

**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)

**RE: Gift of free admission to public performance**

**ADVISORY OPINION # 227**

**SUMMARY**

An official is not prohibited by Minn. Stat. § 10A.071 from attending a free public performance merely because a lobbyist principal has contributed to the funding of the performance.

**FACTS**

As an official as defined in Minn. Stat. § 10A.071, subd. 1(c), you request an advisory opinion from the Ethical Practices Board based on the following facts provided in your request or conveyed by you to Board staff.

1. You wish to attend a presentation of a theatrical performance relating to health issues facing mothers and babies.
2. The performance was commissioned and is presented by the Conference on Healthy Families / Healthy Babies, which is an association of social service and health organizations. The Conference is not a lobbyist principal.
3. The production costs are being underwritten by contributions solicited by the Conference for this purpose from corporations and businesses which include one or more lobbyist principals.
4. The performance will be presented on three occasions, each of which will be advertised to the public and is free to the public.
5. There are no tickets and no advance reservations. You and any member of the public wishing to attend a performance will be seated as long as space is available.

## ISSUE

Is an official prohibited by Minn. Stat. § 10A.071 from attending a free public performance presented by an association which is not a lobbyist principal if a portion of the underlying funding for the performance was provided by a lobbyist principal?

## OPINION

No, under the facts presented, the official is not prohibited by Minn. Stat. § 10A.071 from attending the performance.

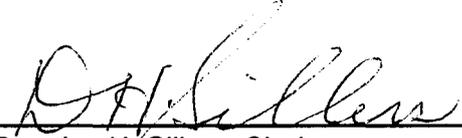
The presenter of the performance is an association which is not a lobbyist or lobbyist principal. Only gifts given or requested by lobbyists or lobbyist principals are prohibited by Minn. Stat. § 10A.071. The gift of free admission to the public is given by the conference presenting the performance.

The fact that a lobbyist principal provided partial funding for the performance does not make the lobbyist principal the giver or the requester of the gift of free admission.

While gifts by lobbyist principals to officials are prohibited regardless of the conduits through which they pass, not every contribution by a lobbyist principal to an organization results in a gift to officials who benefit from the organization's activities.

When a lobbyist principal makes a contribution to an organization with no express or implied condition or understanding that the contribution will be then transferred to or used for the particular benefit of an official or group of officials, the contribution is a gift to the organization receiving it, not to those persons who eventually may benefit from the activities of the organization.

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Douglas H. Sillers, Chair  
Ethical Practices Board