



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 436

October 12, 2001

Whether a member of the Texas Legislature may use political contributions to make a contribution to a candidate for Speaker of the Texas House of Representatives. (AOR-486)

The Texas Ethics Commission has been asked to consider whether a member of the Texas Legislature may use political contributions to make a contribution to a candidate for Speaker of the Texas House of Representatives.

Chapter 302 of the Government Code, which regulates the financing of campaigns for the office of Speaker of the Texas House of Representatives, contains several restrictions on contributions to a speaker candidate. Section 302.017(a) provides that except for loans from certain financial institutions, “a corporation, partnership, association, firm, union, foundation, committee, club, or other organization or group of persons may not contribute or lend or promise to contribute or lend money or other things of value to a speaker candidate or to any other person, directly or indirectly, to aid or defeat the election of a speaker candidate.” Section 302.018 prohibits contributions from an “elected officer or employee of the executive or judicial branch of state government.” Gov’t Code § 302.018. *See generally* [Ethics Advisory Opinion No. 24](#) (1992) (appointed officer of executive branch agency may make contribution to speaker candidate).

In regard to contributions from individuals, section 302.019 expressly authorizes an individual to contribute “personal services and traveling expenses to aid or defeat a speaker candidate” and to “expend a total of not more than \$100 for the cost of correspondence to aid or defeat the election of a speaker candidate.” The absence of any other specific reference in chapter 302 to contributions from individuals suggests that the contributions specifically authorized by section 302.019 might be the only contributions an individual could make to a speaker candidate. The Attorney General considered that issue, however, and concluded that chapter 302, taken as a whole, clearly contemplates other contributions from individuals to speaker candidates. Attorney General Opinion H-55 (1973).¹ The Attorney General concluded therefore that, subject to the limitations in section 302.019, an individual may make contributions of money, services, and other things of value to a speaker candidate. *Id.* at 3-4.

Attorney General Opinion H-55 (1973) also concluded that a member of the Texas Legislature could contribute money, services, and other things of value to a speaker candidate. The question raised here is whether a member of the Texas Legislature may use *political contributions*, as that term is defined in title 15 of the Election Code, to make a contribution to a speaker candidate. *See generally* Elec. Code § 251.001(5) (defining political contribution).

Chapter 302 does not directly address the question of whether a member of the Texas Legislature may use political contributions to make a contribution to a speaker candidate.² Section 302.017, however, prohibits any group, including a committee, from making a contribution to a speaker candidate, *either directly or indirectly*. In contrast, candidates for and holders of seats in the Texas Legislature are free to accept contributions from many types of groups. Consequently, a member who transferred political contributions to a speaker candidate would likely be making an indirect transfer of funds from a prohibited source. We conclude therefore that a member of

the Texas Legislature may not use political contributions to make a contribution to a speaker candidate unless the member is able to demonstrate that the member obtained the funds from a source that is permitted to make contributions to a speaker candidate.

SUMMARY

A member of the Texas Legislature may not use political contributions to make a contribution to a speaker candidate unless the member is able to demonstrate that the member obtained the funds from a source that is permitted to make contributions to a speaker candidate.

¹ Attorney General Opinion H-55 (1973) construed the bill that enacted Article 5428a of the Revised Civil Statutes, the predecessor to chapter 302 of the Government Code.

² In responding to this question, we are considering the use of political contributions *held by an individual* who is a member of the Texas Legislature. Section 302.017 unambiguously prohibits a political committee from making a contribution to a speaker candidate. Gov't Code § 302.017(a).