



# TEXAS ETHICS COMMISSION



**\*\*Overruled, Modified, Clarified, or Superseded\*\***  **Opinion History**

## ETHICS ADVISORY OPINION NO. 161

*September 2, 1993*

*Effect of bill amending section 253.031(b) of the Election Code. (SP-1)*

The 73d Legislature adopted several amendments to title 15 of the Election Code that took effect on September 1, 1993. S.B. 1196, Acts 1993, 73d Leg., ch. 531, at 2013. An amendment to section 253.031(b) has raised several questions about how the new provision is to be read in conjunction with other provisions of title 15.

Before the amendment, section 253.031(b) provided that a political committee could not accept a political contribution or make or authorize a political expenditure at a time when a campaign treasurer appointment for the committee was not in effect. Elec. Code § 253.031(b) (Vernon Supp. 1993). In other words, a political committee had to file an appointment of campaign treasurer before it could accept *any* political contributions or make *any* political expenditures. Other provisions set even stricter standards for certain circumstances. *Id.* §§ 253.031(c), 253.037(a).

As amended, section 253.031(b) provides as follows:

A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect.

The effect of that amendment is that a political committee that does not have a campaign treasurer appointment on file may accept \$500 in contributions and make \$500 in expenditures without violating the law. *See* Elec. Code § 253.031(f) (violation is a Class A misdemeanor).

The first question raised is whether the amendment to section 253.031(b) has any effect on the existing restriction set out in section 253.031(c), which provides as follows:

A political committee may not knowingly make or authorize a campaign contribution or campaign expenditure supporting or opposing a candidate for [a statewide office, the state legislature, the State Board of Education, or a multi-county district office] in a primary or general election unless the committee's campaign treasurer appointment has been filed not later than the 30th day before the appropriate election day.

In construing apparently conflicting statutes, effect is to be given to both if possible. Gov't Code § 311.026. In this case, this can be done by reading new subsection (b) of section 253.031 and subsection (c) together to provide as follows: A political committee may not knowingly make or authorize a campaign contribution or campaign expenditure that in the aggregate exceeds \$500 supporting or opposing a candidate for a statewide office, the state legislature, the State Board of Education, or a multi-county district office in a primary or general election unless the committee's campaign treasurer appointment has been filed not later than the 30th day before the appropriate election day. This reading is supported by testimony before a Senate committee, in which a resource witness specifically mentions section 253.031(c) as one of the restrictions the new provision was intended to ease. Hearings on S.B. 1196 Before the Sen. Comm. of the Whole on Redist., Ethics & Elec.,

Subcomm. Elec. & Ethics, 73d Leg. 22-23 (March 29, 1993) (testimony of Jane Hedgepeth, Tex. Democratic Party) (transcript available from Senate Staff Services).

The second question is about the combined effect of the amended section 253.031(b) and the existing restriction in section 253.037(a), which provides as follows:

A general-purpose committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has:

- (1) filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made; and
- (2) accepted political contributions from at least 10 persons.

Under this provision, a general-purpose committee is subject to a 60-day waiting period and a 10-contributor minimum before it may begin making political expenditures.

If the strict requirements of section 253.037 are still applied as written, then the application of the amendment allowing \$500 in expenditures *before* the appointment of a campaign treasurer would be limited to specific-purpose committees. We do not think this was the intended effect of the amendment since a resource witness before a Senate committee testified that the new law would ease the restriction set out in section 253.037(a), which applies only to general-purpose committees, as well as the restriction set out in section 253.031(c). Hearings on S.B. 1196, *supra*. Therefore, we conclude that the legislature intended that the provisions be read together and harmonized.

Reading section 253.031(b) and section 253.037(a) together, we conclude that the following rules apply to general-purpose committees: A general-purpose committee may not make or authorize political expenditures totaling more than \$500 unless the committee has (1) filed its campaign treasurer appointment not later than the 60th day before the date the expenditure is made that causes the total expenditures to exceed \$500, and (2) accepted political contributions from at least 10 persons.

### SUMMARY

The effect of harmonizing a recent amendment to section 253.031(b) of the Election Code with section 253.031(c) is as follows: A political committee may not knowingly make or authorize a campaign contribution or campaign expenditure that in the aggregate exceeds \$500 supporting or opposing a candidate for a statewide office, the state legislature, the State Board of Education, or a multi-county district office in a primary or general election unless the committee's campaign treasurer appointment has been filed not later than the 30th day before the appropriate election day.

The effect of harmonizing the recent amendment to section 253.031(b) with section 253.037(a) is as follows: A general-purpose committee may not knowingly make or authorize political expenditures totaling more than \$500 unless the committee has (1) filed its campaign treasurer appointment not later than the 60th day before the date the expenditure is made that causes the total expenditures to exceed \$500, and (2) accepted political contributions from at least 10 persons.