



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 259

May 12, 1995

Application of the reporting requirements and restrictions in the lobby law to a lobbyist who makes expenditures for a spouse or friend who is a member of the legislative or executive branch of state government. (AOR-288)

The Texas Ethics Commission has been asked to consider several questions about the application of the reporting requirements and restrictions in the lobby law. The questions are about the application of certain reporting requirements and restrictions to expenditures a lobby registrant makes for a spouse or personal friend who is a member of the legislative or executive branch of state government. *See* Gov't Code § 305.002(4), (7) ("member of the executive branch" includes officers and employees in the executive branch; "member of the legislative branch" includes legislators and legislative employees).

The first question is whether a lobby registrant must report expenditures for food and beverages for a spouse or personal friend if the expenditures are not made in connection with communications intended to influence legislation or administrative action.

Section 305.006 of the Government Code requires a lobby registrant to report expenditures for food and beverages if the expenditures are made to communicate directly with a member of the legislative or executive branch to influence legislation or administration action. By the clear terms of section 305.006, expenditures for food and beverages are not required to be reported if there is no intent to influence legislation or administrative action.

Section 305.0061(b) requires detailed information about "expenditures that exceed \$50 a day for food and beverages for a member of the legislative or executive branch." Although section 305.0061(b) does not qualify the term "expenditure," we interpret "expenditure" in that section to include only expenditures made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action. The basis for this conclusion is the fact that section 305.0061(b) seeks more detailed information about certain expenditures "on the report filed under section 305.006," which is a report that includes only expenditures made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

The next question raised is whether a lobby registrant may make expenditures for transportation and lodging for a spouse or personal friend who is a member of the legislative or executive branch of state government. In addition to the reporting requirements, the lobby law imposes certain restrictions on the expenditures a lobby registrant may offer or confer to a member of the legislative or executive branch. *Id.* § 305.024. Those restrictions apply regardless of whether the expenditures are made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action. Among the restrictions is a restriction on expenditures for transportation and lodging. *Id.* § 305.024(a)(3).

There are exceptions to the restrictions. One exception is for "a loan or guarantee of a loan *or a gift* made or given by a person related within the second degree by affinity or consanguinity to the member of the legislative or executive branch." *Id.* § 305.025(2) (emphasis added). In this context, we think the term "gift" includes a gift in the form of transportation and lodging.¹ Because spouses are related in the first degree by affinity, a lobby

registrant may confer a gift in the form of transportation or lodging to his or her spouse, even if the spouse is a member of the legislative or executive branch. *See id.* § 573.025 (regarding relationships by affinity). The lobby registrant would be required to report such expenditures only if the lobby registrant made the expenditures to communicate with his spouse to influence legislation or administrative action.

The remaining question is whether a lobbyist may make an expenditure for transportation and lodging for a personal friend who is a member of the legislative or executive branch. Again, the restriction on expenditures for transportation and lodging applies regardless of whether the expenditures are made with the intent to influence. The only exceptions to the prohibition on a lobbyist's provision of transportation and lodging to a member of the legislative or executive branch are the exception for transportation and lodging provided by relatives; the exception for transportation and lodging provided in connection with a fact finding trip; and an exception for transportation and lodging provided in connection with a conference or similar event at which the member of the legislative or executive branch renders services. Gov't Code § 305.025. Therefore, under chapter 305 of the Government Code, a lobbyist may provide transportation and lodging to a personal friend who is a member of the legislative or executive branch only if one of the exceptions in section 305.025 is applicable.

SUMMARY

Expenditures for food and beverages are required to be reported under chapter 305 of the Government Code only if the expenditures are made to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

A lobby registrant may confer a gift in the form of transportation or lodging to his or her spouse, even if the spouse is a member of the legislative or executive branch. A lobby registrant may not confer a gift in the form of transportation or lodging to a personal friend who is a member of the legislative or executive branch unless one of the exceptions in Government Code section 305.025 is applicable.

¹ For reporting purposes, transportation and lodging should be reported under "transportation and lodging," not under "gifts." An expenditure should be reported under the more specific of the applicable categories.