



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 500

August 11, 2011

Whether section 253.1611(d) of the Election Code prohibits a judicial officeholder, during a calendar year in which the office held does not appear on the ballot, from using political contributions to make over \$250 in political contributions to multiple political committees if the total amount of the contributions to any single political committee does not exceed \$250. (AOR-563)

The Texas Ethics Commission has been asked about the application of section 253.1611(d) of the Election Code to a judicial officeholder. Section 253.1611(d) states:

A judicial officeholder or a specific-purpose committee for assisting a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, *when aggregated with each other political contribution to a political committee* in that calendar year, exceeds \$250.

Elec. Code § 253.1611(d) (emphasis added) ([Appendix A](#) contains the full text of section 253.1611.).

The requestor of this opinion asks whether section 253.1611(d) of the Election Code prohibits a judicial officeholder, during a calendar year in which the office held does not appear on the ballot, from using political contributions to make over \$250 in political contributions to multiple political committees if the total amount of the contributions to any single political committee does not exceed \$250. In other words, may the officeholder use political contributions to make separate political contributions of \$250 to more than one political committee in a calendar year, or is the officeholder's total amount of political contributions to any number of political committees limited to \$250.

In our opinion, section 253.1611(d) of the Election Code does not prohibit an officeholder from using political contributions to make over \$250 in political contributions to multiple political committees, provided that the total amount of the contributions to any single political committee does not exceed \$250.

SUMMARY

Section 253.1611(d) of the Election Code does not prohibit an officeholder, during a calendar year in which the office held does not appear on the ballot, from using political contributions to make over \$250 in political contributions to multiple political committees, provided that the total amount of the contributions to any single political committee does not exceed \$250.

Appendix A

Section 253.1611 states, in full:

- (a) A judicial candidate or officeholder or a specific-purpose committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to knowingly make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder.
- (b) A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make political contributions to a political committee in connection with a primary election.
- (c) A judicial candidate or a specific-purpose committee for supporting or opposing a judicial candidate may not use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500.
- (d) A judicial officeholder or a specific-purpose committee for assisting a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250.
- (e) This section does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that:
 - (1) is made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution; or
 - (2) is in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs.
- (f) For purposes of Subsection (e)(2), a candidate's or officeholder's pro rata share of a political committee's normal overhead and administrative or operating costs is computed by dividing the committee's estimated total expenses for a period by the number of candidates and officeholders to whom the committee reasonably expects to provide goods or services during that period.
- (g) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions used in violation of this section.

¹ The Judicial Campaign Fairness Act includes additional restrictions on political contributions and political expenditures related to judicial candidates and officeholders. This advisory opinion does not address any provisions other than section 253.1611(d) of the Election Code.