



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 227

October 14, 1994

Whether the "members" of a Texas farm mutual insurance company, as provided for in chapter 16 of the Texas Insurance Code, are "members" of the insurance company for purposes of section 253.098 of the Election Code. (AOR-251)

The Texas Ethics Commission has been asked to consider whether the "members" of a Texas farm mutual insurance company, as provided for in chapter 16 of the Texas Insurance Code, are "members" of the insurance company for purposes of section 253.098 of the Election Code.

The Election Code places restrictions on political activity by corporations. Certain entities, including insurance companies, are considered to be corporations for purposes of those restrictions, regardless of whether they are actually incorporated. Elec. Code § 253.093(a). Therefore, a farm mutual insurance company, like all insurance companies, is subject to the restrictions on political activity that apply to corporations.

Although the Election Code restricts corporate political activity, a corporation may make direct campaign expenditures to communicate to its stockholders. *Id.* § 253.098. For purposes of that provision, "members" of an insurance company are considered to be stockholders. *Id.* § 253.093(b). The request letter raises the question whether the "members" of a Texas farm mutual insurance company, as provided for in article 16.01 of the Insurance Code, are "members" of the insurance company for purposes of section 253.098 of the Election Code.

A farm mutual insurance company, which is organized on a "mutual or cooperative plan," does not have stockholders. Ins. Code art. 16.01(a). Control of a farm mutual insurance company is vested in its policyholders, who are also described as "members." *Id.* arts. 16.01(d), 16.08(g). We think the Insurance Code provisions prescribing the organization of a farm mutual insurance company are the appropriate source for determining who is a "member" of a farm mutual insurance company for purposes of section 253.098 of the Election Code. *See also Ethics Advisory Opinion No. 225* (1994). Therefore, a "member" of a farm mutual insurance company, as provided for in chapter 16 of the Insurance Code, is a "member" of the insurance company for purposes of section 253.098 of the Election Code. It follows that section 253.098 of the Election Code permits a farm mutual insurance company to make direct campaign expenditures for communications to its policyholders, who are described in chapter 16 of the Insurance Code as its members.

The request letter also raises the question whether a political advertising disclosure statement is required on a farm mutual insurance company's campaign communications to its members. *See* Elec. Code § 255.001. The request letter states that the insurance company will not enter into a contract or other agreement to print, publish, or broadcast the communications. We rely on the assertion in the request letter that there is "no contract or other agreement." *See also* 1 T.A.C. § 26.5 (disclosure not required on letterhead stationery in certain circumstances). Because a disclosure statement is required only in circumstances in which there is a contract or other agreement to print, publish, or broadcast political advertising, no disclosure statement is required in the circumstances described. Nonetheless, we note that when it is unclear whether the disclosure is necessary, the cautious thing to do is to use the disclosure.

SUMMARY

A "member" of a farm mutual insurance company, as provided for in chapter 16 of the Insurance Code, is a "member" of the farm mutual insurance company for purposes of section 253.098 of the Election Code.