

ETHICAL PRACTICES BOARD

First Floor South, Centennial Building . 658 Cedar St. . St. Paul, MN 55155-1603

Issued to:

**Kay Erickson, President, League of Women Voters of Minnesota
Jane McWilliams, Chair, LWVMN Fund for Opposition to Legislative Term Limits
550 Rice Street
St. Paul, MN 55103**

RE: Ballot Question Disclosure

ADVISORY OPINION #137

SUMMARY

137. The ballot issue campaign of the League of Women Voters of Minnesota (LWVMN) begins when the LWVMN engages in activities to promote or defeat a state ballot question or to qualify or to oppose qualification of a state ballot question for placement on the ballot. Based on the facts presented to the Board by the LWVMN, the \$100 contribution limit established by Minn. Stat. § 10A.27, subd. 12, will not be imposed upon the separate political fund established by the LWVMN to oppose term limits on a strictly ballot issue basis pending a final decision on the constitutionality of Minn. Stat. § 10A.27, subd. 12. The LWVMN must include its expenditures on term limits through December 31, 1993, on the regular lobbyist report due January 18, 1994. The treasurer of the separate political fund established by the LWVMN must report the LWVMN's expenditures on term limits as an in-kind contribution from the LWVMN and as an in-kind expenditure of the separate political fund. The LWVMN may bill the separate political fund for the support services the LWVMN provides to the fund; the fund must disclose the transactions in accordance with Minn. Stat. § 10A.20. If the fund does not raise enough money to pay the LWVMN for its support services, the fund must report the unpaid bill until paid or forgiven.

FACTS

You have submitted to the Board the registration and statement of organization for the League of Women Voters of Minnesota Fund for Opposition to Legislative Term Limits. You state that in the course of completing this registration a number of questions arose for which you seek the guidance of the Board.

You state that the League of Women Voters of Minnesota (LWVMN), the supporting association of the fund, is a nonpartisan, multi-issue, grassroots membership organization whose membership dues from 2,600 members support the general operating budget and the advocacy or lobbying budget of the LWVMN. You further state that lobbying on a wide variety of issues is done by volunteer LWVMN members with support provided by a small staff.

You state that the LWVMN never supports or opposes candidates for office and that funds

raised for a ballot issue campaign (or any issue) are used solely to advance the position of the LWVMN on issues and never on behalf of a candidate or political party. You further state that you ask for guidance on how to report to the Board contributions and expenses related to the LWVMN campaign against term limits.

You state that it is your understanding that the present law requires the LWVMN to register a separate fund as soon as the LWVMN has spent more than \$100 on a ballot issue campaign. You further state that it is your understanding that contributions to the fund from individuals and from organizations cannot exceed \$100 per year per contributor and that in your opinion the LWVMN is now operating at a distinct disadvantage because the organization working as advocates for term limits is currently exempt from the contribution limit of \$100. You state that you believe that the Supreme Court Decision in Buckley v. Valeo upholding first amendment protection of political speech cited by Judge Murphy in her November 26, 1993, order granting the preliminary injunction should apply to the LWVMN.

You state that to date the LWVMN has raised no cash contributions for the campaign against term limits and has spent money from the LWVMN's advocacy budget to educate its members about the LWVMN's position on term limits through your newsletter, through regularly scheduled mailings to local Leagues of Women Voters, and through regional meetings. You further state that volunteer lobbyists for the LWVMN have made calls on legislators; that the LWVMN has mailed a letter to every legislator outlining the LWVMN position on term limits; and that costs incurred to date include postage, copying, staff support, mileage for volunteers, and phone calls.

You state that the LWVMN has been contacting and meeting with other organizations that are or might be interested in supporting the LWVMN's position against term limits. You further state that most if not all of these organizations have lobbyists registered with the Board.

You ask the Board the following questions:

QUESTION ONE

Does the LWVMN's ballot issue campaign begin with the legislative process or when the legislature has placed the issue on the ballot?

OPINION

The LWVMN's ballot issue campaign begins as soon as the LWVMN engages in activities to promote or defeat a state ballot question or to qualify or to oppose qualification of a ballot question for placement on the ballot that require disclosure under Ch. 10A. Minn. Stat. §§ 10A.01, subs. 11, 16, and 23, 10A.03, 10A.14.

QUESTION TWO

Will the Board apply Judge Murphy's ruling to the fund the LWVMN is establishing to educate the citizens of Minnesota to the problems of term limits and to gather support to

oppose this ballot question?

OPINION

Yes. Based on the facts presented to the Board by the LWVMN, the \$100 contribution limit established by Minn. Stat. § 10A.27, subd. 12, will not be imposed upon the separate political fund established by the LWVMN to oppose term limits on a strictly ballot issue basis pending a final decision on the constitutionality of Minn. Stat. § 10A.27, subd. 12 (Minnesotans for Term Limits v. Vanne Owens Hayes, U.S. District Court, D.Minn. #4-93-766).

QUESTION THREE

Should the LWVMN report expenditures on term limits through December 31, 1993, on its regular lobbying report due January 18, 1994?

OPINION

Yes.

QUESTION FOUR

Should the Fund report LWVMN's expenditures on term limits as an in-kind contribution to the fund and as an expenditure of the fund?

OPINION

Yes.

QUESTION FIVE

As the LWVMN proceeds through the term limits campaign can the LWVMN contract to provide support services to the Fund and bill the Fund for the fair market value of those services?

OPINION

Yes, provided the cash expenditures for this purpose are disclosed as required by Sec. 10A.20.

QUESTION SIX

If the fund does not raise enough money to pay for the services described in Question Five, should the Fund report the cost of the services as an in-kind contribution to the Fund from the LWVMN?

OPINION

No. The fund should report the cost of the services described in Question Five as an unpaid bill continuously until paid or forgiven.

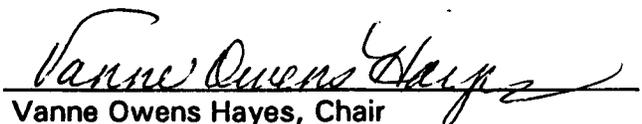
QUESTION SEVEN

What registration and reporting requirements will be imposed upon organizations that form a coalition to support or oppose a state ballot question?

OPINION

The information submitted is insufficient to allow the Board to provide a response.

Issued: December 21, 1993


Vanne Owens Hayes, Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 provides:

Subd. 11. (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration, or authorized to spend money by another individual, association, political subdivision, or public higher education system, who spends more than five hours in any month or more than \$250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; . . .

Subd. 16. "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

Subd. 23. "Ballot question" means a question or proposition which is placed on the ballot and which may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities related to qualifying the question for placement on the ballot.

Minn. Stat. § 10A.03 provides:

Subd. 1. Each lobbyist shall file a registration form with the Board within five days after becoming a lobbyist.

Minn. Stat. § 10A.04 provides:

Subd. 1. Each lobbyist shall file reports of the lobbyist's activities with the Board as long as the lobbyist continues to lobby. . . .

Minn. Stat. § 10A.14 provides:

Subd. 1. The treasurer of a political committee or political fund shall register with the Board by filing a statement of organization no later than 14 days after the date upon which the committee or fund has made a contribution, received contributions or made expenditures in excess of \$100.

Minn. Stat. § 10A.20 provides:

Subd. 1. The treasurer of every political committee and political fund shall begin to file the reports required by this section in the first year it receives contributions or makes expenditures in excess of \$100 and shall continue to file until the committee or fund is terminated.

. . .

Subd. 3. Contents of report. Each report under this section shall disclose:

. . .

(i) The amount and nature of each advance of credit incurred by the political committee or political fund, continuously reported until paid or forgiven. . . .

Minn. Stat. § 10A.27 provides:

Subd. 12. Contributions to other political committees or funds. The treasurer of a political committee or political fund, other than a candidate's principal campaign committee or a political party unit as defined in section 10A.275, shall not permit the political committee or political fund to accept aggregate contributions from an individual, political committee, or political fund in an amount more than \$100 per year.