

1992 Wis Eth Bd 30
LOBBYING AND LOBBYISTS; CAMPAIGN ACTIVITIES

A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection:

1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or
2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board.

OEB 92-30 (November 20, 1992)

Facts

[1] This opinion is based upon these understandings:

- a. You write on behalf of an association.
- b. The association is a principal under Wisconsin's lobbying law.
- c. The association, at its own expense, would like to send a letter to its members urging support for a state senator running for reelection.
- d. The letter would include a phone number and mailing address for sending contributions of money or volunteering services to the senator.

Question

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

May a lobbying principal create, reproduce, and mail a letter to its members urging support for a legislator running for reelection?

Discussion

[3] Wisconsin's lobbying law generally prohibits a principal from furnishing anything of pecuniary value to a state official except for campaign contributions during limited time periods.* Clearly, if the kind of expenditure

* §§13.625(1)(b) and (c) and (2), *Wisconsin Statutes*, provide:

13.625 Prohibited practices. (1) No lobbyist may:

contemplated is considered a campaign contribution reportable under chapter 11, *Wisconsin Statutes*, then such a letter is permitted between June 1 and the date of the general election in the year of a candidate's election as long as the Legislature is not in session. You must refer to the Elections Board for such a determination.

[4] If the expenditure is not considered a campaign contribution, then the association may send the letter to its members without restriction from the lobbying law as long as it is conceived and sent independent of the candidate. Although the lobbying law prohibits the furnishing of items of pecuniary value to a state official, this type of communication with an organization's membership, although valuable, is not a furnishing to an official as long as it is independently done. In contrast, if the mailing is undertaken in consultation or agreement with, or at the request of, the legislator, then it would be a furnishing of a service of pecuniary value.

Advice

[5] A lobbying principal may, consistent with the lobbying law, send a letter to its members urging their support of a partisan elected state official running for reelection:

1. at any time if the communication is not a campaign contribution under laws administered by the Elections Board and the principal

(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.

* * * *

(2) No principal may engage in the practices prohibited under sub. (1) (b) and (c). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.

- undertakes the communication independent of and without consultation, understanding, or agreement with the candidate; or
2. only during periods of time permitted under the lobbying law if the communication is a campaign contribution under laws administered by the Elections Board.