
1992 Wis Eth Bd 25
CAMPAIGN ACTIVITIES; LOBBYING AND LOBBYISTS

A lobbyist may make a campaign contribution to a legislator for the purpose of promoting the legislator's candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session. OEB 92-25

June 16, 1992

Facts

- [1] This opinion is based upon these understandings:
- a. You are a lobbyist.
 - b. At least one member of the Assembly and one member of the Senate are running for Congress in the fall general election to be held later this year.

Questions

- [2] The Ethics Board understands your questions to be:

May you make campaign contributions to promote state legislators' campaigns for election to federal office if you make contributions between June 1 and the date of the general election?

Discussion

[3] Wisconsin's lobbying law generally permits a lobbyist to make a campaign contribution to a partisan elective state official "for the purpose of promoting the official's election to any national, state or local office" only in the year of a candidate's election between June 1 and the day of the general election.

[4] An ambiguity arises as a result of the statute's referral to definitions of "candidate" and "campaign contribution" found in Chapter 11, *Wisconsin Statutes*. Nonetheless, we believe the clear legislative intent is to permit a lobbyist to make campaign contributions to a partisan elective state official to promote the official's candidacy for a federal office during the year in which the official stands for election to the federal office.

- [5] Section 13.625 provides, in relevant part:

(1) No lobbyist may:

* * *

(b) Furnish to any elective state official or candidate for an elective state office, or to the official's . . . or candidate's personal campaign committee:

*

* *

3. [A]ny thing of pecuniary value, except that a lobbyist may make a campaign contribution to a partisan elective state official or candidate for national, state or local office or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

(c) Except as permitted in this subsection, make a campaign contribution, as defined in s. 11.01 (6), to a partisan elective state official for the purpose of promoting the official's election to any national, state or local office . . . to be filled at the general election or a special election, or the official's . . . personal campaign committee. A campaign contribution to a partisan elective state official . . . or his or her personal campaign committee may be made in the year of a candidate's election between June 1 and the day of the general election . . .

[6] Section 13.62(5g) *Wisconsin Statutes*, provides that "candidate" "has the meaning given under s. 11.01(1)." Moreover, §13.625(1)(c) refers to campaign contributions "as defined in s. 11.01(6) Section 11.01(1) provides:

"Candidate" means every person for whom it is contemplated or desired that votes be cast and any election held within this state, *other than an election for national office*, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered.

(Emphasis added).

[7] A "contribution" is defined in §11.01(6) as anything of value "made for political purposes." Section 11.01(16), provides:

An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to *state or local office*, for the purpose of influencing the recall from or retention in office of an individual holding a *state or local office*, or for the purpose of influencing the outcome of any referendum.

(Emphasis added). It has been suggested that §13.625's references to chapter 11 could read to restrict a lobbyist's ability to make a campaign contribution only to candidates for state or local office (since only such contributions are "contributions" within the definition) and to make such contributions only in the year in which an individual is a candidate for state or local office (since only such individuals are "candidates" within the definition). However, that

reading of the statute would result in nonsensical text and surplusage of language -- results to be avoided in statutory interpretation.*

[8] Read literally, §13.625(1)(b) would permit a lobbyist to make a campaign contribution [that is, a contribution to promote a candidacy for *state or local office*] to a candidate for "*national office*." Read literally, §13.625(1)(c), would provide that a lobbyist can make a campaign contribution [that is, a contribution to promote a candidacy for *state or local office*] for the purpose of promoting an official's election to "*national office*." This reading is oxymoronic and would make all references to national office mere surplusage. We do not believe that this is a correct reading of the statute or that it comports with legislative intent. Clearly, the statute's references to the definitions in chapter 11 were intended to be references to the general language describing the indicia of candidacy and the characteristics of contributions.

[9] You argue in your letter that the statutes should be read to permit a campaign contribution to promote a candidacy for federal office of a member of the Assembly, not seeking reelection, but not to permit such a contribution to a mid-term senator running for federal office. There is nothing in the language of the statute, nor in the sparse legislative history that would indicate that the Legislature intended to make that kind of distinction. In our view, the only reading of the statute that makes sense, that avoids nonsensical sentences and surplus language, is that lobbyists may make contributions to partisan elective state officials running for federal office between June 1 and the date of the general election in the year in which such individuals are standing for election to those federal offices.

Advice

[10] You may make a campaign contribution to a legislator for the purpose of promoting the legislator's candidacy for Congress during the year of the election between June 1 and the date of the general election as long as the Legislature is not in session.

* See, e.g., *State v. Pham*, 137 Wis. 2d 31 (1987)(statutes should be interpreted to avoid absurd or unreasonable results); *Green Bay Broadcasting v. Green Bay Authority*, 116 Wis. 2d 1 (1983) (in construing a statute, every word, clause and sentence should be given a construction that will not render it surplusage).