



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 153

June 24, 1993

Application of the lobby law to an employer's payment of travel expenses for a member of the Advisory Commission on State Emergency Communications. (AOR-173)

The Texas Ethics Commission has been asked to issue an advisory opinion in regard to an employer's payment of travel expenses for members of the Advisory Commission on State Emergency Communications. The Advisory Commission on State Emergency Communications is composed of 17 members, eight of whom are appointed by the governor. Health & Safety Code § 771.031. Three of the governor's appointees are representatives of local exchange carriers.¹ *Id.* § 771.031(b). The commissioners who are representatives of local exchange carriers have not sought reimbursement from the state for travel expenses because their employers have paid their expenses. The request letter asks whether a commissioner who is also a registered lobbyist must report his employer's payment of his travel expenses as a lobby expenditure.

A registered lobbyist must report travel expenditures he makes as well as travel expenditures made on his behalf and with his consent or ratification if the expenditures are made to communicate with members of the executive branch to influence administrative action. Gov't Code § 305.006(b). Communications by a member of the board of an executive branch agency who is acting in an official capacity are not governed by the lobby statute. *See id.* § 305.003(b); 17 Tex. Reg. 6893 (1992) (to be codified at title 1, section 40.7(a)(6), of the Texas Administrative Code). Therefore, a member of the Advisory Commission on State Emergency Communications would not be required to report as a lobby expenditure his employer's payment of his travel expenditures made to conduct advisory commission business.²

SUMMARY

A member of the Advisory Commission on State Emergency Communications who is a registered lobbyist is not required to report as a lobby expenditure his employer's payment of his travel expenses to attend commission meetings.

¹ Within the statute creating the Advisory Commission on State Emergency Communications, a "local exchange service provider" is defined as "a telecommunications carrier providing telecommunications service in a local exchange service area under a certificate of public convenience and necessity issued by the Public Utility Commission of Texas." Health & Safety Code § 771.001(4).

² As indicated, a registrant is required to report lobby expenditures he makes or that are made on his behalf and with his consent or ratification. Gov't Code § 305.006(b). Because the expenditures in question are not made to communicate to influence, we need not consider whether an employer could be said to make such expenditures on behalf of its employee and with its employee's consent or ratification. Although the request letter does not raise the issue, the situation described does raise the question of whether the employer, as opposed to the commissioner\employee, has made an expenditure regulated by the lobby law or by chapter 36 of the Penal Code. The payment of travel expenses in the situation described is not governed by either the lobby law or chapter 36 of the Penal Code since the benefit is not to the individual commissioner but to the state agency, which would otherwise pay the expenses. [Ethics Advisory Opinions Nos. 130 \(1993\), 62, 31 \(1992\)](#).