

ETHICAL PRACTICES BOARD

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

Issued to:

G. D. Garski, Executive Secretary
Minnesota Board of Assessors
Minnesota Department of Revenue
Mail Station 3340
St. Paul, MN 55146-3340

RE: Gifts to Officials

ADVISORY OPINION #148

SUMMARY

148. Effective August 1, 1994, a licensed assessor who is a local official of a metropolitan governmental unit is subject to the provisions of state law prohibiting acceptance of gifts from lobbyists and lobbyist principals. Minn. Stat. § 10A.071 (Laws of 1994, Ch. 377, Sec. 5). Licensed assessors who serve local governments other than metropolitan governmental units should confer with legal counsel or contact the county attorney about the existence of other laws that may apply including Minn. Stat. § 471.895 (Laws of 1994, Ch. 377, Sec. 6).

FACTS

As a public official administering a state agency you have received the Ethical Practices Board Bulletin for Officials, May, 1994. You ask the Board for direction on the application of certain provisions of a 1994 law to the activities of licensed assessors. You state that assessors who are licensed by the Board of Assessors are appointed as department heads serving in local governments or are employed by units of government. You advise the Board that some industries that pay property taxes have contributed toward the cost of a hospitality room, snacks, and refreshments at state meetings of licensed assessors.

QUESTION

Are licensed assessors deemed to be officials within the meaning of a 1994 law which prohibits officials' acceptance of gifts from lobbyist principals or lobbyists?

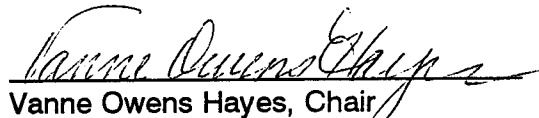
OPINION

Yes, provided the licensed assessor is a local official of a metropolitan governmental unit as defined in Minn. Stat. § 10A.01, subs. 25 and 26 (1992). Beginning August 1, 1994, an official, including a public official, a member of the legislature, an employee of the legislature, or a local

official of a metropolitan governmental unit, may not accept a gift from a lobbyist or principal; a lobbyist or principal may not give a gift or request another to give a gift to an official. Minn. Stat. § 10A.071 (Laws of 1994, Ch. 377, Sec. 5). Assessors must not accept payments from an industry that is a lobbyist principal to reduce the cost of state meetings of assessors.

Licensed assessors who serve local governments other than metropolitan governmental units should confer with legal counsel or contact the county attorney about the existence of other laws that may apply including Minn. Stat. § 471.895 (Laws of 1994, Ch. 377, Sec. 6).

Issued: June 27, 1994


Vanne Owens Hayes, Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 DEFINITIONS provides:

Subd. 2. "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule pursuant to chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting and granting of certificates of need under chapter 116J.

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. 25. **Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Subd. 26. **Metropolitan governmental unit.** "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the metropolitan council, a metropolitan agency as defined in section 473.121, subdivision 5a, the Minnesota state high school league, and Minnesota Technology, Inc.

Subd. 27. **Political subdivision.** "Political subdivision" means the metropolitan council, a metropolitan agency as defined in section 473.121, subdivision 5a, a municipality as defined in section 471.345, subdivision 1, the Minnesota state high school league, and Minnesota Technology, Inc.

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 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 sections 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 by 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

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.

Laws of 1994, Ch. 377, Sec. 6, created Minn. Stat. § 471.895 CERTAIN GIFTS BY INTERESTED PERSONS PROHIBITED which provides:

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

(b) "Gift" has the meaning given it in section 10A.071, subdivision 1.

(c) "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

(d) "Local official" means an elected or appointed official of a county or city or of any agency, authority, or instrumentality of a county or city.

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

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

(1) a contribution as defined in section 211A.01, subdivision 5;

(2) services to assist an official in the performance of official duties, including by 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 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 an interested person 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.