



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 132

April 1, 1993

*Corporate expenditures made to finance the establishment or administration of a general-purpose committee.
(AOR-108)*

The Texas Ethics Commission has been asked to consider several questions concerning corporate expenditures for the administrative expenses of a general-purpose political committee. Although subchapter D of Election Code chapter 253 prohibits most political contributions and expenditures by corporations, section 253.100 provides in part the following:

- (a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee.
- (b) A corporation may make political expenditures to finance the solicitation of political contributions to a general-purpose committee assisted under Subsection (a) from the stockholders, employees, or families of stockholders or employees of one or more corporations.

Form of Financing

The requestor first asks whether a corporation may make a donation from its own property to a general-purpose committee for the purpose of financing the administrative expenses of the committee, or whether the corporation is "limited to making only a direct expenditure to finance such expenses instead of a donation."

Nothing in section 253.100 restricts the form that a corporation may choose to finance the administrative expenses of a general-purpose committee. By the use of the phrase "making a donation from its own [corporate] property," we understand the requestor to refer to an in-kind contribution of corporate resources to the committee, such as the grant of office space or furniture. This means of financing would be permissible, as would the corporation's direct payment of expenses incurred by the committee for its administrative needs. Similarly, the corporation may make a contribution of money to the general-purpose committee, with the restriction that it be used only for permissible purposes under section 253.100.

Reporting of Section 253.100 Expenditures

The requestor next asks whether a general-purpose committee that receives financing of its administrative expenses from a corporation must report the financing as it does other political contributions. Section 253.100(d) provides that an expenditure made under this section "is not reportable by the general-purpose committee as a political contribution under Chapter 254." This section exempts these expenditures from the reporting requirements.

Reporting of Individual's Contributions Earmarked For Administrative Expenses of General Purpose Committee.

Another question raised is whether a general-purpose committee must report a contribution from an *individual* that is specifically made and used for the purpose of paying administrative expenses of the committee. The requestor contends that such a contribution would not constitute a political contribution, and therefore would not be subject to the chapter 254 reporting requirements for political contributions. Political contributions, as defined in section 251.001(5), consist of campaign contributions and officeholder contributions. A campaign contribution is a contribution offered or given to be used in connection with an election campaign. An officeholder contribution is a contribution given to be used to defray expenses incurred by an officeholder in connection with activities related to the office. Elec. Code § 251.001(3), (4). A general-purpose committee is, by definition, a group of persons that has among its principal purposes supporting or opposing two or more candidates who are identified or are seeking offices that are unknown; or one or more measures that are unidentified; or assisting two or more officeholders who are unidentified. *Id.* § 251.001(12) (definition of "political committee"); (14) (definition of "general purpose committee"). Contributions that support the operation of a general-purpose committee ultimately support the carrying-out of the committee's principal purposes, including the making of political expenditures in connection with elections and officeholder assistance. In this way, contributions to defray the administrative expenses of a general-purpose committee are political contributions.¹

We note that section 253.100 clearly contemplates that contributions used to pay administrative expenses of a general-purpose committee are political contributions, albeit subject to different reporting requirements from other political contributions when they come from the corporate sponsor of the general-purpose committee. Section 253.100 presumes that expenditures on the administrative expenses of a general-purpose committee *are* political in nature, both in its use of the term "political expenditures" to describe them, and in its specific exemption of the contributions from the reporting laws that would otherwise apply.

In short, a contribution to a general-purpose political committee is a political contribution, whether the contribution is meant to fund the committee's specific election activities or its general administrative costs.² The exception from reporting requirements provided in section 253.100(d) extends only to contributions from corporations or labor organizations to fund the establishment or administration of a general-purpose committee. The committee receiving a political contribution from an individual must report it under chapter 254.

The difference between the reporting requirements for contributions from an individual and those from a corporation makes sense in the overall statutory disclosure scheme. A corporation that finances the establishment or administration of a general-purpose committee will be clearly identified in the name of the committee as well as in the appointment of the committee's campaign treasurer under section 252.003.³ The connection between a general-purpose committee and its corporate sponsors is thus a matter of public record on file with the Texas Ethics Commission. Elec. Code § 252.009.⁴ On the other hand, if a general-purpose committee were not required to disclose contributions from an individual, there would be no record of the individual's financial support of a political committee, contrary to the principles of title 15 disclosure law.

Determining Whether Specific Expenses Are Administrative

The requestor has submitted a list of expense items to the commission, asking us to determine whether each item can be classified as an administrative expense of a general-purpose committee, properly paid for by a corporation. Our guide for determining whether a particular expense is "administrative" is whether the expense is one that would be incurred in the normal course of business by any active organization, whether or not it engaged in political activity. Expenditures on office rent, utilities (gas, water, electric), and general office supplies are examples of items that could be classified as administrative in nature. On the other hand, certain other expenses would be tied directly to the committee's political activity, and therefore would not be administrative. We include in this category the following examples submitted by the requestor:

1. Expenses to host a reception for an identified candidate with an open invitation to the public to attend, when no solicitation of contributions or fundraising is attempted.

Costs associated with such a reception could only be classified as direct costs of the committee's political activity on behalf of the candidate, even if no solicitations were expressly made.

2. Meetings of the members of a general-purpose committee to become acquainted with, interview, and evaluate one or more candidates for elective office, with attendance limited to members of the committee, candidates, and campaign staff.

Even though the requestor specifies that no public communication or endorsement of any candidate would be made at such a meeting, the activity described represents an initial phase of the committee's political activity. Accordingly, the costs associated with such a meeting would not be payable from corporate funds under section 253.100(a).

The requestor has also inquired about broad categories of expenses, such as those for postage, printing and stationery, travel expenses, staff salaries, and legal fees. Whether or not such items are attributable to the administration rather than the political activity of the committee will depend on the circumstances of each case. Again, the central guideline is whether the cost would have been incurred regardless of whether the committee engaged in political activity. In many cases, a portion of the costs may be administrative, and other portions may be political. For example, staff salaries would in general be considered an administrative expense; however, if a staff member is compensated for engaging in political activities, such as the solicitation of contributions in connection with an election, the portion of the salary attributable to those activities would not be an administrative expense. Likewise, any portion of the costs of printing, stationery, and postage attributable to the solicitation of contributions or other support for the committee, or for candidates or measures supported by the committee would not be an administrative expense.

We must also point out that some costs that would not qualify as administrative under our guidelines may nonetheless be payable by the corporation under section 253.100(b), which provides that a "corporation may make political expenditures to finance the solicitation of political contributions to a general-purpose committee assisted under Subsection (a) from the stockholders, employees, or families of stockholders or employees of one or more corporations." For example, the costs of printing, stationery, and postage for solicitations *directed solely* at the stockholders or employees of the sponsoring corporation or corporations would be payable from corporate funds under section 253.100(b). However, no corporate funds could be used to pay for any cost attributable to any solicitation that extended outside the solicitable class set out in section 253.100(b).

SUMMARY

Under Election Code section 253.100, a corporation, acting alone or in concert with one or more corporations, may finance the administration of a general-purpose committee with donations from its own property. Under section 253.100(d), such contributions are not reportable as political contributions by the general-purpose committee. However, if an individual makes a contribution to a general-purpose committee, specifying that the contribution is to be used for administrative expenses only, the general-purpose committee must report the donation as it does any other political contribution under chapter 254 of the Election Code. Administrative expenses are those expenses that would be incurred in the normal course of business by any active organization, whether or not it engaged in political activity. Additionally, a corporation may pay expenses incurred by a general-purpose committee for solicitations of contributions to the committee from the corporation's stockholders, employees, and their families under section 253.100(b) of the Election Code.

¹ We acknowledge that a 1983 opinion of the Secretary of State, Election Law Opinion JWF-3 (1983), asserted that corporate expenditures to defray the operating expenses of a political party were not within the then-existing definition of campaign contributions. Our determination is based on the current Election Code provisions.

² On the other hand, a contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254. See [Ethics Advisory Opinion No. 131](#) (1993).

³ In [Ethics Advisory Opinion No. 32](#) (1992), the commission determined that the acceptance of funds from a corporation by a general-purpose committee under section 253.100 requires the inclusion of the name of the corporation in the committee's name under section 252.003.

⁴ Election Code section 252.003(a)(1) provides that a campaign treasurer appointment by a general-purpose committee must include "the full name . . . of each corporation, labor organization, or other association or legal entity that directly establishes, administers, or controls the committee, if applicable. . . ."