



North Carolina General Assembly Legislative Ethics Committee

PUBLISHED EDITED ADVISORY OPINION OF THE LEGISLATIVE ETHICS COMMITTEE

AO-E-07-0004

Legislator Acceptance of Trip Expenses – G.S. 138A-31 and G.S. 138A-32

Approved by the Legislative Ethics Committee June 22, 2007

Question:

May a legislator participate in a trip sponsored by a foreign country cultural center located in North Carolina, where the legislator pays for the expense of traveling to the foreign country and the cultural center pays the legislator's expenses while the legislator is in the foreign country?

Opinion:

Chapter 138A of the General Statutes establishes ethical standards for certain "covered persons," including members of the General Assembly. G.S. 138A-31 prohibits covered persons from using their positions "in a legislative action for their financial benefit." It does not appear that the Center's payment of the legislator's expenses is connected to legislative action, and therefore G.S. 138A-31 is inapplicable.

G.S. 138A-32(c) prohibits legislators from accepting a gift from a lobbyist or a lobbyist principal, with a number of listed exceptions. This provision is inapplicable, because the cultural center is not registered as a lobbyist principal. If the Center were a lobbyist principal, as a covered person the legislator would not be permitted to accept trip expenses from the Center unless an exception applied.

However, even if a legislator may accept expenses connected with a trip to a foreign country, the organization paying for the trip may need to report those expenses to the Secretary of State's office in accordance with G.S. 120C-800(a) or (c). G.S. 120C-800(a) requires that any "reportable expenditures" over \$200 in any calendar quarter made to a designated individual (including legislators) from a person or group of persons for the purpose of lobbying must be reported to the Secretary of State. This reporting requirement applies to those individuals or entities that are not otherwise required to

report under Chapter 120C of the General Statutes (i.e., lobbyists, lobbyist principals, or legislative liaisons).

“Lobbying” is defined in G.S. 120C-100(a)(9) to include direct lobbying (influencing or attempting to influence legislative action through direct communications with a legislator) and goodwill lobbying (developing goodwill “through communications or activities”). Lobbying does not include activities that are part of a “business, civic, religious, fraternal, personal, or commercial relationship” and are not connected to legislative action. Assuming the travel expenses paid by the cultural center exceed \$200, the Center’s reporting responsibilities would depend upon the nature of the legislator’s relationship with the Center. Because of the breadth of the definition of goodwill lobbying, if the legislator is invited on the trip solely because of the legislator’s status as a legislator, the Center’s payment of the legislator’s expenses could be considered to be for the purpose of developing goodwill. If so, those expenses would have to be reported under G.S. 120C-800(a). If, on the other hand, the legislator were being invited as a participant of a sister cities or other program in which the legislator participated outside of the legislator’s legislative duties, the expenses would not be considered to be for the purpose of lobbying and would therefore not have to be reported.

G.S. 120C-800(c) also requires reporting of a scholarship over \$200 given to a designated individual. Scholarship is defined as “a grant-in-aid to attend a conference, meeting, or other similar event.” Since the legislator’s trip does not appear to be made in connection with the legislator’s attendance at a conference, meeting, or similar organized event, this provision would not require that the Center report the expenses made on the legislator’s behalf.