



North Carolina General Assembly Legislative Ethics Committee

PUBLISHED EDITED ADVISORY OPINION OF THE LEGISLATIVE ETHICS COMMITTEE

AO-E-07-0006

Speaker Gift Ban Exception - G.S. 138A-32(c) and 138A-32(e)(3)

Approved by the Legislative Ethics Committee June 6, 2007

Questions:

1. May a legislator accept payment by a lobbyist principal for various travel expenses associated with the legislator's attendance at a meeting of the lobbyist principal's board of director's meeting? The meeting of the board of directors was held in New York City and was scheduled to take place from a Saturday to a Tuesday. The agenda indicated the legislator was scheduled to speak at the board of director's meeting. This presentation was to include an overview of changes in the highway use and personal property tax, the pending motor vehicle franchise bill, and other legislation that could affect the lobbyist principal's members. It was estimated that the legislator's presentation would last 15-30 minutes.
2. May a legislator accept payment by a lobbyist principal for various travel expenses associated with speaking at the lobbyist principal's board of director's meeting and the annual meeting? The annual convention and board of director's meeting of the lobbyist principal was scheduled to take place in West Virginia on a Saturday through a Tuesday. The board of director's meeting was to be held Sunday morning, from 8:30 am to 12:30 pm. The convention ran from Sunday evening through Tuesday evening. The legislator was scheduled to be a speaker at the board of director's meeting on Sunday morning and at the full convention on Monday to present at one of the sessions focusing on a piece of legislation. The legislator was listed as a speaker on the formal agenda of the meeting for both Sunday and Monday. The legislator planned on arriving on Saturday to speak to the board of director's meeting on Sunday, and to attend the dinner that night. The legislator planned to speak at the Monday buffet breakfast meeting beginning at 7:30 a.m. After this presentation, the legislator planned to return to Raleigh to attend session on Monday night. The legislator indicated the lobbyist principal offered to pay for the legislator's lodging and meals while in attendance at the meetings, and the legislator intended to pay for the legislator's transportation.

Opinion:

Yes.

G.S. 138A-32(c) prohibits legislators and public servants (“covered persons”) from accepting gifts as defined in G.S. 138A-3, directly or indirectly, from a “lobbyist” or a “lobbyist principal,” as those terms are defined in G.S. 120C-100, except if an exception applies. Therefore, the legislator may not accept gifts from the lobbyist principal, which would include travel expenses associated with the legislator's attendance at the board of directors meetings or the annual convention, unless an exception applies.

G.S. 138A-32(e)(3)(i) permits a legislator to accept from a lobbyist principal a gift of the reasonable actual expenditures for food, beverages, registration, travel, lodging, other incidental items of nominal value and entertainment in connection with the legislator's attendance at:

- 1) An educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, or
- 2) A meeting where the legislator participates as a speaker or a member of a panel,

provided the following conditions (as applicable) are met:

- a. The reasonable actual expenditures shall be made by a lobbyist principal and not a lobbyist.
- b. Any educational meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.
- c. Any food, beverages, or entertainment must be provided to all attendees or defined groups of 10 or more attendees.
- d. Any entertainment must be incidental to the principal agenda of the educational meeting.

Depending on the circumstances, reasonable actual expenditures could include:

- 1) Travel to and from the meetings.
- 2) Lodging for the day before, the days of, and the day after any presentation.
- 3) Food, beverages and entertainment for the day before, the days of, and the day after any presentation, provided any food, beverage or entertainment are provided to all attendees or defined groups of 10 or more attendees.

Board of Director's Meeting

Because the legislator would have been speaking at the board of directors meeting in New York, the legislator may accept the reasonable actual expenditures associated with that speaking engagement from the lobbyist principal.

Annual Convention and Board of Director's Meeting

Because the legislator will be speaking at the board of directors and annual convention in West Virginia, the legislator may accept reasonable actual expenditures associated with

that speaking engagement from a lobbyist principal. In this instance, the legislator specifically asked if the legislator could accept lodging for Saturday and Sunday, and food, beverages, and entertainment for Saturday, Sunday and Monday. The legislator may accept these reasonable actual expenditures.