



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 355

December 13, 1996

Whether an incorporated association may offer members of the legislature world wide web home pages and related services during the legislative session. (AOR-392)

The Texas Ethics Commission has been asked whether an incorporated association may offer members of the legislature world wide web home pages and related services during the legislative session. The requestor proposes to provide a "home page," limited support, and Internet access for the purpose of maintaining material on the page and receiving e-mail to any legislator who wishes to participate. The members would not be restricted in the kinds of material they could post on the home page. The requestor estimates the value of the services provided to be about \$275 per legislator for the year.

A member of the legislature may not accept any benefit from any person unless the benefit falls within one of the exceptions listed in section 36.10 of the Penal Code. Penal Code §§ 36.08(f), 36.10.¹ One of those exceptions may apply here: the exception for gifts required to be reported under the lobby law, Chapter 305 of the Government Code. *Id.* § 36.10(a)(5).

If the association makes the expenditures for the services to directly communicate with a member with the intent to influence legislative action, the provision of home page services would be a lobby expenditure in the form of a gift. *See generally* [Ethics Advisory Opinion No. 46](#) (1992); [Ethics Advisory Opinion No. 4](#) (1992) (communications to generate goodwill may be communications to influence). We understand that the association employs a registered lobbyist and would make the expenditures with lobby intent. In that case, the lobbyist would report the gift of the home page services in detail for each participating legislator on the lobby activities report, and the gift would be counted against the annual \$500 limit on total gifts per lobbyist per legislator. Gov't Code §§ 305.006, 305.0061(c) (detailed reports), 305.024(a)(5) (annual limit on gifts). Because the expenditures would be required to be reported under the lobby law, they would be permissible under sections 36.08 and 36.09 of the Penal Code. Penal Code § 36.10(a)(5).²

SUMMARY

An incorporated association may offer members of the legislature world wide web home pages and related services during the legislative session if the services are donated to directly communicate with the members with the intent to influence legislative action, and are properly reported by a registered lobbyist.

¹ Likewise, a person may not offer or confer any benefit on a public servant that the person knows the public servant is prohibited by law from accepting. Penal Code § 36.09.

² The requestor states the home page is intended to allow legislators to communicate more effectively with their constituents about the legislative process, and could be used for "political" purposes as well. If the home page services are not provided with lobby intent, they would constitute political contributions. See Elec. Code § 251.001(2)(B) ("Contribution" does not include an expenditure required to be reported under Gov't Code § 305.006(b)), (3), (4). The association, however, as a corporate entity, is prohibited from making political contributions. See *id.* ch. 253, subch. D. We note, moreover, that legislators may not accept political contributions during the period beginning 30 days before the start of a regular session and continuing through the final day of adjournment. *Id.* § 253.034.