

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: Gift Prohibition; public official solicitation of contributions, membership in a group

ADVISORY OPINION 315

SUMMARY

Minnesota officials who are members of a multi-state membership organization are not required to pay additional charges to attend the organization's annual meeting even if the costs of the meeting are subsidized by contributions from lobbyists or lobbyist principals. Minnesota officials who are members of the meeting organizing committee may solicit lobbyists and lobbyist principals for contributions to the organization to subsidize costs of the annual meeting. Contributions to the organization are not prohibited gifts when they are used for the benefit of the organization as a whole.

FACTS

As the attorney for a number of public officials, you ask the Campaign Finance and Public Disclosure Board ("the Board") for an advisory opinion based on the following facts which were presented in your request letter or conveyed verbally to Board staff:

1. The State of Minnesota has purchased a membership in a national membership organization ("the Organization") of state legislators and other governmental officials. The Organization includes sub-units based on geographical region.
2. As a result of the state's purchase of a membership in the Organization, all Minnesota legislators become individual members of the Organization and of the sub-unit organized for the midwestern region (hereinafter referred to as "the Regional Unit").
3. The Organization is classified as a nonprofit 501(c)(3) corporation under federal law.

4. A majority of the members of the Organization are not "officials" as defined in Minn. Stat. § 10A.071, subd. 1(c). Likewise, a majority of the members of the Regional Unit are not "officials".
5. The Regional Unit holds an annual meeting for its members. The meeting in a future year will be held in Minnesota. A committee ("the Committee") will be formed to solicit monetary and in-kind donations to cover a significant part of the costs of this meeting. The Committee will consist of Minnesota officials, lobbyists, and others.
6. Prospective donors include lobbyists and lobbyist principals. Contributions will be solicited by members of the Committee, collected by a member who is not an official, and forwarded to the Organization for deposit in the Regional Unit's account.
7. Only contributions for the general support of the entire annual meeting are solicited. Individual event sponsorships are neither solicited nor accepted from contributors.
8. Contributors will be acknowledged in the annual meeting program and other annual meeting signs and literature as appropriate.

ISSUE ONE

May officials, as defined in Minn. Stat. § 10A.071, subd. 1(c), fully participate in the Regional Unit's future annual meeting in Minnesota without payment of additional charges due to underwriting of the event by lobbyists and lobbyist principals?

OPINION

Yes, Minnesota officials may fully participate in the Regional Unit's annual meeting without payment of additional charges.

Under Minn. Stat. § 10A.071, subsidy of an event by a lobbyist or lobbyist principal is a gift to officials attending the event. However, the statute includes the following exception:

"(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"

The Regional Unit is a group within the meaning of the exception. A majority of the group's members are not officials (a term which is specifically defined and is limited to Minnesota officials). A gift to an official resulting from a contribution for the general support of a qualified group's annual meeting constitutes a gift given because of the official's membership in the group. The prohibitions of Minn. Stat. § 10A.071 are not applicable in such a case.

ISSUE TWO

Would solicitation of contributions for the annual meeting by Minnesota officials, as members of the Committee, result in a violation of Minn. Stat. § 10A.071 if a lobbyist or lobbyist principal makes a contribution as a result of the solicitation?

OPINION

No, solicitation of contributions by Minnesota officials who are members of the Committee does not result in a violation of Minn. Stat. § 10A.071.

Generally, solicitation by an official of a contribution to a nonprofit corporation does not result in a prohibited gift if the official will not personally benefit from the contribution. However, in this case the officials doing the solicitation will benefit if they attend the annual meeting. Nevertheless, in cases where the prohibitions of Minn. Stat. § 10A.071 are not applicable to the giving of a gift, they are also not applicable to the solicitation of that gift.

ISSUE THREE

Are contributions to the Regional Unit by lobbyists and lobbyist principals resulting from the solicitations described in this opinion prohibited by Minn. Stat. § 10A.071?

OPINION

No. As long as contributions to the Regional Unit by lobbyists and lobbyist principals are used to fund the annual meeting as a whole, they are not prohibited by Minn. Stat. § 10A.071.

The fact that the contributors will be acknowledged in various ways does not affect the status of the contributions under Minn. Stat. § 10A.071.

Issued: _____

6/14/99

Sidney Pauly
Sidney Pauly, Chair
Campaign Finance and Public Disclosure Board

CITED STATUTES

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.

(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