



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 459

November 12, 2004

Whether a home-rule city may adopt an ordinance that requires city candidates and officeholders to transmit reports electronically rather than on paper. (AOR-519)

A home-rule city has asked whether it may adopt a campaign finance ordinance under which candidates and officeholders are required to file reports electronically and are not required to file paper copies of the reports. The request letter states that the city's proposed system would allow filers to print a paper copy that is similar to the paper form prescribed by the Ethics Commission. The request letter also states that the local filing authority would make paper copies of electronic filings available upon request.

Candidates for and holders of elective city offices in Texas are subject to the campaign finance regulations in title 15 of the Election Code. Elec. Code chs. 251 - 258. In a 1996 advisory opinion, we stated that a home-rule city may impose additional campaign finance regulations as long as it is possible to give effect to both the city regulations and the provisions of title 15 of the Election Code. [Ethics Advisory Opinion No. 328](#) (1996).

Candidates and officeholders who file campaign finance reports with the Ethics Commission are, in most cases, required to file their reports electronically. Elec. Code § 254.036(b). City candidates and officeholders are required to file campaign finance reports with the city filing authority and are required to file on a form prescribed by the Ethics Commission. *Id.* §§ 254.066, 252.005(3), 254.036(a). The statute provides that the report must be "written in black ink or typed with black typewriter ribbon unless the report is a computer printout." It also provides that any computer printout must "conform to the same format and paper size as the form prescribed by the commission." *Id.* § 254.036(a). The question here is whether that language prohibits a city from adopting by ordinance a requirement that city candidates and officeholders transmit reports electronically rather than on paper.¹

Section 254.036(a) first appeared in its current form in 1981, and at that time it applied to all filers, including Ethics Commission filers. Acts 1981, 67th Leg., ch. 873, § 7, at p. 3325. Since then, the legislature has mandated electronic filing for most Ethics Commission filers, presumably because electronic filing provides easier access to information than does paper filing. Acts 2003, 78th Leg. R.S., ch. 567, § 1, at p. 1919; Acts 1999, 76th Leg., R.S., ch. 1434, § 1, at p. 4881. Although the legislature did not mandate electronic filing at the local level, it is unlikely that the legislature intended to impede political subdivisions from developing electronic filing systems. Furthermore, although section 254.036(a) assumes that files will be transmitted on paper (and also that filers will have access to black typewriter ribbons), we think the essence of section 254.036(a) is that the information provided should be available in a standard format that is easy to read. Therefore, we do not think that section 254.036(a) should be interpreted to prohibit a home-rule city from adopting an ordinance that requires city candidates and officeholders to transmit reports electronically rather than on paper as long as the ordinance requires the filing authority to make available, upon request, a paper copy of the report that conforms to the same format and paper size as the form prescribed by the commission.

SUMMARY

A home-rule city may adopt an ordinance that requires city candidates and officeholders to transmit reports electronically rather than on paper as long as the ordinance requires the filing authority to make available, upon

request, a paper copy of the report that conforms to the same format and paper size as the form prescribed by the commission.

¹ Under [Ethics Advisory Opinion No. 328](#), it is clearly permissible for a city to adopt an ordinance that requires city candidates and officeholders to file a report in an electronic format *in addition* to a report filed on the paper form. The issue here is whether the city may mandate an electronic filing system that is a substitute for submitting a filing on a paper form.