



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 323

May 10, 1996

Consequences of a judicial candidate's failure to file a declaration of intent under section 253.164 of the Election Code. (AOR-347)

The Texas Ethics Commission has been asked about the consequences of a judicial candidate's failure to file a declaration of intent under section 253.164 of the Election Code. The specific question is whether a candidate's failure to file a declaration of intent releases the candidate's opponent from any of the restrictions in the Judicial Campaign Fairness Act.¹

The Judicial Campaign Fairness Act imposes contribution limits and imposes limits on the reimbursement of personal funds from political contributions. Elec. Code §§ 253.155, 253.162. It also sets out voluntary limits on campaign expenditures. A judicial candidate must file a declaration of intent to comply or not to comply with those expenditure limits. Elec. Code § 253.164. A candidate who fails to file such a declaration is prohibited from accepting any campaign contributions or making any campaign expenditures. *Id.* § 253.164(c). A candidate who violates that prohibition is liable for a civil penalty not to exceed three times the amount of political contributions or political expenditures made without a declaration of intent on file. The act does not set out any other consequences for a candidate's failure to file a declaration of intent. Therefore, a candidate's failure to file a declaration of intent does not result in the release of the candidate's opponent from compliance with any restrictions in the Judicial Campaign Fairness Act.²

SUMMARY

A judicial candidate's failure to file a declaration of intent under section 253.164 of the Election Code does not release the candidate's opponent from compliance with any of the restrictions in the Judicial Campaign Fairness Act.

¹ The Texas legislature adopted the Judicial Campaign Fairness Act in 1995. Subchapter F of chapter 253 of the Election Code contains many of the restrictions set out in the act. The restrictions apply to judicial candidates for and judges on the Supreme Court, the Court of Criminal Appeals, a court of appeals, a district court, a statutory county court, and a statutory probate court. Elec. Code § 253.151.

² There are circumstances in which a complying candidate is released from compliance with certain restrictions. See Elec. Code §§ 253.165, 253.170.