



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 131

April 1, 1993

Whether funds given to a political committee to defray the cost of hiring a lobbyist must be reported as political contributions under title 15 of the Election Code. (AOR-144)

The Texas Ethics Commission has been asked to consider questions about a political committee that hires a lobbyist to work on legislative matters. The first question is whether funds given to the committee to defray the cost of hiring a lobbyist must be reported as political contributions under title 15 of the Election Code.

For purposes of title 15 of the Election Code, a political committee is "a group of persons that has as a *principal purpose* accepting political contributions or making political expenditures." Elec. Code § 251.001(12) (emphasis added). Title 15 of the Election Code regulates a political committee's activities that have to do with accepting political contributions and making political expenditures. It does not regulate other activities of political committees.

A political committee must report any political contributions that it receives. *Id.* § 254.031. Political contributions are of two types: campaign contributions and officeholder contributions. *Id.* § 251.001(5). A campaign contribution is a contribution to a political committee that is "offered or given with the intent that it be used in connection with a campaign for elective office or on a measure." *Id.* § 251.001(3). An officeholder contribution is a contribution given to a political committee with the intent that it be used to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office and that are not reimbursable with public money. *Id.* § 251.001(4). A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution¹ or officeholder contribution.² If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution.³

The request letter also asks two questions about lobby registration by a political committee or its directors. The first question is whether a director would have to register as a lobbyist if he communicated directly with a legislator to influence the legislator and in doing so incurred postage, telephone, and personal travel costs. Such costs, by themselves, would not require a director of the political committee to register as a lobbyist. Gov't Code §§ 305.003, 305.006; [Ethics Advisory Opinion No. 3](#) (1992).

The second question is whether the political committee would have to register as a lobbyist if the committee incurred postage and printing costs to mail requests to supporters suggesting that they write their legislators to influence legislation. Such costs would not require the political committee to register as a lobbyist.⁴ *Id.*; see also [Ethics Advisory Opinion No. 89](#) (1992) (regarding lobby registration by entities).

SUMMARY

If funds are given to a political committee with the restriction that they be used to hire a lobbyist to work on legislative matters, the political committee is not required to report the funds as a political contribution. If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution.

A director of a political committee who incurs postage, telephone, and personal travel costs to communicate with a legislator about pending legislation is not required to register as a lobbyist on the basis of such expenditures. A political committee is not required to register as a lobbyist on the basis of postage and printing costs incurred to mail requests to supporters suggesting they write legislators to influence legislation.

¹ A campaign contribution includes a contribution given with the intent that it be used on a "measure." A "measure," however, is a matter that is to be submitted in an election for an expression of the voters' will. Elec. Code § 251.001(19). Therefore, the term "measure" does not include matters that are to be submitted only to the legislature.

² Officeholder contributions may be used for campaign expenditures as long as the appropriate campaign treasurer appointment is in effect. Elec. Code § 253.031(a), 253.036. Campaign contributions may be used for officeholder expenditures. See Id . § 253.035.

³ If a political committee makes a payment from political contributions that is not for campaign or officeholder purposes, the committee must report the payment under title 15. Elec Code § 254.031(a)(4). Therefore, if a political committee uses political contributions to pay a lobbyist to work on legislative matters, the payment would have to be reported under title 15.

⁴ Expenses for mass media communications do not require a person to register as a lobbyist. However, if a person is otherwise required to register as a lobbyist, certain expenses for mass media communications are reportable under the lobby statute. Gov't Code § 305.006(c).