



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 106

December 10, 1992

Whether communications to county officials are governed by chapter 305 of the Government Code. (AOR-117)

The Texas Ethics Commission has been asked to consider the following questions: (1) whether a donor must report expenditures for food, transportation, lodging, or entertainment provided to a county official, and (2) whether a county official is required to report food, lodging, transportation, or entertainment accepted as a "guest."

The lobby statute, chapter 305 of the Government Code, governs lobby expenditures made to communicate with members of the executive branch of government and members of the legislative branch. Gov't Code § 305.003. The definitions of "member of the legislative branch" and "member of the executive branch" make clear that those terms refer to the legislative and executive branches of "state" government. *Id.* § 305.002(4), (7). Counties are administrative arms of the state. *See Childress County v. State*, 92 S.W.2d 1011 (Tex. 1936) (state may use county as agent in discharging state's functions). They are generally described, however, as "political subdivisions," not as parts of one of the branches of "state" government. *Commissioners' Court of El Paso County v. El Paso County Sheriff's Deputies Ass'n*, 620 S.W.2d 900 (Tex. Civ. App.--El Paso 1981, writ ref'd n.r.e.). Indeed, the lobby statute uses the term "political subdivision" to describe governmental entities that are not part of one of the branches of state government. Gov't Code § 305.003(b).¹ Therefore, we conclude that communications to county officials are not governed by the lobby law.

The second question is whether a county official is required to report food, lodging, transportation, or entertainment accepted as a "guest." This question refers to chapter 36 of the Penal Code, which prohibits county officials from accepting benefits in certain circumstances. Penal Code § 36.08; *see also id.* § 36.09 (prohibiting offering, conferring, or agreeing to confer a gift the donor knows recipient is prohibited from accepting). There is an exception to this prohibition for food, lodging, transportation, or entertainment accepted as a guest and reported in accordance with any reporting requirement made applicable by law. *Id.* § 36.10(b); [Ethics Advisory Opinion No. 12](#) (1992) (interpretation of "guest" requirement).

In the statutes subject to interpretation by the Ethics Commission, only title 15 of the Election Code, which governs campaign finance, imposes reporting requirements on any county officials. The reporting requirements of title 15 would not be relevant to the question before us.² There are provisions, however, that impose reporting requirements on certain county officials in a county with a population of 500,000 or more. Local Gov't Code ch. 159. Under those provisions, certain county officials must file a financial statement with the county auditor. *Id.* § 159.004. Among the information to be reported on the financial statement is

identification of any person, business entity, or other organization from which the person or the person's spouse or dependent children received a gift of money or property in excess of \$250 in value or a series of gifts of money or property, the total of which exceeds \$250 in value received from the same source, and a description of each gift, except gifts received from persons related to the person at any time within the second degree by consanguinity or affinity and campaign contributions that were reported as required by law.

Id. § 159.005(b)(7). Therefore, a county official in a county with a population of 500,000 or more may be required to report some food, lodging, transportation, or entertainment under that section in order to satisfy the requirements of Penal Code section 36.10(b).

SUMMARY

Communications to county officials are not governed by chapter 305 of the Government Code. A county official may be required to report some gifts of food, lodging, transportation, or entertainment under section 159.005(b) (7) of the Local Government Code in order to satisfy the requirements of section 36.10(b) of the Penal Code.

¹ Section 305.003(b) of the Government Code excepts from lobby registration requirements "a member of the judicial, legislative, or executive branch of state government *or* an officer or employee of a political subdivision of the state." (Emphasis added.)

² Food, lodging, transportation, or entertainment may be given as a campaign contribution. Campaign contributions are excepted from the prohibitions on offer and acceptance of benefits. Therefore, in regard to campaign contributions there would be no need to consider the application of the "guest" exception, which is a separate exception from the prohibitions on offer and acceptance of benefits.