



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 166

September 2, 1993

What documents must a candidate, officeholder, or political committee file with the Texas Ethics Commission to comply with section 253.032 of the Election Code. (AOR-183)

The Texas Ethics Commission has been asked several questions concerning the filing responsibilities of a candidate, officeholder, or political committee that receives contributions from an out-of-state political committee. An out-of-state political committee is defined in section 251.001(15) as a political committee that

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

The Election Code imposes certain filing responsibilities on a candidate, officeholder, or political committee that receives contributions from an out-of-state political committee. The nature of the responsibilities depends on the amount contributed during a reporting period. Section 253.032(a) provides:

In a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee:

- (1) a written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; *or*
- (2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by the commission. (Emphasis added.)¹

The candidate, officeholder, or political committee must then "include the statement [of contributors of more than \$100] or copy [of the statement of organization] required by Subsection (a) as a part of the report filed under Chapter 254 that covers the reporting period to which Subsection (a) applies." *Id.* § 253.032(d).

The requirements applicable to a candidate, officeholder, or political committee accepting political contributions of \$500 or less from an out-of-state political committee are different. There is no requirement that the recipient

first obtain any document from the out-of-state political committee. However, section 253.032(e) provides the following:

A candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under Chapter 254 that covers the reporting period in which the contribution is accepted:

- (1) the same information for the out-of-state political committee required for general-purpose committees by Sections 252.002 and 252.003; *or*
- (2) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by the commission. (Emphasis added.)

The requestor asks us to consider a hypothetical situation in which a political committee (XYZ-Federal) organized under federal law, and meeting the definition of an out-of-state political committee, makes periodic contributions to XYZ-Texas, a political committee organized under title 15 of the Texas Election Code. The first question is whether XYZ-Federal would have to "provide XYZ-Texas with a copy of its statement of organization, certified by the [Federal Election Commission], each time a contribution is made."²

Under section 253.032(a), XYZ-Federal would not have to provide XYZ-Texas a copy of the statement of organization each time it made a contribution. XYZ-Texas would have to have a certified copy of the statement only before accepting a contribution that would push the total contributions received from the out-of-state political committee in that reporting period over \$500. Once XYZ-Texas has received the certified statement and accepted the contribution that causes the total to exceed \$500, it does not need to obtain additional copies of the statement before accepting additional contributions *during that reporting period*. However, the calculations and information required by section 253.032 must begin anew with each reporting period. For example, XYZ-Texas must have a copy of XYZ-Federal's certified statement of organization before accepting a contribution that will cause the total contributed by XYZ-Federal to exceed \$500 during the reporting period ending December 31. If XYZ-Federal then makes a contribution of \$300 on February 12 and \$400 on April 6, XYZ-Texas must first obtain another certified statement of organization from the out-of-state political committee before accepting the April contribution, because a new reporting period began January 1.

The second question concerns XYZ-Texas's responsibility to file the statement required under section 253.032(a) with the Texas Ethics Commission. The requestor asks whether XYZ-Texas may "file with the [Texas Ethics Commission] one copy of the XYZ-Federal statement of organization, certified by the [Federal Election Commission], and file only copies of that certified statement of [sic] subsequent contributions from XYZ-Federal, as long as the information on the statement remains unamended."

If it accepted any contributions from an out-of-state political committee during a reporting period, XYZ-Texas must file a copy of the out-of-state political committee's statement of organization required to be filed by the Federal Election Commission and certified by the Federal Election Commission as part of the report it files for the relevant reporting period. Elec. Code § 253.032(a), (e). As with the section 253.032(a) requirement discussed above, this requirement arises again with each separate reporting period. XYZ-Texas must obtain a new certified statement of organization filed with the Federal Election Commission before XYZ-Texas accepts a contribution that causes XYZ-Federal's contribution total to exceed \$500 each reporting period, and XYZ-Texas would in turn have to submit this new certified statement with its sworn report of contributions and expenditures for that reporting period.

SUMMARY

A Texas candidate, officeholder, or political committee that receives contributions that exceed \$500 in a reporting period must obtain only one certified copy of the out-of-state political committee's statement of organization filed with the Federal Election Commission during that reporting period.

A Texas candidate, officeholder, or political committee must obtain a new certified copy of the out-of-state political committee's statement of organization filed with the Federal Election Commission for each reporting period in which the Texas candidate, officeholder, or political committee receives more than \$500 in contributions from the out-of-state committee.

¹ Section 253.032(b) provides that "this section does not apply to a contribution from an out-of-state political committee if the committee appointed a campaign treasurer under Chapter 252 before the contribution was made and is subject to the reporting requirements of Chapter 254."

² Because the requestor has assumed for his hypothetical that XYZ-Texas would obtain from XYZ-Federal a copy of its statement of organization rather than a certified, written statement listing the name and address of every XYZ- Federal contributor of more than \$100 during the 12 months preceding the acceptance of a contribution that would put it over the \$500 threshold; and, if accepting contributions totaling \$500 or less in the reporting period, would include the statement of organization rather than the information required under sections 252.002 and 252.003 with its report, we will speak only of the statement of organization option. However, this opinion should be read to apply equally to cases in which the other available option has been chosen.