

STATE ETHICS ADVISORY COMMISSION

ADVISORY OPINION 1984-11

Re: Is paying the travel expenses of an expert witness to testify at a legislative committee hearing a legitimate office-holder expense for the sponsor of the bill on which the witness testifies?

This opinion responds to a request (AOR 1984-10) from the Public Servant Standards of Conduct Advisory Committee for a State Ethics Advisory Commission opinion. The request was received by the Commission at its meeting on January 13, 1984, and relates to the following issue:

Is paying the travel expenses of an expert witness to testify at a legislative committee hearing a legitimate office-holder expense for the sponsor of the bill on which the witness testifies?

Tex. Rev. Civ. Stat. Ann. art. 5429f, § 17 (Vernon Supp. 1984) authorize the reimbursement of travel expenses of witnesses who appear before a legislative committee under subpoena:

Witnesses attending proceedings of either House of the Legislature, or any committee thereof, under process of such House or such committee, shall be allowed the same mileage and per diem as is allowed witnesses before any Grand Jury in the State of Texas, such mileage and such per diem to be paid from the Contingent Expense Fund of the respective House of the Legislature, or the Committee thereof, before whom such proceedings are pending.

Therefore, for the purposes of this opinion, the Commission assumes that the request applies to the travel expenses of those witnesses who are not authorized reimbursement by the state.

Tex. Elec. Code Ann. art. 14.03d (Vernon Supp. 1984) prohibits a person who accepts a contribution as a candidate or office-holder on or after September 1, 1983, from converting such contribution to personal use. Act of June 17, 1983, Ch. 444, §§ 5, 16, 1983 Tex. Sess. Law Serv. 2584 (Vernon). The statute defines "personal use" as:

a use which primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. The term does not include any payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a holder of public office

On the facts presented, it is the opinion of the Commission that arrangements for a witness to testify on a bill at a legislative committee hearing is an activity in connection with the performance of duties or activities as a holder of public office. Payment of witness travel expenses in regard to this activity is not a prohibited personal use of contributions by the office-holder.

SUMMARY

Paying the travel expenses of an expert witness to testify at a legislative committee hearing on a bill is a permissible use of office-holder contributions.

W. Page Keeton, Chairman
State Ethics Advisory Commission
Adopted this 13th day of April, 1984.