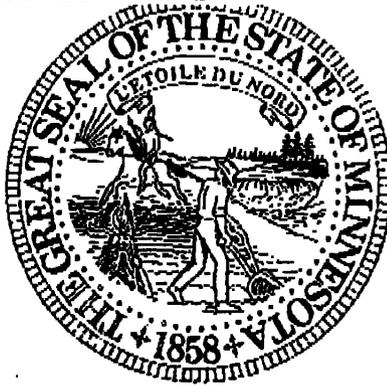


OGC # 227
Rachel
17:02



ETHICAL PRACTICES BOARD
1st Floor S., Centennial Bldg.
658 Cedar Street
St. Paul, MN 55155-1603
Telephone (612) 296-5148
Telefax (612) 296-1722

*** F A X S H E E T ***

DATE: 2-24-94

TIME: 10:45 am

TO: N B Litchfield

SENT TO FAX #: 202-219-3880

FROM: MA McCoy

No. of Pages (following cover page): Three

Message: Copy 2 Ethical Practices Board Ad of 138

issued 2-22-94 to the Honorable Gil

Gutrecht, State Supreme Court Dist. 30A

- Copy sent for your information - MA McCoy

NOTE: If any of these fax copies are illegible, or you do not receive the same number of pages as stated above, please call May-Dunn immediately at (612) 296-1720.

RECEIVED
F.E.C.
SECRETARIAT**ETHICAL PRACTICES BOARD**

First Floor South, Centennial Building . 658 Cedar Street . St. Paul, MN 55155-1603

FEB 24 PH 3:49

Issued to:**The Honorable Gil Gutnecht
State Representative District 30A
3421 16th Avenue N.W.
Rochester, MN 55901**AOR 1994-02
Late Comments**RE: Fundraising During Legislative Session****ADVISORY OPINION #138****SUMMARY**

138. A Minnesota legislator who has a principal campaign committee registered with the Board under Minn. Stat. §§ 10A.01, subd. 5, 10A.14, and 10A.19 is not subject to Minn. Stat. § 10A.065 with regard to campaign fundraising for federal office. The Board requests the legislature to review the application of Minn. Stat. § 10A.065 to state candidates subject to Ch. 10A who are raising funds for nomination or election to a federal office.

FACTS

You are a member of the Minnesota House of Representatives whose principal campaign committee is registered with the Ethical Practices Board. You state that you are requesting a written opinion as to whether a sitting legislator may raise funds for a campaign for federal office during a legislative session.

OPINION

A Minnesota legislator who has a principal campaign committee registered with the Board under Minn. Stat. §§ 10A.01, subd. 5, 10A.14, and 10A.19 is not subject to Minn. Stat. § 10A.065 with regard to campaign fundraising for federal office.

A candidate as defined in Minn. Stat. § 10A.01, subd. 5, remains a candidate until the candidate's principal campaign committee for the office sought or held files a termination report under Minn. Stat. §§ 10A.24 or 10A.242 (1992). Minn. Stat. § 10A.065 prohibits a legislative candidate or a candidate for constitutional office from soliciting or accepting a contribution on behalf of "...any committee authorized by the candidate..." from a registered

lobbyist, a political committee (other than a political party unit), or a political fund during a regular session of the legislature. However, in light of court decisions such as Weber v. Heaney, 995 F.2d 872 (8th Cir. 1993), concluding that federal law preempts state laws governing fundraising by candidates for federal office, the Board concludes that Minn. Stat. § 10A.065 applies to all committees of a sitting legislator except for a committee for election to federal office. The Board requests the legislature to review the application of Minn. Stat. § 10A.065 to state candidates subject to Ch. 10A who are raising funds for nomination or election to a federal office.

Issued:

February 23, 1994

Vanne Owens Hayes, Chair
Ethical Practices Board

PERTINENT STATUTES

Minn. Stat. § 10A.01 provides:

Subd. 5. Candidate. "Candidate means an individual who seeks nomination or election to any statewide or legislative office for which reporting is not required under federal laws. The term candidate shall also include an individual who seeks nomination or election to supreme court, court of appeals, or district court judgeships of the state. An individual shall be deemed to seek nomination or election if the individual has taken the action necessary under the law of the state of Minnesota to qualify for nomination or election, has received contributions or made expenditures in excess of \$100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100, for the purpose or bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.24.

Minn. Stat. § 10A.065 provides:

Subdivision 1. Registered lobbyist contributions; legislative session. A candidate for the legislature or for constitutional office, a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, . . . shall not solicit or accept a contribution on behalf of a candidate's principal campaign committee, any other political committee with the candidate's name or title, any committee authorized by the candidate, . . . from a registered lobbyist, political committee, or political fund during a regular session of the legislature.

...
Subd. 5. Political committee. This section does not apply to a political committee established by a state political party; by the party organization within a congressional district, county, legislative district, municipality, or precinct; by a candidate for a judicial office; or to a member of such a political committee acting solely on behalf of the committee.

Minn. Stat. § 10A.14 provides:

Subdivision 1. The treasurer of a political committee or political fund shall register with the Board by filing a statement of organization no later than 14 days after the date upon which the committee or fund has made contribution, received contributions or made expenditures in excess of \$100.

Minn. Stat. § 10A.19 provides:

Subdivision 1. No candidate shall accept contributions from any source, other than self, in aggregate in excess of \$100 or accept a public subsidy unless the candidate designates and causes to be formed a single principal campaign committee for each office sought. . . .