
2003 Wis Eth Bd 14
LOBBYING AND LOBBYISTS

The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin's Native American tribes from its registration and reporting requirements.

Facts

This opinion is based upon these understandings:

- a. You represent a Native American tribe.
- b. The tribe is located in Wisconsin.

Questions

¶1 The Ethics Board understands your question to be:

Does Wisconsin's lobbying law require an elected leader of the tribe to obtain a lobbyist's license and to report information required by the lobbying law?

Discussion

¶2 Wisconsin's lobbying law, §13.64 requires every "principal" to register with the Ethics Board. A "principal" means any person who employs a lobbyist.¹ Section 990.01 (26), *Wisconsin Statutes*, provides that the word "person" should be construed as follows, unless such construction would produce a result inconsistent with the manifest intent of the legislature:

990.01 (26) Person. "Person" includes all partnerships, associations and bodies politic or corporate.

¹ Section 13.62 (12), *Wisconsin Statutes*, provides:

(12) "Principal" means any person who employs a lobbyist. If an association, corporation, limited liability company or partnership engages a lobbyist, an officer, employee, member, shareholder or partner of the association, corporation, limited liability company or partnership shall not be considered a principal.

¶3 This means that even governments and governmental bodies are subject to the lobbying law.

¶4 The legislature, in §13.621, *Wisconsin Statutes*, has created limited exceptions to the coverage of the lobbying law as it pertains to certain government officials.² The legislature has elected to exempt “an elective state official, local official or employee of the legislature” from registration and reporting requirements when those individuals are acting in an official capacity.³

¶5 Elected tribal leaders are not elective state officials.⁴ Nor are they local officials. A local official is an individual who holds, or has been elected to, an elective local office as defined in §5.02 (9), *Wisconsin Statutes*, or who is employed by a county, city, town, village or school district and is not employed principally to lobby.⁵

² The exceptions demonstrate that the legislature intended, through the statute’s definitions and use of the term “person,” to apply the lobbying law generally to governments and government bodies. Otherwise, the exceptions would have been unnecessary.

³ Section 13.621 (2), *Wisconsin Statutes*, provides:

13.621 (2) STATE AGENCY LOBBYING ACTIVITIES. An agency which files a statement under s. 13.695 and an official of the agency who is named in the statement are not subject to s. 13.625, 13.63, 13.64, 13.65 or 13.68 except as provided in s. 13.695.

Section 13.621 (3), *Wisconsin Statutes*, provides:

(3) PERFORMANCE OF PUBLIC DUTIES. An elective state official, local official or employee of the legislature is not subject to s. 13.63, 13.64, 13.65, 13.68 or 13.695 when acting in an official capacity.

⁴ Section 13.62, *Wisconsin Statutes*, provides:

13.62 (13) “State office” has the meaning given under s. 5.02 (23).

Section 5.02 (23), *Wisconsin Statutes*, provides:

5.02 (23) “State office” means the offices of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent, justice of the supreme court, court of appeals judge, circuit court judge, state senator, state representative to the assembly and district attorney.

⁵ Section 13.62 (11m), *Wisconsin Statutes*, provides:

13.62 (11m) “Local official” means any person who holds a local office as defined in s. 5.02 (9) or has been elected to a local office but has not yet taken office, and every person who is employed by a county, city, town, village or school district who is not employed principally to influence legislative or administrative action. A person who is appointed to fill a vacant local office is a local official.

¶6 Chapter 5, *Wisconsin Statutes*, addresses elections for whose conduct the Elections Board is responsible. In that context, §5.02 (9) defines “local office” to mean an elective office other than a state or national office.⁶ Because Chapter 5 does not cover elections for Native American tribal leaders, tribal leaders do not fall within the local official exemption of the lobbying law.

¶7 You have suggested that an elected tribal leader should be treated as a state or national elected official. They are. The tribe you represent is treated in the same manner as would be France or Japan or the State of Iowa. Elected leaders of nations, other states, corporations, labor unions, and charitable organizations are all obliged to identify the individuals they are paying to try to influence Wisconsin government on their behalf, what they are lobbying about, and how much time and money they devote to lobbying. This is entirely appropriate.

¶8 The statute provides a limited reporting exemption for officials of agencies of the State of Wisconsin and for officials of local political bodies that are creatures of the state. Much information about the activities of these governmental bodies is publicly available under open meetings and open records laws.

Advice

¶9 The Ethics Board advises that the lobbying law does not exempt elected leaders of Wisconsin’s Native American tribes from its registration and reporting requirements.

⁶ Section 5.02(9), *Wisconsin Statutes*, provides:

5.02(9) “Local office” means any elective office other than a state or national office.