



North Carolina General Assembly Legislative Ethics Committee

PUBLISHED EDITED ADVISORY OPINION OF THE LEGISLATIVE ETHICS COMMITTEE

AO-E-07-0009

Attendance at American Legislative Exchange Council Meeting – G.S. 138A-37 and 138A-38

Approved by the Legislative Ethics Committee June 20, 2007

Question:

May a legislator attend a meeting of the American Legislative Exchange Council (ALEC), where the organization pays the expenses associated with the legislator's attendance at the meeting, including transportation, hotel room, meals, and registration costs? ALEC would pay all expenses associated with the legislator's attendance at the meeting including transportation costs up to \$500, hotel room of \$252 per night, meals and registration costs. The legislator is a member of ALEC. This meeting would be a meeting of an ALEC task force of which the legislator is a member.

Opinion:

Yes.

According to its website, ALEC is a bipartisan membership association for conservative state lawmakers. Legislators from around the country participate in ALEC. Annual membership dues of \$50 are charged legislative members. ALEC also includes members from various interested organizations and industries. Annual membership dues for those entities vary from \$5,000 for a base membership to \$50,000 for a "Jefferson Club" membership. In addition to hosting annual legislative conferences and providing research on legislative issues, ALEC sponsors legislative task forces. Those task forces bring together legislators and representatives from private industry and other interested parties with the goal of developing model legislation that supports the conservative ideals of ALEC. Private businesses may participate in individual task forces by paying membership fees ranging from \$2,500 to \$5,000 per Task Force.

During task force meetings, participants discuss related issues and model legislation. It appears that ALEC itself does not advocate on behalf of model legislation but instead facilitates a discussion of that legislation between legislators and representatives from industry and other interested parties.

Pursuant to G.S. 138A-32(c), a legislator is prohibited from accepting a gift, directly or indirectly, from a lobbyist or lobbyist principal, as defined in G.S. Chapter 120C, unless the gift falls within one of the gift exceptions listed in G.S. 138A-32(e). A “lobbyist” is an individual who engages in lobbying and meets the criteria set forth in G.S. 120C-100(a)(10). A “lobbyist principal” is the entity “on whose behalf the lobbyist lobbies.” G.S. 120C-100(a)(11). “Lobbying” includes both “influencing or attempting to influence” legislative action through direct communications with a legislator and developing goodwill through communications with the legislator “with the intention of influencing current or future legislative action”

The legislator indicated that it is the legislator's understanding that ALEC is not a lobbyist or a lobbyist principal. In determining whether the gift ban applies, a legislator must check whether a lobbyist or lobbyist principal is registered with the Secretary of State's Office. According to the NC Secretary of State's website, ALEC is not registered as a North Carolina lobbyist or lobbyist principal.

Since it does not appear that ALEC is a lobbyist or a lobbyist principal, or that a lobbyist or a lobbyist principal is funding the scholarship, G.S. 138A-32(c) would not prohibit the legislator from accepting the legislator's meeting expenses from ALEC. However, those expenses will need to be reported in accordance with G.S. Chapter 120C, the Lobbying Act.

G.S. 120C-800 requires the reporting of certain expenditures made by persons who are otherwise not subject to the reporting requirements of the Lobbying Act (i.e., persons not considered to be lobbyists or lobbyist principals). G.S. 120C-800(c) requires the reporting of “scholarships” valued at over \$200 and that are given to “designated individuals” (which includes legislators) by persons not otherwise required to report under that Chapter. “Scholarship” is defined as a “grant-in-aid to attend a conference, meeting, or other similar event.” The meeting expenses provided by ALEC would qualify as a “scholarship” under that definition. G.S. 120C-800(d) places the reporting obligation on the individual receiving the scholarship if the donor “is outside North Carolina” Since ALEC is outside North Carolina, the legislator is required to report those meeting expenses paid by ALEC. The legislator may report the expenses either to the Secretary of State's Office or on the legislator's Statement of Economic Interest. G.S. 120C-800(d).

If ALEC were a lobbyist principal or if another lobbyist principal funds the legislator's scholarship, the meeting exception to the gifts ban set forth in G.S. 138A-32(e)(3)(ii.) would apply. That provision specifically allows legislators to accept from lobbyist principals “reasonable actual expenditures” in connection with the legislator's attendance at a meeting of a “state, regional, national, or international legislative organization” of which the General Assembly or the legislator is a “member or participant” by virtue of the legislator's public position. “Legislative organization” is not defined by G.S. Chapter 138A. It appears that ALEC is a national legislative organization, insofar as it includes representatives from a number of state legislatures and focuses on legislative matters. In addition, the legislator is a member of ALEC and participates in the organization. This

exception requires that any food, beverages, or entertainment provided at the meeting must be provided to all attendees or defined groups of 10 or more attendees. Lobbyist principals are required to report those expenditures in accordance with G.S. Chapter 120C.

In summary, ALEC's sponsorship of a legislator's attendance at the ALEC meeting is permissible under the State Government Ethics Act. Assuming that ALEC is not a lobbyist principal, the legislator would be required to report the expenses received in accordance with G.S. 120C-800.

Legislative Ethics Committee Note of Subsequent Legislative Action:

See S.L. 2008-213, Sec. 39.(a) that amends G.S. 120C-800(e) to exempt scholarships paid by a nonpartisan state, regional, national or international legislative organization of which the General Assembly is a member or the legislator is a member by virtue of that legislator's public position, from the scholarship reporting requirements.