



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 288

November 3, 1995

Whether a judicial candidate for a newly created district court may accept political contributions and make political expenditures despite the fact that the creation of the new court is contingent on approval by the United States Department of Justice. (AOR-322)

The Texas Ethics Commission has been asked whether a judicial candidate for a district court newly created by the Texas Legislature may accept political contributions and make political expenditures despite the fact that the creation of the new court is contingent on approval by the United States Department of Justice. Under the federal Voting Rights Act, any new judicial district must be pre-cleared by the United States Department of Justice. At this time, the matter of the new court's pre-clearance is still pending with that office.

The new district court is to be a single-county court carved out of what is now a multi-county district. The candidate in question has filed a campaign treasurer appointment and declaration of intent to comply with the limits set by the Judicial Campaign Fairness Act (a "judicial declaration of intent") with the county clerk. These filings are all that is required for the candidate to begin to accept political contributions and make political expenditures under title 15 of the Election Code. Elec. Code §§ 252.005, 253.031, 253.164.¹ The fact that the new court has not yet been pre-cleared does not prevent the requestor from accepting contributions with the intent of running for that court.

The requestor plans to run for the existing multi-county district court if the new court is not pre-cleared.² The candidate may use contributions raised with the intent of running in the newly created single-county district to run for a seat in the existing multi-county district.³

SUMMARY

A judicial candidate for a newly created district court may accept political contributions and make political expenditures despite the fact that the new district has yet to be approved by the United States Department of Justice, provided that the candidate has filed a campaign treasurer appointment and a Judicial Declaration of Intent form with the proper filing authority for the newly created district court.

¹ Section 253.164 is a provision of the newly enacted Judicial Campaign Fairness Act. S.B. 94, Acts 1995, 74th Leg., ch. 763, Tex. Sess. Law Serv. at 3958.

² In that event, the candidate would be required to transfer the appointment of campaign treasurer and judicial declaration of intent filings to the Ethics Commission. See 1 T.A.C. § 20.206 (Transfer of Campaign Treasurer Appointment).

³ Judicial candidates are subject to various limits on contributions, loans, and expenditures. The limits vary by population. The requestor intends to seek election from a new district with a smaller population than the existing district. Therefore, the requestor presumably will be within the limits applicable to either district in which he may ultimately run.