



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 391

January 16, 1998

Whether a candidate may correct a report filed before the issuance of Ethics Advisory Opinion No. 375 to indicate that the candidate intends to reimburse himself with interest for the use of personal funds for campaign purposes, and also whether a candidate may accept a campaign contribution from a city. (AOR-430)

A candidate has asked the Texas Ethics Commission whether he may correct a report to indicate his intention to reimburse himself with interest for the use of personal funds for campaign purposes. The candidate has also asked whether a candidate may accept a campaign contribution from a city.

CORRECTING REPORT TO INCLUDE INTEREST RATE

In regard to the first question, the Election Code provides that a candidate or officeholder may use political contributions to reimburse himself or herself for political expenditures from personal funds as long as the expenditures are properly reported. Elec. Code §§ 253.035(h), .0351; *see also id.* § 253.042 (cap on total of political contributions statewide candidates and officeholders may use to reimburse themselves). We stated in a recent opinion that a candidate or officeholder may use political contributions to pay himself or herself interest at a commercially reasonable rate for political expenditures from personal funds. [Ethics Advisory Opinion No. 375](#) (1997). We emphasized, however, that a candidate or officeholder may do so only if the political expenditures from personal funds are properly reported and if the report sets out the rate at which the candidate or officeholder intends to pay interest to himself or herself.¹

The question here is about certain political expenditures that a candidate made from personal funds before September 12, 1997, the date we adopted [Ethics Advisory Opinion No. 375](#) (1997). The candidate reported the expenditures on a July 1997 report and indicated his intent to reimburse himself, but did not indicate that he would reimburse himself with interest. The issue is whether the candidate may file a correction to his July 1997 report to indicate his intent to reimburse himself with interest.

Generally, a candidate or officeholder may not file a corrected report to indicate an intent to reimburse himself or herself for political expenditures from personal funds. 1 T.A.C. § 20.63(e). *See generally id.* ch. 18, subch. B (regarding corrected reports). In our view, however, that rule should not apply in this specific instance. Many candidates and officeholders may have assumed that they could not reimburse themselves with interest for political expenditures from personal funds because a 1984 opinion issued by the State Ethics Advisory Commission had stated that such interest payments were impermissible. [State Ethics Advisory Opinion No. 84-27](#) (1984). In [Ethics Advisory Opinion No. 375](#) (1997), we clarified the issue by explaining that the 1984 opinion was no longer valid because of subsequent amendments to the law. Because of the uncertainty that existed before we adopted [Ethics Advisory Opinion No. 375](#) (1997), we conclude that a candidate or officeholder may correct a report filed before September 12, 1997, to indicate an intent to reimburse himself or herself with interest for political expenditures from personal funds, as long as the political expenditures from personal funds were themselves timely reported.

POLITICAL CONTRIBUTIONS FROM A CITY

The next question is whether a candidate may accept a political contribution from a city. The Election Code does not prohibit a candidate from accepting a political contribution from a city. *See generally* Elec. Code § 253.091 (prohibitions on political contributions from corporations do not apply to political contributions from municipal corporations). A city is, however, subject to constitutional limitations on how it may spend its funds. Tex. Const.

art. III, § 52. The Attorney General has authority to issue advisory opinions about constitutional questions.²

SUMMARY

A candidate or officeholder may correct a report filed before September 12, 1997, to indicate an intent to reimburse himself or herself with interest for political expenditures from personal funds, as long as the political expenditures from personal funds and the intention to seek reimbursement for the expenditures were themselves timely reported.

Although the Election Code does not prohibit the acceptance of a political contribution from a city, the Texas Constitution may prohibit the city from making such a contribution.

¹ The requestor specifically asks about "loans " he made to his campaign. Technically speaking, a candidate does not "loan" himself money. [Ethics Advisory Opinion No. 258](#) (1995). It is important to note that a candidate or officeholder may not pay himself or herself interest on money that he or she has merely transferred from a "personal account " to a "political account. " Such a transfer does not effect a change in the personal nature of the funds and is not, by itself, an "expenditure." Rather, a political expenditure from the transferred personal funds would occur if a payment for political purposes were made from the transferred funds. *See generally* Elec. Code § 253.0351 (allowing candidate or officeholder to report political expenditure from personal funds as "loan "); [Ethics Advisory Opinion No. 230](#) (1994).

² The Ethics Commission has authority to issue advisory opinions only in regard to the statutes listed in Government Code section 571.091.