



# TEXAS ETHICS COMMISSION



## ETHICS ADVISORY OPINION NO. 439

*November 9, 2001*

*Whether a candidate who accepted contributions in connection with a campaign for judge of a municipal court may use those contributions in connection with his campaign for judge of a statutory county court. (AOR-490)*

A candidate for the office of statutory county court judge has asked whether he may use contributions accepted in connection with the office of municipal judge to campaign for the office of statutory county court judge.

Section 253.161(a) of the Election Code, which is part of the Judicial Campaign Fairness Act, provides as follows:

A judicial candidate or 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.

In short, contributions accepted in connection with “an office other than a judicial office” may not be used in connection with a campaign for “a judicial office.” The requestor, who is seeking the office of statutory county court judge, is “a judicial candidate” for purposes of the Judicial Campaign Fairness Act. Elec. Code § 253.151(5). Whether he may use contributions accepted in connection with the office of municipal judge turns on whether a municipal judge is a “judicial officeholder” for purposes of the Judicial Campaign Fairness Act.

A municipal judge is, of course, a judge. Nonetheless, for purposes of the Judicial Campaign Fairness Act the office of municipal judge is not “a judicial office.” *See generally* Tex. Code of Jud. Conduct, Cannon 6(C), *reprinted in* Gov’t Code tit. 2, subtit. G, app. B (municipal judges are required to comply with some sections of Code of Judicial Conduct but not others). The first section in the Judicial Campaign Fairness Act states that the act applies only to political contributions or political expenditures in connection with the office of chief justice or justice of the Supreme Court; presiding judge or judge of the court of Criminal Appeals; chief justice or justice, court of appeals; district judge; judge of a statutory county court; or judge of a statutory probate court. Elec. Code § 253.151. Thereafter the various sections of the act refer to “a judicial candidate or officeholder.” *See, e.g., id.* §§ 253.153 (time limits on contributions to judicial candidate or officeholder), 253.155 (limits on contributions to judicial candidate or officeholder), 253.157 (contributions from law firm to judicial candidate or officeholder) 253.160 (contributions from general-purpose political committee to judicial candidate or officeholder) 253.1611 (contributions from judicial candidate or officeholder). In other words, the act uses the term “judicial candidate or officeholder” to refer to a candidate for or holder of one of the offices listed in section 253.151 and not to any other candidate or officeholder.

The section of the Judicial Campaign Fairness Act at issue here, section 253.161, is the only provision in the Judicial Campaign Fairness Act that refers not only to “judicial candidates and officeholders” but also to

candidates for and holders of “an office other than a judicial office.” Because the term “judicial candidates and officeholders” refers to candidates for and holders of offices listed in section 253.151, it follows that “an office other than a judicial office” refers to any elective office not listed in section 253.151. The office of municipal judge is not listed in section 253.151. Therefore, the office of municipal judge is an office “other than a judicial office” for purposes of the Judicial Campaign Fairness Act. Consequently, a candidate for the office of statutory county court judge may not use contributions accepted in connection with the office of municipal judge to campaign for the office of statutory county court judge.<sup>1</sup>

### **SUMMARY**

A candidate for the office of statutory county court judge may not use contributions accepted in connection with the office of municipal judge to campaign for the office of statutory county court judge.

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<sup>1</sup> The restrictions in section 253.161 apply to political contributions accepted and expenditures made on or after June 16, 1995. S.B. 94, Acts 1995, 74th Leg., ch. 763, § 10(a)(1) (eff. June 16, 1995).