



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 190

*March 25, 1994*

*Whether a member of the state legislature may ask state employees to prepare and mail Christmas cards to constituents. (AOR-213)*

A member of the legislature has asked the Texas Ethics Commission whether he may ask state employees to prepare and mail Christmas cards to constituents. The member of the legislature states that he would use political contributions to purchase the cards and to pay for postage.<sup>1</sup>

In 1979 the attorney general opined that county funds could not be used to purchase or mail Christmas cards in the absence of any assertion that the *county* received a benefit from the activity. Attorney General Opinion MW-36 (1979). The attorney general based this conclusion on the constitutional provisions requiring that taxes and other public funds be used for public purposes. Tex. Const. art. III, § 52; art. VIII, § 3. We assume the attorney general would reach the same conclusion in regard to *state* funds, since state funds are subject to similar constitutional restrictions. Tex. Const. art. III, § 51; art. VIII, § 3; *see* Gov't Code § 571.096(c) (Ethics Commission shall rely on opinions issued by the attorney general). Thus, the use of the work time of state employees to prepare and mail a member's Christmas cards to constituents is not permissible. *See* Penal Code § 39.01. *See generally* [Ethics Advisory Opinions Nos. 172, 134](#) (1993) (work time of state employees is a thing of value belonging to the state).

The request letter says the member would use political contributions to purchase the cards and to pay for postage. We think this is a permissible use of political contributions. A person who accepts political contributions may not convert the contributions to personal use. Elec. Code § 253.035(a). "Personal use" is "a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(d). Although sending Christmas cards may not be *state business*, we think "state business" is a narrower category than "duties or activities" as an officeholder. It is a common practice among holders of public office, and we think it is connected with the activities of office. *See* Elec. Code § 251.001(9) ("officeholder expenditure" is an expenditure in connection with the duties and activities of office that is not reimbursable with public funds). Therefore, a legislator may use political contributions to purchase, prepare, and mail Christmas cards.

### SUMMARY

A member of the legislature may not use the work time of state employees to prepare and mail Christmas cards to the legislator's constituents. A member of the legislature may use political contributions to purchase, prepare, and mail Christmas cards.

<sup>1</sup> The request letter says the payments will come from the member's "officeholder account." Although this term is commonly used, we note that the Election Code provides that a candidate or officeholder "may not maintain officeholder contributions accepted by that person in an account separate from campaign contributions." Elec. Code § 253.040. *See generally* *id.* § 251.001(3), (4), (7), (9) (defining "campaign contribution," "officeholder contribution," "campaign expenditure," and "officeholder expenditure"). Further, there is no requirement that officeholder contributions be used for officeholder purposes. Section 253.036 of the Election Code provides that an officeholder "who lawfully accepts officeholder contributions may use those contributions in connection with the officeholder's campaign for elective office after appointing a campaign treasurer." The only restriction on the use of either officeholder contributions or campaign

contributions is that neither may be converted to personal use. For this reason, this opinion simply considers whether it is permissible to use "political contributions" to pay for Christmas cards and postage. See *id.* § 251.001(5) ("political contribution" means a campaign contribution or an officeholder contribution).