



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 404

August 14, 1998

Regarding compliance with the disclosure requirement set out in Election Code section 255.001 by a political committee that has not crossed either of the thresholds set out in Election Code section 253.031(b) and has therefore not yet filed a campaign treasurer appointment. (AOR-445)

The Texas Ethics Commission has been asked about the application of the political advertising disclosure statement requirement in Election Code section 255.001 to a political committee that has not filed a campaign treasurer appointment. The specific question is whether a political committee may use its name in a political advertising disclosure statement if the committee has not disclosed its name in a campaign treasurer appointment. *See* Elec. Code §§ 252.002, .003, .0031 (regarding contents of campaign treasurer appointment).

A political committee is "a group of persons that has as a principal purpose accepting political contributions or making political expenditures." *Id.* § 251.001(12). A political committee must file a campaign treasurer appointment before it exceeds \$500 in political contributions or political expenditures, *id.* § 253.031(b), but the creation of a political committee may, and often does, precede the filing of a campaign treasurer appointment.

The Election Code does not prescribe the method of creation or the organizational structure of a political committee.¹ Nor does it set out a procedure by which a political committee must adopt a name. The Election Code does contain several provisions that regulate the names of certain types of political committees, but nothing in the Election Code prevents a political committee from using its name before it files a campaign treasurer appointment. *See id.* §§ 252.003(d) (name of general-purpose political committee must contain name of connected organization), 252.0031(b) (name of specific-purpose committees supporting certain candidates); *see also* 1 T.A.C. § 20.409 (clarifying Elec. Code § 252.003(d)).² The name that a political committee uses in the disclosure statement required by Election Code section 255.001 must, of course, be a name that the political committee uses consistently.³ Attorney General Opinion H-432, at 2 (1974) ("At common law, a person could change names by repute without official approval if the change was not done for fraudulent purposes and the new name was used consistently").

SUMMARY

A political committee may use its name in the political advertising disclosure statement required by Election Code section 255.001 even if the committee has not yet filed a campaign treasurer appointment.

¹ Presumably, many political committees are unincorporated associations, but a political committee may be incorporated. *See* Elec. Code § 253.092 (political committee that incorporates for liability purposes only is not subject to restrictions on corporate political activity); *see also* 1 T.A.C. § 24.1(d) (procedure for incorporating for liability purposes only. *See generally* 7 Tex. Jur. 3d *Associations and Clubs* (1997)).

² A political committee must comply with the rules in Election Code sections 252.003(d) and 252.0031(b) regardless of whether it has appointed a campaign treasurer.

³ A political committee must comply with any applicable rules outside of the Election Code that apply to the use of a name by a particular type of organization. *See generally* Bus. & Com. Code § 36.10 (assumed name law applicable to any noncorporate person that regularly conducts business or renders professional services in Texas).