



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 286

October 13, 1995

Whether it is permissible to contribute surplus funds from a campaign for Speaker of the House of Representatives to charitable organizations. (AOR-320)

The Texas Ethics Commission has been asked whether it is permissible to contribute surplus funds from a campaign for Speaker of House of Representatives to charitable organizations.

Campaign funds for speaker candidates are governed by chapter 302 of the Government Code. For purposes of chapter 302, a "speaker candidate" is a member of or candidate for the house of representatives who has announced his candidacy for speaker of the house of representatives or who "by his actions, words, or deeds seeks election to" the office of speaker. Gov't Code § 302.011(1). "Campaign funds" are the "speaker candidate's personal funds that are devoted to the campaign for speaker and any money, services, or other things of value that are contributed or loaned to the speaker candidate for use in the candidate's campaign for speaker." *Id.* § 302.011(3). Section 302.020 of the Government Code provides that a speaker candidate may expend such campaign funds for the following purposes:

- (1) travel for the speaker candidate and the speaker candidate's immediate family and campaign staff;
- (2) the employment of clerks and stenographers;
- (3) clerical and stenographic supplies;
- (4) printing and stationery;
- (5) office rent;
- (6) telephone, telegraph, postage, freight, and express expenses;
- (7) advertising and publicity;
- (8) the expenses of holding political and other meetings designed to promote the candidacy;
- (9) the employment of legal counsel; and
- (10) the retirement of campaign loans.

Under section 302.021(a)(3), a speaker candidate commits an offense if he expends campaign funds for any purpose other than those set out above.

The legislature that enacted chapter 302 apparently did not anticipate the possibility of surplus funds. *Cf.* Elec. Code § 254.204 (disposition of unexpended contributions under title 15 of the Election Code). Taken literally, this gap in the statute leads to the result that no expenditure of surplus speaker campaign funds is permissible. *See Ethics Advisory Opinion No. 170* (1993) (interpreting the term "expends" in section 302.021(a)(3) to

conclude that a former speaker candidate who returns contributions to contributors would not be "expending" those contributions).

This commission considered a similar matter in [Ethics Advisory Opinion No. 207](#) (1994). In that opinion we considered the appropriate disposition of anonymous political contributions. Because anonymous political contributions may neither be accepted nor returned to their source, we concluded that it was appropriate to transfer them to a recognized tax-exempt charitable organization. This situation is similar. A former speaker candidate no longer needs to use speaker contributions in connection with a speaker campaign, and it may be exceedingly burdensome to return them to their source. Consequently we think it is also appropriate in this situation to permit the donation of surplus funds from a campaign for Speaker of the House of Representatives to a recognized tax-exempt charitable organization.

SUMMARY

It is permissible to donate surplus funds from a campaign for speaker of the House of Representatives to a recognized tax-exempt charitable organization.