to expenditures for food consumed by a legislator's spouse and to expenditures for lodging used by a legislator's spouse and not the legislator. (AOR-63)

A registered lobbyist has asked about the application of chapter 305 of the Government Code to expenditures for food consumed by a legislator's spouse and to expenditures for lodging used by a legislator's spouse and not the legislator. Under chapter 305 a registrant must report certain expenditures made to communicate with a legislator to influence legislative action. Gov't Code § 305.006(b). Among the expenditures to be reported are expenditures for food. *Id.* If expenditures for food are made in order to facilitate communication with a legislator, they must be reported under section 305.006(b) regardless of who consumes the food. *See generally* [State Ethics Advisory Opinions Nos. 13, 7](#) (1984) (reporting of expenses for event).

The other relevant provisions governing the reporting of expenditures for food are sections 305.0061(b) and 305.0062(b).¹ Under section 305.0061(b), a registrant must report detailed information about "expenditures that exceed \$50 a day for food and beverages for a member of the legislative or executive branch." The same sentence requires the reporting of detailed information about "expenditures that exceed \$50 for *entertainment* for a member of the legislative or executive branch *or for the immediate family of a member of the legislative or executive branch.*" (Emphasis added.) That difference in language within the same sentence indicates that detailed information is not required about food or beverages consumed by the immediate family of a member of the executive or legislative branch, even if the expenditures are reportable under section 305.006(b).

Under section 305.0062, a registrant must report total expenditures for food under various categories of persons to whom the expenditures are "directly attributable." One of the categories is "the immediate family of a member of the legislative or executive branch." Gov't Code § 305.0062(a)(6). Expenditures for food consumed by the spouse of a legislator must be reported in that category.

Lobby expenditures for lodging must also be reported under chapter 305. Section 305.024(a) states, however, that a registrant may not "confer to" a member of the legislative or executive branch "an expenditure for transportation and lodging." This prohibition would extend to lodging used by a legislator's spouse if the legislator solicited or agreed to the provision of such lodging. Although there are exceptions to the prohibition on lobby expenditures for lodging, those exceptions would not be applicable to lodging to be used by a legislator's spouse in the circumstances described. *See generally* Gov't Code §§ 305.0061(a), 305.0062(a)(6), (c), 305.0062(c), 305.024(a)(3), 305.025(3), (4) (provisions governing lobby expenditures for lodging).

SUMMARY

Lobby expenditures for food consumed by a legislator's spouse must be reported under section 305.006(b)(2) and section 305.0062, but not under section 305.0061(b). Although there are exceptions to the prohibition on lobby expenditures for lodging, those exceptions would not be applicable to lodging to be used by a legislator's spouse in the circumstances described.

¹ A lobby expenditure for food and beverages may not be made unless the registrant is present at the event. Gov't Code § § 305.006(f), 305.024(a)(7). This does not require that the member of the legislative or executive branch be present in order for a registrant to make lobby expenditures for food to be consumed by the spouse of a member of the legislative or executive branch. Rather, it only requires that the registrant be present.