



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 308

March 22, 1996

Whether records maintained by an officeholder in accordance with section 254.001 of the Election Code are public records. (AOR-342)

The Texas Ethics Commission has been asked to consider whether records maintained by an officeholder in accordance with section 254.001 of the Election Code are public records. This request arises because a county official received a request for "backup records" in connection with his reports of contributions and expenditures filed under title 15 of the Election Code.

Under title 15 of the Election Code candidates and elected officeholders are required to file periodic reports of political contributions and expenditures. Elec. Code ch. 254, subchs. C, D. In addition, candidates and officeholders are required to maintain records containing the information that is necessary for filing those reports. *Id.* § 254.001(a), (c). Candidates and officeholders must maintain those "backup records" for two years after the filing deadline for the report to which the records pertain. *Id.* § 254.001(d). Such "backup records" are not required to be filed with any government authority.

Under section 1.012 of the Election Code, an election record that is public information shall be made available to the public during the regular business hours of the record's custodian. The requestor has asked whether "backup records" maintained under section 254.001 are public records.

There is nothing in title 15 of the Election Code that makes those "backup records" public records. Whether those records are public information under chapter 552 of the Government Code is a question for the attorney general.¹

SUMMARY

"Backup records" maintained by a candidate or officeholder pursuant to section 254.001 of the Election Code are not public records under title 15 of the Election Code. Whether such records are public information under chapter 552 of the Government Code is a question for the attorney general.

¹ We note that the definition of "public information" in Government Code chapter 552 includes information maintained by a governmental body or information maintained for a governmental body if the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a). "Backup records" are not maintained by a filing authority. Further, a filing authority does not own backup records, nor does title 15 give filing authorities a right of access to backup records. See *id.* § 571.069 (Ethics Commission may audit filings by an affirmative record vote of at least six commissioners; any information disclosed in an audit is confidential unless it was previously public information).