

ETHICAL PRACTICES BOARD

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

THE FOLLOWING PUBLICATION DOES NOT IDENTIFY
THE REQUESTER OF THE ADVISORY OPINION, WHICH IS NONPUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12 (b) (1994 Minn. Laws, ch. 377, sec.1)

RE: Gifts to Officials

ADVISORY OPINION #195

SUMMARY

195. A corporation established for the sole purpose of coordinating and presenting certain events must charge a fee to attending officials that covers the full costs of an event and require contemporaneous payment of the fee, regardless of any contribution from a lobbyist or lobbyist principal that may have been used to defray some or all of the costs of the event. Otherwise, the official's payment of a reduced ticket price for the event is a gift prohibited under Minn. Stat. § 10A.071, subd. 1.

FACTS

You represent a Minnesota nonprofit corporation ("Corporation") established for the sole purpose of coordinating and presenting certain events. You ask the Ethical Practices Board for an advisory opinion based on your statement of the following facts and information provided:

1. A public official is not an officer, director, or employee of the Corporation.
2. Although most of the events will be paid for by revenues from ticket sales, the Corporation needs seed money and operations money to organize the events.
3. The Corporation is seeking contributions from individuals and organizations, some of whom may be lobbyists or lobbyist principals, to help defray event costs.
4. Contributions in excess of expenditures will be given to the general fund of the state or to a fund administered by the state department of administration.
5. All events staged or presented by the Corporation will be open to any who wish to attend and who purchase the appropriate tickets.

QUESTION ONE

- A. May the Corporation accept contributions from lobbyists and lobbyist principals to defray costs of the events?

B. May the Corporation offer tickets to the events for sale to officials at prices that are less than the cost of the event because of contributions to the Corporation from lobbyists or lobbyist principals?

OPINION

A. Yes, provided the contributions are not used to defray the costs of tickets to the events that are offered for sale to officials.

B. No. The Corporation must charge a fee to attending officials that covers the full costs of an event, including overhead, and require contemporaneous payment of the fee by the officials. Otherwise, the official's acceptance and payment of a ticket price that was defrayed by contributions by a lobbyist or a lobbyist principal is a transaction prohibited under Minn. Stat. § 10A.071, subd. 1.

The Ethical Practices Board refers the requester to Advisory Opinion Nos. 142, 147, 148, 155, 163, 168, 167, 171, 172, 172, 174, 175, 179, 183, and 185, in which the Board has answered similar questions.

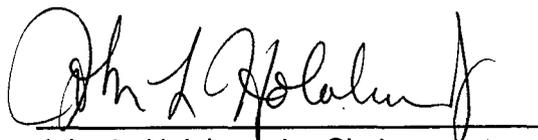
QUESTION TWO

Does Minn. Stat. § 10A.071 operate to prohibit lobbyists and lobbyist principals from making gifts to the state of Minnesota pursuant to Minn. Stat. §§ 7.09, 7.10, and 7.12 ?

OPINION

No. Gifts to the state are governed by Minn. Stat. §§ 7.09, 7.10, and 7.12.

Issued: 12-21-1994



John L. Holahan, Jr., Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS 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 action 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. 28. **Principal.** "Principal" means an individual or association that:

- (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or
- (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of governmental units, as described in section 10A.04, subdivision 6.

Laws of 1994, Ch. 377, sec. 5, created Minn. Stat. § 10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED which provides:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

Subd. 2. **Prohibition.** A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

- (1) a contribution as defined in section 10A.01, subdivision 7;
- (2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;
- (3) services of insignificant monetary value;
- (4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
- (5) a trinket or memento of insignificant value;
- (6) informational material of unexceptional value; or
- (7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) the prohibitions in this section do not apply if the gift is given:

- (1) because of the recipient's membership in a group, a majority of whose members are not officials, and an equivalent gift is given to the other members of the group; or
- (2) by a lobbyist or principal who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family.