



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 235

December 9, 1994

Whether a member of the legislature may accept free use of office space in a county-owned building offered by a county within the district the legislator represents. (AOR-263)

The Texas Ethics Commission has been asked to consider whether a member of the legislature may "accept the gratis use of legislative district office space in a county-owned building offered by Resolution of the County Commissioners of a county within the district the legislator represents." The Ethics Commission has no authority to consider the authority of a county to provide office space to a member of the legislature. The Ethics Commission has authority to issue advisory opinions regarding: (1) chapter 302 of the Government Code (speaker's race); (2) chapter 305 of the Government Code (lobby); (3) chapter 572 of the Government Code (financial disclosure and standards of conduct); (4) title 15 of the Election Code (campaign finance); (5) chapter 36 of the Penal Code (bribery); and (6) chapter 39 of the Penal Code (abuse of office).

Although both chapter 36 of the Penal Code and chapter 305 of the Government Code place restrictions on the types of gifts or donations a member of the legislature may accept, neither of those statutes prohibits a member of the legislature from accepting office space from a county.

The Penal Code imposes a prohibition on the acceptance of "benefits" on members of the legislature. Penal Code § 36.08(f); *see id.* § 36.01(3) (a "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage). Although free use of office space is a benefit, there is an exception to the prohibition on benefits that applies to "an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity." *Id.* § 36.10(a)(7). In our opinion, use of office space authorized by a county commission fits within that exception.

The lobby law also places restrictions on a legislator's acceptance of gifts from an individual or entity registered as a lobbyist. Gov't Code § 305.024. Those restrictions are not applicable here, however, because a county is not required to register as a lobbyist. [Ethics Advisory Opinion No. 69](#), n.1 (1992).

SUMMARY

Neither chapter 36 of the Penal Code nor chapter 305 of the Government Code prohibits a member of the legislature from accepting free use of office space from a county.