



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 84

November 5, 1992

Interpretation of section 305.026(d) of the Government Code. (AOR-81)

The Texas Ethics Commission has been asked about the application of section 305.026 of the Government Code, which limits the use of public funds for lobbying purposes. Section 305.026 provides in part:

(a) Public funds available to a political subdivision may not be used to compensate or reimburse the expenses over \$50 of any person for the purpose of communicating directly with a member of the legislative branch to influence legislation, unless the person being compensated or reimbursed resides in the district of the member with whom the person communicates or files a written statement with the [Texas Ethics Commission] that includes the person's name, the amount of compensation or reimbursement, and the name of the affected political subdivision.

....

(d) This section does not prohibit a political subdivision from making an expenditure of public funds to a statewide association with a minimum membership of at least 25 percent of eligible political subdivisions that contract with or employ a registrant for the purpose of communicating directly with a member of the legislative branch to influence legislation.

The requestor's first question is as follows:

What kind of duties does this impose on someone representing a political subdivision who wants to be a member of an association who has or employs a registrant?

This section imposes no duties on a person who represents a political subdivision in regard to joining an association. Subsection (d) merely clarifies that a political subdivision itself may join certain associations without running afoul of the restrictions in section 305.026.

The second question is whether a person representing a political subdivision must report the amount paid to join such an association to the Ethics Commission. If the political subdivision reimburses a person for such a payment,¹ the reimbursement would not have to be reported if the person merely joined an association that has a representative who communicates with a member of the legislative branch to influence legislation. A representative of the city would be required to file a statement only if the representative received compensation or reimbursement for his own direct communications with a legislator.²

The requestor's other question is as follows:

If a state wide organization with a minimum membership of at least 25% of eligible political subdivisions has a contract with or employs a registrant for the purpose of communicating directly with a member of the legislative branch and we as a political subdivision join that association, how do we go about allocating what portion of the dues is used for the purpose of communicating

directly with a member of the legislative branch to influence legislation and not for other services provided by the association?

Under chapter 305 of the Government Code, there is no need for a political subdivision to allocate dues paid to a statewide association with a minimum membership of 25% of eligible political subdivisions.

SUMMARY

A person who joins an association that employs a registrant is not, simply by virtue of joining the association, required to file a statement under section 305.026 of the Government Code.

¹ Whether a political subdivision would be authorized to make such a reimbursement is governed by law other than that interpreted by the Ethics Commission.

² The compensation or reimbursement would not be reportable if any one of the various exceptions in section 305.026 is applicable.