



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 588

June 28, 2023

ISSUE

Whether a member of the legislature may recover personal funds used to pay for both a vehicle and gas from a state-issued mileage reimbursement received for travel using a vehicle paid for with a combination of personal funds and political contributions. (*AOR 681*).

SUMMARY

Yes. A member of the legislature may take reimbursement from a state-reimbursement for fuel purchased with personal funds. If the vehicle is paid for with a combination of personal funds and political contributions, the member may also prorate the remaining amount of the state-reimbursement for wear on the vehicle between his personal account and political account.

FACTS

The requestor is a member of the legislature who leases a vehicle he uses for both personal and political purposes. He pays for the lease with a combination of political and personal funds paid in an amount proportional to each use, which is 70% political and 30% personal.

The requestor asks the Commission to assume the following fact pattern:

An officeholder uses his personal debit card to pay for gas while traveling to and from Austin from the district and keeps his receipts. [We assume all the fuel is consumed during official state travel]. He submits mileage reimbursement to the state at the end of every month to cover gas receipts as well as wear and tear on the vehicle.

The requestor asks, because the vehicle cost is being split between political and personal funds, is it permissible to be personally reimbursed for the cost of fuel and a portion of the state mileage reimbursement for wear on the vehicle?

ANALYSIS

The Election Code prohibits the conversion of political contributions to personal use. Tex. Elec. Code § 253.035(d). However, the use of political contributions to purchase or lease a vehicle to perform duties connected with holding a public office is a permissible use of political funds. *See id.*; Tex. Ethics Comm'n Op. No. 204 (1994) ("EAO 204"). It is also permissible for a candidate or officeholder to use a combination of political and personal funds to purchase or lease a vehicle provided the proportion of political funds used to pay for the vehicle does not exceed the proportion the vehicle is used for political rather than personal purposes. Tex. Ethics Comm'n Op. No. 430 (2000).

If an individual uses a combination of political contributions and personal funds to purchase, operate, and maintain an asset, the individual must make sure that political contributions are not converted to personal use. *Id.*; Tex. Elec. Code § 253.035. Any interest, rebates, refund, or reimbursement resulting from the use of an asset paid for with political contributions belongs to the campaign and must not be converted to personal use.

Therefore, the requestor may take personal reimbursement for the expenses directly attributable to personal funds, including the purchase of gas with personal funds and the vehicle wear-and-tear proportional to his personal investment in the vehicle.¹ Any reimbursement attributable to the campaign's ownership interest in the vehicle must be paid into the officeholder's political fund. Tex. Ethics Comm'n Op. No. 347 (1996); EAO 204, note 1. The amount deposited in the campaign account should be disclosed on Schedule K (used to report credits, interest, rebates, refund, or reimbursement resulting from the use of an asset purchased with political contributions) of the campaign finance report.

¹ The requestor asserts that the gas receipts will accurately reflect the amount of gas used for state travel. We assume this to be true. However, as a practical matter, in most cases it will be difficult to identify with precision how much gas in tank was used for political rather than personal purpose relying solely on gas receipts. We think a better method of calculating the amount of fuel consumed by political travel is to divide the miles driven for political purposes by the vehicle's average miles per gallon and multiply the quotient by the price of a gallon of gas at the time.