

**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: Campaign Finance**

**ADVISORY OPINION #158**

**SUMMARY**

158. The Ethical Practices Board believes that the establishment of a political action committee by a nonprofit corporation whose members are corporations is controlled by the provisions of Minn. Stat. § 211B.15, as amended in 1993, a statute that is not within the Board's jurisdiction and with regard to which the Board may not issue advisory opinions.

**FACTS**

As a registered lobbyist for an association that is a nonprofit corporation whose members are dues paying corporations, you state that the association has been discussing the possibility of establishing a political action fund. You ask the Ethical Practices Board for a written response to a series of questions.

**QUESTIONS**

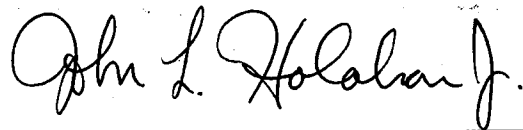
1. Can the administrative cost of the association's political action fund be paid from Association dues or does it have to come from fund contributions?
2. Can a portion of a member's dues be assigned to the political fund?
3. Can the association solicit contributions to the political fund from nonmembers of the association?
4. As a registered lobbyist and president of the association, what role can you play in recommending members' support (financially or in-kind) of a candidate if the association chooses not to establish a fund?
5. Can the association endorse a candidate publicly without having established a political fund?
6. Would the association or members of the association on an individual basis be able to run an ad paid from the association dues or funded by an individual in

support or opposition of a candidate when it is without the candidate's knowledge prior to the act?

### OPINION

The Board believes that the questions presented are controlled by the provisions of Minn. Stat. § 211B.15, as amended in 1993, a statute that is not within the Board's jurisdiction and with regard to which the Board may not issue advisory opinions. See copy of Minn. Stat. § 211B.15 attached.

Issued: 9-15-1994



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

### PERTINENT STATUTES

Minn. Stat. § 211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

Subdivision 1. **Definitions.** For purposes of this section, "corporation" means:

- (1) a corporation organized for profit that does business in this state;
- (2) a nonprofit corporation that carries out activities in this state; or
- (3) a limited liability company formed under chapter 322B, or under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free services of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.

Subd. 3. **Independent expenditures.** A corporation may not make an independent expenditure or offer or agree to make an independent expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "independent expenditure" means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a

candidate.

Subd. 4. **Ballot question.** A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.

Subd. 5. **News media.** This section does not prohibit publication or broadcasting of news items or editorial comments by the news media.

Subd. 6. **Penalty for individuals.** An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who violates this section may be fined not more than \$20,000 or be imprisoned for not more than five years, or both.

Subd. 7. **Penalty for corporations.** A corporation convicted of violating this section is subject to a fine not greater than \$40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.

Subd. 8. **Permitted activity; political party.** It is not a violation of this section for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party's headquarters.

Subd. 9. **Media projects.** It is not a violation of this section for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 10. **Meeting facilities.** It is not a violation of this section for a corporation to provide meeting facilities to a committee, political party, or a candidate on a nondiscriminatory or nonpreferential basis.

Subd. 11. **Messages on premises.** It is not a violation of this section for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 12. **Reports required.** The total amount of an expenditure or contribution for any one project permitted by subdivisions 9 through 11 that is more than \$100, together with the date, purpose, and the names and addresses of the persons receiving the contribution or expenditures, must be reported to the secretary of state. The reports must be filed on forms provided by the secretary of state on the dates required for committees under section 211A.02. Failure to file is a misdemeanor.

Subd. 13. **Aiding violation; penalty.** An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.

Subd. 14. **Prosecutions; venue.** Violations of this section may be prosecuted in the county where the payment or contribution was made, where services were rendered, or where money was paid or distributed.

Subd. 15. **Nonprofit corporation exemption.** The prohibitions in this section do not apply to a nonprofit corporation that:

- (1) cannot engage in business activities;

(2) has no shareholders or persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

**Subd. 16. Employee political fund solicitation.** Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of an independent political committee (conduit fund) and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.