

State of Minnesota

Campaign Finance & Public Disclosure 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)

RE: Lobbyist contributions to retirement party and gift

ADVISORY OPINION 309

SUMMARY

Donations for a retirement party or gift for a retiring public official are not contributions to the official's principal campaign committee. A donation made or requested by a lobbyist or lobbyist principal for a gift to a retiring official, who has taken another position by which the individual is still an official under Minn. Stat. § 10A.071, is prohibited. A donation of money or services made or requested by a lobbyist or lobbyist principal for a retirement party is subject to the prohibitions of Minn. Stat. § 10A.071.

FACTS

You ask the Campaign Finance and Public Disclosure Board for an advisory opinion based on the following facts:

1. You recently retired from a position as a public official and have subsequently been appointed as a member of a metropolitan agency.
2. Some friends of yours would like to give a retirement party and present a gift in recognition of your service as a public official.
3. Guests at the party would include persons who are "officials" under Minn. Stat. § 10A.071 and may include lobbyists.

ISSUE

Are there any restrictions on contributions to fund a retirement party or a gift for an individual who has retired from a position as an elected public official but who is still a public official by virtue of being appointed as a member of a metropolitan agency?

OPINION

Contributions for a gift or retirement party for an elected public official are not contributions to the official's principal campaign committee. Thus, limitations and restrictions imposed by campaign finance laws do not apply.

As a recently appointed member of a metropolitan agency, you are still a public official pursuant to Minn. Stat. § 10A.01, subd. 18(t). Minn. Stat. § 10A.071 prohibits gifts given or requested by lobbyists or lobbyist principals to public officials. The fact that the proposed retirement party and gift relate to an official position you no longer hold is not relevant as long as you are still within the group of persons classified as "officials" under the statute.

As a result of your status as an official, contributions to a gift for you are prohibited if they are given or requested by lobbyists or principals. If guests purchase tickets for the party and the ticket cost includes a contribution to a gift, a separate ticket price must be established for lobbyists, excluding the amount of the contribution to the gift.

If some of the costs of the retirement party itself are paid for by donations given or requested by lobbyists or lobbyist principals, those costs constitute a gift to any attending official, including yourself. As a result, lobbyists may not purchase tickets that they do not use for themselves or their guests, since the result would be to subsidize the party for any officials attending. Likewise, if lobbyists provide services in organizing the party, those services result in a gift to officials attending the party or to an official who sponsors the party. However, this gift is not prohibited by Minn. Stat. § 10A.071 if the services provided are of insignificant value.

The fact that lobbyists may be invited to the party does not, in itself, create a violation of any provision of Minnesota Statutes Chapter 10A.

You may also be a local official of a metropolitan governmental unit and, if so, you would also be subject to the gift prohibitions established in Minn. Stat. § 471.895. That statute, which appears to include a broader scope of givers than Minn. Stat. § 10A.071, is not within the Board's jurisdiction to interpret. Its possible application is mentioned here only so that you may consult your own legal counsel with respect to its applicability.

Issued: 3-19-99



Carolyn D. Rodriguez, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

10A.01 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 10A.01 to 10A.34, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 11. Lobbyist. (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; or

(2) who spends more than \$250, not including the individual's own traveling 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.

. . . [exclusions from definition omitted]

Subd. 18. Public official. "Public official" means any:

(t) member or chief administrator of a metropolitan agency.

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 metropolitan governmental units, as described in section 10A.04, subdivision 6.

10A.071 CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED.

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 and received 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:

(3) services of insignificant monetary value;