

1992 Wis Eth Bd 31

LOCAL CODE - INFLUENCING OFFICIAL JUDGMENT; LOCAL CODE - MEALS, LODGING, TRAVEL & ENTERTAINMENT

A vendor should not sponsor a river cruise for local public officials attending a convention if more than an insignificant number of the officials attending are responsible for making or approving purchasing decisions that could involve the vendor's goods. OEB 92-31 (November 25, 1992)

Facts

[1] This opinion is based upon these understandings:

- a. You write on behalf of an association whose members are local public officials.
- b. The association will be holding its convention at a future date.
- c. The association wants to sponsor a river cruise on the first night of the convention with a bar and entertainment.
- d. A private business, which is a vendor to a number of local governmental units, has offered to pay the cost of the river cruise for all members of the association attending the convention as well as the members' spouses.

Question

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

Does the Ethics Code place any restrictions on a vendor's providing a river cruise to local public officials attending your association's convention?

Discussion

[3] The two provisions of the Ethics Code for local officials most pertinent to your question are §19.59(1)(a) and (b), *Wisconsin Statutes*. Section 19.59(1)(a) provides that no local public official may use his or her public position or office to obtain financial gain or anything of substantial value for private benefit.¹ Section 19.59(1)(b), *Wisconsin Statutes*, provides that no

¹ §19.59(1)(a), *Wisconsin Statutes*, provides:

19.59 Codes of ethics for local government officials, employees and candidates. (1)(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This paragraph does not

person may give to a local public official, and no local public official may accept, anything of value if it could be reasonably expected to influence the local public official's vote, official actions or judgment or reasonably be considered as a reward for any official action or inaction on the part of the local official.²

[4] Section 19.59(1)(a)

Your question presumes that the individuals about whom you ask are local public officials. It appears that the officials attending the association's convention would be in attendance and receiving the river cruise as a result of their holding local public office. It also appears that the river cruise has substantial value. The question then is whether the benefit realized from the payment of the cruise expense is of private benefit to the officials or of public benefit.

[5] Normally, a Wisconsin public official who is attending a conference at the behest of his or her governmental unit may, consistent with statutes administered by the Ethics Board, accept meals, refreshment, and the like that are provided, sponsored, or sanctioned by the event's organizer and authorized by the chief executive or governing body of the unit of government of which the official is a part.³ When a governmental unit authorizes an official's attendance at a conference, it is usually fair to presume that the official's attendance is in furtherance of a public purpose or benefit and that the local government contemplates that the official will partake fully of all the conference has to offer, including forums and receptions that are sponsored or sanctioned by the organization putting on the conference and that are intended for and conducive to discussion of issues and activities pertinent to the conference's purposes. These types of incidental events often are an integral part of the educational and learning experience that comes from attending a conference by affording an opportunity for the informal exchange of ideas among officials.

[6] In contrast, payment of an expense for an official's spouse is unlikely in these circumstance to be of public rather than private benefit, and we advise that this not be done.

prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11.

² §19.59(1)(b), *Wisconsin Statutes*, provides:

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

³ See Ethics Board Guideline Eth 222. See also 1992 Wis Eth Bd 17; 1992 Wis Eth Bd 09.

[7] Section 19.59(1)(b)

Although the above analysis is generally applicable, another concern arises in the circumstances you have described because the organization paying for the river cruise is a vendor to local governmental units.⁴ As a result, §19.59(1)(b), which prohibits an official from accepting anything of value if it could be reasonably expected to influence an official's vote, actions, or judgment, also is pertinent. We note that it is likely that a vendor is willing to pay for an event like the river cruise specifically in order to influence official judgment in purchasing decisions by creating good will and thus enhance business opportunities. We do not possess enough facts to offer a concrete opinion as to how this provision might apply in the present case. Important factors to consider include the cost of the cruise, whether the vendor is currently seeking business from the official's local unit of government and the official's decision-making role in awarding bids to the vendor. On the whole, absent a showing that only an insignificant number of officials attending the event are not responsible for making or approving purchasing decisions that could involve the vendor's goods, we advise that a vendor not sponsor an event associated with your convention.

Advice

[8] A vendor should not sponsor a river cruise for local public officials attending a convention if more than an insignificant number of the officials attending are responsible for making or approving purchasing decisions that could involve the vendor's goods.

⁴ Because your letter asks about local, and not state, officials, the lobbying law, Ch. 13, subch. III, *Wisconsin Statutes*, does not come into play.