



# TEXAS ETHICS COMMISSION



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## ETHICS ADVISORY OPINION NO. 270

*July 14, 1995*

*Whether contributions to a fund to be used for the purpose of financing a private lawsuit seeking to overturn federal control over Texas prisons are subject to title 15 of the Election Code. (AOR 276)*

The Texas Ethics Commission has been asked whether the provisions of title 15 of the Election Code, the campaign finance law, would apply to a group formed to accept contributions and make expenditures for the purpose of financing a lawsuit seeking to overturn federal control over Texas prisons.

Title 15 of the Election Code governs the acceptance and expenditure of political funds by individuals and political committees. A political committee is "a group of persons that has as a principal purpose accepting political contributions or making political expenditures." Elec. Code § 251.001(12). Political contributions may be either campaign or officeholder contributions. A campaign contribution or expenditure is one made in connection with a campaign for elective office or on a measure. An officeholder contribution or expenditure is one intended to defray expenses, not reimbursable with public money, incurred by an officeholder in performing a duty or engaging in an activity in connection with the office. The facts provided by the requestor do not indicate that the funds collected in support of the lawsuit would be given or used in connection with a campaign for elective office or in connection with a ballot measure. The remaining question is whether donations to the fund would be "officeholder contributions."

The requestor states that the proposed lawsuit would be brought by certain members of the legislature, all of whom have standing to bring the action solely because of their status as officeholders. Because the lawsuit is being pursued by legislators in their status as officeholders, funds collected to promote the lawsuit are to defray expenses incurred by officeholders engaging in an activity in connection with their office and are therefore officeholder contributions.<sup>1</sup> Consequently, if the committee collects more than \$500 in political contributions or spends more than \$500 on political expenditures, it must file an appointment of campaign treasurer with the Texas Ethics Commission as well as periodic reports of political contributions and expenditures. Elec. Code § 253.031(b) (political committee may not exceed \$500 in political contributions accepted or expenditures made unless it has filed an appointment of campaign treasurer).

### SUMMARY

A group that accepts contributions and makes expenditures to assist members of the legislature acting in their capacity as legislators in filing a lawsuit is a political committee for purposes of title 15 of the Election Code.

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<sup>1</sup> We assume the costs of the lawsuit are not reimbursable with public money.