

1993 Wis Eth Bd 3
LOBBYING AND LOBBYISTS; CAMPAIGN ACTIVITIES

A lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer. OEB 93-3 (January 27, 1993)

Facts

- [1] This opinion is based upon these understandings:
- a. You are a lobbyist.
 - b. You would like to volunteer your personal services to the campaigns of individuals running for partisan elective state office.

Questions

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

What restrictions, if any, does the lobbying law impose on a lobbyist's ability to provide personal services to the campaign of an individual running for partisan elective state office?

Discussion

- [3] The provision of Wisconsin's lobbying law that is pertinent to your question is section 13.625(1)(b), (c), *Wisconsin Statutes*. That section provides:

13.625 Prohibited practices. (1) No lobbyist may:

(b) Furnish to any agency official or legislative employee of the state or to any elective state official or candidate for an elective state office, or to the official's, employee'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 elec-

tive 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.

[4] In essence, this section prohibits a lobbyist from furnishing anything of pecuniary value to an individual campaigning for partisan elective state office or to a partisan elected state officeholder except for campaign contributions during particular time periods. A campaign contribution is defined in section 11.01(6), *Wisconsin Statutes*, to exclude services provided by an individual for a political purpose on behalf of a candidate when the individual is not compensated specifically for such services.¹ Personal services have been excluded from the definition of campaign contributions since the campaign finance law's inception in 1973. As you point out, this means that a lobbyist may make a contribution of money to the maximum amount permitted to a candidate, but may not provide volunteer services if those services have pecuniary value.² Services having pecuniary value would include labor such as delivering campaign literature door to door, stuffing envelopes, constructing yard signs, telephoning citizens on a candidate's behalf, and similar campaign tasks that would require the use of paid labor if individuals did not volunteer.

[5] You have raised a question as to whether it is good public policy for the law to permit a lobbyist to furnish a monetary contribution to a candidate for partisan elective state office, but not to furnish volunteer services. That policy decision is one that has been made by the legislature when it determined to permit lobbyists to furnish campaign contributions during specified time periods and specifically excluded volunteer services from the definition of

¹ §11.01(6)(b)1., *Wisconsin Statutes*, provides:

11.01 Definitions

(6)(b) Notwithstanding the foregoing meanings of "contribution", the term does not include:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for such services.

² *See* Informal Opinion of the Secretary of State (November 29, 1988).

campaign contribution. Any change to that policy must come from the legislature.

Advice

[6] The Ethics Board advises that a lobbyist may not furnish personal services to the campaign of an individual running for partisan elective state office if those services are not reportable as a campaign contribution under the campaign finance law and if such services consist of labor for which a campaign would have to pay individuals if they did not volunteer.