
1993 Wis Eth Bd 6
LOBBYING AND LOBBYISTS

The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law.

OEB 93-6 (May 7, 1993)

Facts

[1] This opinion is based upon these understandings:

- a. You write on behalf of a political action committee (PAC).
- b. Membership in the PAC is through application and payment of an annual membership fee.
- c. The membership fees are the funds used for making contributions to election campaigns.
- d. There are in excess of 400 members of the PAC.
- e. Nearly all the members of the PAC are in turn members, directors or employes of cooperatives.
- f. Twenty-six of the cooperatives are non-profit membership organizations engaged in the furnishing of services to their members.
- g. None of these twenty-six cooperatives is an organization that employs a lobbyist.
- h. Another of the cooperatives does employ a lobbyist.
- i. The cooperatives are members of the an association, which is a registered lobbying organization in Wisconsin.
- j. At a recent meeting, the members of the PAC adopted articles of association and bylaws to establish a framework within which the PAC exists and by which its business and affairs must be conducted.
- k. The PAC is not a separately incorporated entity, but is an unincorporated association.
- l. The PAC is structured so that no lobbying principal or employee of a principal has a voice in PAC affairs.

- m. Meetings of the PAC board of trustees or the executive committee may be held either immediately before or immediately after meetings of the various cooperative organizations or of the state association of cooperatives.
- n. The PAC has elected as treasurer an individual who also works for the state association.
- o. The PAC will reimburse the state association for any time spent on PAC affairs by the individual.
- p. The individual is prohibited by the articles of association and bylaws from having a voice in the business affairs of the PAC.

Questions

[2] The Ethics Board understands your question to be:

Is the political action committee on whose behalf you write subject to the campaign contribution restrictions of §13.625, *Wisconsin Statutes*?

Discussion

[3] Section 13.625, *Wisconsin Statutes*, provides that no organization that employs a lobbyist may:

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

1. Lodging.

2. Transportation.

3. Food, meals, beverages, money or any other 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, or to a candidate for a partisan elective state office to be filled at the general election or a special election, or the official's or candidate's personal campaign committee. A campaign contribution to a partisan elective state official or candidate for partisan elective state office 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, except that:

1. A campaign contribution to a candidate for legislative office may be made during that period only if the legislature concluded its final floor period, and is not in special or extraordinary session.

2. A campaign contribution by a lobbyist to the lobbyist's campaign for partisan elective state office may be made at any time.

§13.625 (1), (2), *Wisconsin Statutes*.

[4] In two opinions previously issued by the Ethics Board, 1992 Wis Eth Bd 29; 1992 Wis Eth Bd 27, the Board held that the lobbying law's restrictions on campaign contributions apply to organizations that employ lobbyists whether those organizations make campaign contributions directly or indirectly through that organization's political action committee or a political action committee it controls. Under the facts you have described, the political action committee is not a political action committee of a lobbying organization. Nor is the PAC controlled by such an organization. The PAC you have described is a legal entity separate from any other, organized as an unincorporated association. Moreover, the PAC is structured in such a way that no lobbying principal has a voice in the PAC's affairs. The fact that individual members of the PAC may be employed by a lobbying principal or may be employed by an organization that is a member of an association that is a lobbying principal does not, in itself, subject the PAC to the restrictions of the lobbying law.

Advice

[5] The Ethics Board advises that a political action committee that is a separate legal entity not acting subject to the control of a lobbying principal is not subject to the restrictions of the lobbying law.