



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 393

February 13, 1998

Whether a district judge who is running for re-election in 1998 may use political contributions accepted in 1997 or 1998 to pay debts incurred in 1992 in connection with a legislative race. (AOR-431)

The Texas Ethics Commission has been asked whether a district judge who is running for re-election in 1998 may use political contributions accepted in 1997 or 1998 to pay debts incurred in 1992 in connection with a legislative race. A candidate for district judge is subject to various contribution limits. Elec. Code §§ 253.153, .155, .157, .160. The question raised here is whether contributions accepted in accordance with those limits may be used to pay debts remaining from a 1992 campaign for the Texas legislature. At issue is the following provision, which was enacted in 1995:

(a) A judicial candidate or officeholder, a specific-purpose committee for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder may not use a political contribution to make a campaign expenditure for judicial office or to make an officeholder expenditure in connection with a judicial office if the contribution was accepted while the candidate or officeholder:

- (1) was a candidate for an office other than a judicial office; or
- (2) held an office other than a judicial office, unless the person had become a candidate for judicial office.

(b) A candidate, officeholder, or specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not use a political contribution to make a campaign expenditure for an office other than a judicial office or to make an officeholder expenditure in connection with an office other than a judicial office if the contribution was accepted while the candidate or officeholder:

- (1) was a candidate for a judicial office; or
- (2) held a judicial office, unless the person had become a candidate for another office.

Id. § 253.161.

As part of the Judicial Campaign Fairness Act, the legislature provided that a political contribution accepted or a political expenditure made before the June 16, 1995, effective date of the Judicial Campaign Fairness Act is governed by the law in effect on the date the contribution or expenditure was made. Acts 1995, 74th Leg., ch. 763, § 10(d). The question about how that provision applies to the use of contributions received in 1997 or 1998 to make payments in 1998 to repay debts attributable to expenditures incurred in connection with a 1992 election allows for considerable technical debate. In interpreting the Judicial Campaign Fairness Act, however, we have relied on that provision as evidence of legislative intent that the Judicial Campaign Fairness Act not disadvantage candidates because of debts incurred before June 16, 1995. *See* 1 T.A.C. § 22.32; [Ethics Advisory Opinion No. 350](#) (1996) (restriction in Judicial Campaign Fairness Act on use of political contributions to repay

loans from relatives does not apply to loans made before the effective date of the Judicial Campaign Fairness Act). Further, candidates who incur debt after June 16, 1995, are on notice that money raised in connection with a judicial campaign may not flow into a nonjudicial campaign and that money raised in connection with a nonjudicial campaign may not flow into a judicial campaign. In contrast, a candidate who incurred debts before June 16, 1995, had no such notice. Consequently, we conclude that the restrictions in section 253.161 do not apply to the use of political contributions to pay debts incurred in connection with elections that took place before June 16, 1995.

SUMMARY

The restrictions in Election Code section 253.161 do not apply to the use of political contributions to pay debts incurred in connection with elections that took place before June 16, 1995.