

ETHICAL PRACTICES BOARD

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

**THIS ADVISORY OPINION IS PUBLIC DATA
pursuant to a consent for release of information signed by the requester**

**Issued to: The Honorable Sandy Pappas
 State Senator, District 65
 182 Prospect Boulevard
 St. Paul, MN 55107**

RE: Fundraising for local office campaign by Chapter 10A candidate

ADVISORY OPINION # 260

SUMMARY

Minn. Stat. § 10A.065, which prohibits certain fundraising by candidates during the legislative session is not applicable to fundraising for a local campaign. Minn. Stat. § 10A.071, which prohibits gifts from lobbyists to officials is not applicable to a contribution by a lobbyist to an official's campaign for local office.

FACTS

As a legislator, you ask the Ethical Practices Board (Board) for an advisory opinion based on the following facts:

FACTS

1. You are a "candidate" under Minnesota Statutes, Chapter 10A and have also decided to run for a local elected office. You have established a separate campaign organization for that office.
2. Your local campaign organization wants to accept contributions from lobbyists.
3. Since you are a candidate under Chapter 10A, you want to know whether certain Chapter 10A restrictions affect your right to raise money for your local campaign.

ISSUE ONE

Does the Minn. Stat. § 10A.065 prohibition on certain fundraising during the legislative session apply to a candidate with respect to solicitation or acceptance of money or benefits to support the candidate's local office campaign?

OPINION

Minn. Stat. § 10A.065 does not apply to the solicitation or acceptance of money or benefits for a local office campaign.

Minn. Stat. § 10A.065 restricts solicitation or acceptance of certain "contribution[s]" during the legislative session. A "contribution" is a transfer of money or benefits to a principal campaign committee, political committee, or political fund for the purpose of influencing the nomination or election of a candidate for legislative, constitutional, or judicial office. Minn. Stat. § 10A.01, subds. 5, 7, 7a, and 7b.

A transfer to a local campaign is not a transfer to a principal campaign committee, political committee, or political fund, and is not for the purpose of influencing the nomination or election of a legislative, constitutional, or judicial candidate. Therefore it is not a "contribution" under Chapter 10A and is not restricted by Minn. Stat. § 10A.065.

A different conclusion was reached regarding this issue in Advisory Opinion #130. The result reached here is the correct interpretation of the statute.

ISSUE TWO

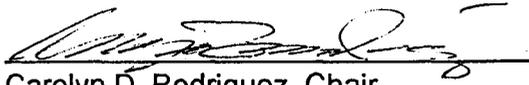
Is a transfer of money or benefits from, or at the request of, a lobbyist or a lobbyist principal to an official's campaign for local office a prohibited gift under Minn. Stat. § 10A.071?

OPINION

A transfer of money or benefits to a local campaign is not a gift within the meaning of Minn. Stat. § 10A.071 and therefore is not subject to the gift prohibition.

Money or benefits transferred to a local campaign may be used only for the limited purposes specified in Minnesota Statutes, Chapter 211B, which governs use of campaign contributions. While the Board does not interpret Chapter 211B, we do recognize that it limits the use of campaign assets to campaign purposes. On that basis, we conclude that a transfer to a local campaign is not a gift, within the meaning of Minn. Stat. § 10A.071, to the official conducting the campaign.

Issued: 2-28-97


Carolyn D. Rodriguez, Chair
Ethical Practices Board

CITED STATUTES

10A.01 DEFINITIONS.

Subdivision 1. 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. 5. **Candidate.** "Candidate" means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court, court of appeals, or district court judgeships of the state. An individual shall be deemed to seek nomination or election if the individual has taken the action necessary under the law of the state of Minnesota to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

. . . .

Subd. 7. "Contribution" means a transfer of funds or a donation in kind. Contribution includes any loan or advance of credit to a political committee, political fund, or principal campaign committee, which loan or advance of credit is (a) forgiven, or (b) paid by an individual or an association other than the political committee, political fund, or principal campaign committee to which the loan or advance of credit is made. If an advance of credit or a loan is forgiven or paid as provided in this subdivision, it is a contribution in the year in which the loan or advance of credit is made. A contribution made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate. Contribution does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee or political fund, or the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 7a. "Transfer of funds" or "transfer" means money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

Subd. 7b. "Donation in kind" means anything of value other than money or negotiable instruments given by an individual or association to a political committee, political fund, or principal campaign committee for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question. Donation in kind includes an approved expenditure.

10A.065 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.

Subdivision 1. **Registered lobbyist contributions; legislative session.** A candidate for the legislature or for constitutional office, a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, or a political committee established by all or a part of the party organization within a house of the legislature, shall not solicit or accept a contribution on behalf of a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, or a political committee established by all or a part of the party organization within a house of the legislature, from a registered lobbyist, political committee, or political fund during a regular session of the legislature.

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.