



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 513

May 30, 2013

Whether a federal principal campaign committee established to support a candidate for federal office located in Texas that makes a contribution to a state or local office is required to file a campaign treasurer appointment or campaign finance reports with the commission. (AOR-579)

The Texas Ethics Commission (commission) has been asked to consider the reporting requirements applicable to a principal campaign committee (committee) established to support a federal candidate for a congressional office located in Texas that intends to make political contributions totaling more than \$1,000 to state and local candidates in Texas. Specifically, the committee asks whether it is required to file a campaign treasurer appointment or campaign finance reports with the commission. The committee files reports of contributions and expenditures with the Federal Election Commission (FEC) and states that it is not an out-of-state political committee as defined by section 251.001(15) of the Election Code¹.

Generally, title 15 of the Election Code regulates political contributions and political expenditures that are made in connection with a state or local office or a measure in Texas. Ethics Advisory Opinion Nos. 445 (2002), 277 at n.1 (1995), 208 (1994). A candidate is required to file a campaign treasurer appointment and campaign finance reports. Elec. Code §§ 252.001, 253.031(a), 254.063-254.066. A political committee² is required to file a campaign treasurer appointment before accepting political contributions or making political expenditures totaling more than \$500 in connection with a state or local office or a measure. Elec. Code §§ 252.001, 253.031.³ After filing a campaign treasurer appointment, the campaign treasurer of the political committee must file campaign finance reports. *See* Elec. Code §§ 254.130, 254.163.

Federal law requires a candidate for congressional office to file a statement of candidacy with the FEC to disclose certain information about the candidate. 2 U.S.C. § 432(e); 11 C.F.R. § 101.1(a). A federal candidate must also form a “principal campaign committee” that will accept political contributions and make political expenditures on behalf of the federal candidate. *Id.* The principal campaign committee must also file with the FEC reports to disclose the contributions accepted and expenditures made on behalf of the candidate. 2 U.S.C. § 432(e); 11 C.F.R. §§ 101.1, 101.2. A federal candidate may accept a contribution or make an expenditure in connection with his or her campaign for federal office only as an agent of the committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. § 101.2.

Section 251.006 of the Election Code states:

(a) Except as provided by Subsection (b), this title does not apply to a *candidate for an office of the federal government*.

(b) A *candidate for an elective office of the federal government* shall file with the commission a copy of each document relating to the candidacy that is required to be filed under federal law. The document shall be filed within the same period in which it is required to be filed under the federal law.

Elec. Code § 251.006 (emphasis added).⁴

In our opinion, because the campaign finance activity of a candidate for an elective office of the federal government is disclosed by the candidate's principal campaign committee, section 251.006 of the Election Code applies to the committee as if it were the candidate.⁵ Thus, except as provided by section 251.006(b), the committee is not subject to title 15 of the Election Code and is therefore not required to file a campaign treasurer appointment or campaign finance reports with the commission.

Section 251.006(b) of the Election Code requires a candidate for federal office to file with the commission a copy of each document relating to the candidacy that is required to be filed under federal law.⁶ In our opinion, that requirement is constructively satisfied by the commission's link to the FEC's website, which allows those documents to be accessed electronically.⁷

SUMMARY

A principal campaign committee formed under federal law to support a candidate for federal congressional office located in Texas that makes political contributions to state or local candidates in Texas is not required to file a campaign treasurer appointment or campaign finance reports under title 15 of the Election Code. Additionally, the committee is not required to file with the Texas Ethics Commission a copy of each document required to be filed under federal law that is related to the candidacy of the federal candidate for which the committee is formed.

¹ An out-of-state political committee is defined in section 251.001(15) of the Election Code as a political committee that:

(A) makes political expenditures outside this state; and

(B) in the 12 months immediately preceding the making of a political expenditure by the committee inside this state (other than an expenditure made in connection with a campaign for a federal office or made for a federal officeholder), makes 80 percent or more of the committee's total political expenditures in any combination of elections outside this state and federal offices not voted on in this state.

² A political committee is a group of persons that has as a principal purpose accepting political contributions or making political expenditures. Elec. Code § 251.001(12).

³ A political committee that is a general-purpose committee is prohibited from making or authorizing political expenditures totaling more than \$500 unless the committee has filed its campaign treasurer appointment not later than the 60th day before the date the expenditure is made and accepted political contributions from at least 10 persons. Elec. Code § 253.037(a); Ethics Advisory Opinion No. 161 (1993).

⁴ The laws administered and enforced by the commission do not apply to a candidate for election to an office of the federal government or to a federal officeholder. Ethics Commission Rules § 20.11. *See also* Ethics Advisory Opinion No. 445 (2002); 2 U.S.C. § 453(a) (federal campaign finance law supersedes and preempts state law with respect to an election to federal office).

⁵ A federal principal campaign committee may also be required to disclose in its reports filed with the FEC political contributions made to a state or local candidate in Texas. Title 15 of the Election Code would require a candidate for state or local office in Texas to disclose any political contribution accepted from a federal candidate's principal campaign committee. Elec. Code § 254.031.

⁶ Federal law requires candidates and committees to file copies of their campaign finance reports with the appropriate state officer in each state where contributions are received or expenditures are made on behalf of a federal candidate appearing on that state's ballot and requires states to maintain these documents for two years. 2 U.S.C. § 439. Congress amended the law in 1995 to exempt from these requirements any state that the FEC determines to have in place a system that permits electronic access to and duplication of reports and statements filed with the FEC. 2 U.S.C. § 439(c). In 2000, Texas was certified as being qualified for the state waiver.

⁷ This opinion only addresses reporting requirements applicable to a principal campaign committee that supports a federal candidate for a congressional office located in Texas and that makes a political contribution to state or local candidates in Texas at the time during which

the committee files reports of contributions and expenditures with the FEC.