



OFFICE OF THE SECRETARY OF STATE

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SECRETARY OF STATE

STATE CAPITOL
P.O. Box 12697
AUSTIN, TEXAS 78711

August 17, 1982

The Honorable Lamar Smith
State Representative
1800 N.E. Loop 410, Suite 309
San Antonio, Texas 78217

Election Law Opinion DAD-52
Re: The permissibility and
reportability of mailing
voter registration
applications to new
residents of a legisla-
tive district

Dear Representative Smith:

In your letter of July 2, 1982, you asked whether a legislator who becomes a candidate for re-election may continue to mail letters with voter registration applications enclosed to new residents of the legislator's district.

This official election law opinion is rendered by me as chief election officer of the state in accordance with V.A.T.S. Election Code, art. 1.03, subd. 1 (hereinafter referred to as the code).

In your correspondence, you included a copy of the cover letter you have previously mailed to new residents of the district you represent. Specifically, you asked whether:

- (1) the mailing of the letter with the voter registration applications enclosed violates state election law;
- (2) the letter constitutes political advertising; and
- (3) the cost of mailing the letter and voter registration applications is reportable under Chapter 14 of the code.

An examination of the text of the letter you have mailed with the voter registration applications enclosed indicates that the letter is educational in nature. It explains that

the enclosed voter registration applications may be used for initial registration in the state or to make any necessary changes in a voter's current registration. The mailing of the cover letter with the voter registration applications enclosed does not violate any provision of the code.

You have not asked, and I am not authorized to render an opinion on the legality of this cover letter being written on official stationery paid for by the state. I note that the copy of the letter you submitted to me does not have a disclaimer that it was not printed or mailed at state expense.

Nothing in the text of your letter comes within the meaning of "political advertising" as defined in Article 14.01(R) of the code. Therefore, no political advertising disclosure statement is required to appear on the letter.

Finally, you have asked whether the cost of mailing the letter and applications is reportable under Chapter 14 of the code. The expense of the mailing is reportable if:

- (1) the mailing is paid for from political contributions you have received; or
- (2) it is determined that the payment made to cover the cost of the mailing is an officeholder expenditure.

Article 14.01(E), in pertinent part, defines an expenditure as

. . . any payments made or obligations incurred . . . by an office-holder, when such payments are made in the performance of duties or activities in connection with the office which are nonreimbursable by the state . . . [emphasis added].

It is my opinion that the mailing you have described is an activity in connection with your office. However, it is not within my authority to determine whether an expenditure is or is not reimbursable by the state. In the instant situation, the House Administration Committee is the appropriate authority to advise you of the reimbursability of the cost of the mailing. If a determination is made that the mailing cost is nonreimbursable, the expenditure would be reportable under Chapter 14 of the code.

SUMMARY

It is not a violation of the Election Code for a member of the Texas House of Representatives to mail voter registration applications to new residents of the member's district.

A letter from a legislator to residents of the legislator's district that does not come within the definition of "political advertising" is not required to contain a political advertising disclosure statement.

Under certain circumstances, a legislator must report the cost of mailing a letter and voter registration applications to residents of the legislator's district.

Sincerely,



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Secretary of State

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APPROVED:
OPINION COMMITTEE

Karen C. Gladney, Chairman
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Donna Brown

Election Law Opinion DAD-52

Request from Lamar Smith, San Antonio, regarding the permissibility and reportability of mailing voter registration applications to new residents of a legislative district.

SUMMARY

It is not a violation of the Election Code for a member of the Texas House of Representatives to mail voter registration applications to new residents of the member's district.

A letter from a legislator to residents of the legislator's district that does not come within the definition of "political advertising" is not required to contain a political advertising disclosure statement.

Under certain circumstances, a legislator must report the cost of mailing a letter and voter registration applications to residents of the legislator's district.