



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 249

February 24, 1995

Whether a member of the legislature may use political contributions to pay for using an airplane owned by a corporation in which the legislator has an interest. (AOR-279)

The Texas Ethics Commission has been asked to consider whether a member of the legislature may use political contributions to pay for using an airplane owned by a corporation in which the legislator has an interest. The legislator plans to use the plane to fly to Austin for legislative purposes.

A member of the legislature may use political contributions to pay for transportation to and from Austin for legislative purposes. *See* Elec. Code § 253.035 (regarding impermissible personal use of political contributions). *See generally* [Ethics Advisory Opinion No. 129](#) (1993) (use of personal airplane for campaign or officeholder purposes). Because the proposed payments will be made to a corporation in which the legislator has an interest, however, the payments must be in accordance with section 253.041 of the Election Code.

Section 253.041 regulates the use of political contributions by a candidate, officeholder, or specific-purpose political committee supporting a candidate or officeholder to make payments to a business in any one of the following categories: (1) a business in which the candidate or officeholder has a participating interest of more than 10 percent; (2) a business in which the candidate or officeholder holds a position on the governing body of the business; or (3) a business in which the candidate or officeholder serves as an officer of the business. Elec. Code § 253.041(a). A payment from political contributions to a business in one of those categories

must not exceed the amount necessary to reimburse the business for actual expenditures made by the business. In other words, the business may not make any profit on such a transaction.

The prohibition on corporate political contributions may also be relevant to the issue raised here. While section 253.041 prohibits a payment that is greater than the amount necessary to reimburse the business for actual expenses, a discount from an incorporated business may result in a prohibited corporate contribution.¹ *See id.* § 253.094 (prohibiting corporate political contributions). Consequently, in a situation in which a payment from political contributions is subject to both the restriction in section 253.041 and also the prohibition on corporate political contributions, the payment to the corporation must be in the amount reasonably necessary to reimburse the corporation for its expenses, neither more nor less.² *See* [Ethics Advisory Opinion No. 35](#) (1992) (payment to corporation in accordance with section 253.041 does not result in a prohibited corporate contribution).

SUMMARY

A member of the legislature may use political contributions to pay for transportation to and from Austin for legislative purposes. A payment from political contributions to a business in one of the categories listed in section 253.041(a) must not exceed the amount necessary to reimburse the business for actual expenditures made by the business.

If a situation arises in which a payment from political contributions is subject to both the restriction in section 253.041 and also the prohibition on corporate political contributions, the payment to the corporation must be in the amount reasonably necessary to reimburse the corporation for its expenses, neither more nor less.

¹ Use of the corporate plane in question for a charge less than necessary to reimburse the corporation for the use of the plane may be a political contribution in the form of an officeholder contribution. See Elec. Code § 251.001(5) (political contributions include campaign contributions and officeholder contributions). An officeholder contribution is a contribution offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and that are not reimbursable with public money. Id. § 251.001(4). See generally [Ethics Advisory Opinion No. 204](#) (1994) (reimbursement of political funds from state reimbursement for travel expenses).

² The request letter also raises a question about payments from political contributions for use of the corporate plane for campaign purposes. A candidate may use political contributions to pay for transportation for campaign purposes. Because both section 253.041 and section 253.094 would apply to a payment from political contributions for campaign use of the plane in question, the payment to the corporation for use of the plane would have to be in the amount reasonably necessary to reimburse the corporation for its expenses.