

State of Minnesota  
**Campaign Finance and Public Disclosure Board**  
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE  
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON PUBLIC DATA  
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Potential Conflict of Interest for a Member of the Legislature**

**ADVISORY OPINION 368**

**SUMMARY**

Service by a member of the legislature on the board of an association does not in itself create a conflict of interest as defined in Minn. Stat. §10A.07. An official action or decision by the legislator may create a conflict of interest under specific circumstances.

**FACTS**

As a legislator, and therefore a public official as defined in Minnesota Statutes Chapter 10A, you ask the Campaign Finance and Public Disclosure Board for an advisory opinion based on the following facts that were provided in the letter requesting the advisory opinion and in a conversation with Board staff.

1. You have been asked to serve on the Advisory Board of an Association.
2. You will not be compensated for service on the Advisory Board.
3. You have no securities or other investments related to the parent Association of the Advisory Board.

**ISSUE ONE**

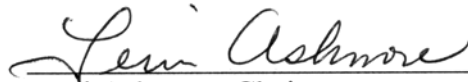
Will service on the Advisory Board create a conflict of interest, as defined in Minn. Stat. §10A.07, with your service in the State Legislature?

## OPINION ONE

No. Minn. Stat. §10A.07 sets specific criteria that must exist before a conflict of interest occurs. Under this statute a conflict of interest occurs only if an official action by the legislator substantially affects the legislator's financial interests or the financial interests of an associated business in a manner greater than it affects other members of the same business classification, profession or occupation. In the facts provided in this request, you will not be compensated for service on the Advisory Board, and have no investments in the Advisory Board's parent Association. Without compensation or investments in the Association, your official actions cannot substantially affect your financial interests. Further, the Association is not an "associated business", as defined by Minn. Stat. §10A.01, subd. 5, because the Association will not be compensating you more than \$50 a month (not including actual and reasonable expenses), and you do not have at least \$2,500 in securities invested in the Association.

If at some future time you were compensated for service on the Advisory Board and/or the Association became an associated business of yours, a conflict of interest could potentially occur on a specific official action or decision you may make as a legislator. Service on the Advisory Board in itself would not constitute a conflict of interest under the provisions of Minn. Stat. §10A.07.

Issued March 22, 2005



Terri Ashmore, Chair

Campaign Finance and Public Disclosure Board

## Cited Statutes and Administrative Rules

### 10A.01 Definitions.

Subd. 5. **Associated business.** "Associated business" means an association from which the individual receives compensation in excess of \$50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth \$2,500 or more at fair market value.

### 10A.07 Conflicts of interest.

Subdivision 1. **Disclosure of potential conflicts.** A public official or a local official elected to or appointed by a metropolitan governmental unit who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official's financial interests or those of an associated business, unless the effect on the official is no greater than on other members of the official's business classification, profession, or occupation, must take the following actions:

- (1) prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict of interest;
  - (2) deliver copies of the statement to the official's immediate superior, if any;
- and
- (3) if a member of the legislature or of the governing body of a metropolitan governmental unit, deliver a copy of the statement to the presiding officer of the body of service.

If a potential conflict of interest presents itself and there is insufficient time to comply with clauses (1) to (3), the public or local official must orally inform the superior or the official body of service or committee of the body of the potential conflict.

Subd. 2. **Required actions.** If the official is not a member of the legislature or of the governing body of a metropolitan governmental unit, the superior must assign the matter, if possible, to another employee who does not have a potential conflict of interest. If there is no immediate superior, the official must abstain, if possible, in a manner prescribed by the board from influence over the action or decision in question. If the official is a member of the legislature, the house of service may, at the member's request, excuse the member from taking part in the action or decision in question. If the official is not permitted or is otherwise unable to abstain from action in connection with the matter, the official must file a statement describing the potential conflict and the action taken. A public official must file the statement with the board and a local official must file the statement with the governing body of the official's political subdivision. The statement must be filed within a week of the action taken.

Subd. 3. **Interest in contract; local officials.** This section does not apply to a local official with respect to a matter governed by sections 471.87 and 471.88.