



## North Carolina General Assembly Legislative Ethics Committee

April 21, 2009

The Honorable Senator Linda Garrou  
The Honorable Representative Julia Howard  
North Carolina General Assembly  
16 West Jones Street  
Raleigh, NC 27601-1096

Re: G.S. 138A-32(c) and G.S. 120C-303(d): Whether Legislators and Legislative Employees May Solicit and Obtain Monetary or In-Kind Contributions from Lobbyist Principals in Order to Provide Support for the 2009 Southern Legislative Conference Annual Meeting  
AO-E-08-0001 and AO-E-09-0001

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Dear Senator Garrou and Representative Howard:

On April 21, 2009, pursuant to G.S. 120-104, the Legislative Ethics Committee adopted as its formal advisory opinion the State Ethics Commission's recommended advisory opinion AO-E-08-0001 issued to you on February 1, 2008, and AO-E-09-0001 issued to you on February 13, 2009, as combined and modified by the Committee. This formal advisory opinion replaces these two opinions issued by the Commission, and this opinion shall control (G.S. 120-104(b)).

Once finalized, formal opinions are published in a redacted format on the Commission's website. Please keep in mind that formal advisory opinions do not confer immunity from criminal investigation or prosecution. Requests for advisory opinions, the opinions themselves, and all materials related to the opinions are confidential and are not public records. G.S. 138A-13(e).

On December 12, 2007, on behalf of the 2009 SLC Host Committee, you posed a number of questions concerning whether it would be permissible for members and staff of the North Carolina General Assembly to solicit and obtain monetary and in-kind donations from lobbyists and lobbyist principals to provide support for the 2009 Southern Legislative Conference Annual Meeting ("2009 Annual Meeting"). You also inquired as to whether those donations would require reporting by lobbyists, lobbyist principals,

and other donors. The recommended formal advisory opinion AO-E-08-0001 was issued to you by the Commission on February 1, 2008. In July 2008, the General Assembly amended some of the statutes on which that recommended formal advisory opinion was based. On December 19, 2008, you requested for a supplemental opinion in light of the statutory changes.

**I. The 2009 Southern Legislative Conference Annual Meeting ("2009 Annual Meeting")**

In the request, detailed information about the Council of State Governments ("CSG") and the Southern Legislative Conference ("SLC") was provided. The CSG is organized as a 501(c)(3) nonprofit and includes executive branch and legislative representatives from its 48 member states. The CSG is recognized statutorily as a "joint governmental agency of North Carolina" (G.S. 143-186), and North Carolina is a member of CSG. CSG describes itself as a "nonpartisan, nonprofit organization that seeks to foster excellence in state government."

The SLC is one of four regional legislative groups operated by the CSG. The SLC is not a separate legal entity; it operates through and is overseen by the CSG. Legislators and legislative staff participate in the SLC. Representative Howard is currently serving as the SLC President. The North Carolina General Assembly is hosting the 2009 Annual Meeting of the SLC. As the host state, the General Assembly is required to plan the 2009 meeting, which will include organizing social activities for attendees and their spouses and children, providing gift bags, handling registration, and arranging transportation.

Another responsibility of the host state is to secure private contributions to assist with financing the 2009 Annual Meeting. Fundraising will include soliciting donations from a variety of individuals and entities, including registered North Carolina lobbyists and lobbyist principals. Monetary donations will be made to CSG. Any in-kind donations will be made to the General Assembly for use at the 2009 Annual Meeting.

**II. Application of the State Government Ethics Act and Lobbying Laws**

a. *May legislators and legislative employees solicit donations for the purpose of the 2009 Annual Meeting?*

Yes. G.S. 138A-31(b) provides that a legislator may not mention or permit another person to mention the legislator's public position in nongovernmental advertising that advances the private interest of the covered person or others. As this solicitation is not non-governmental

advertising, legislators may use their public position in that solicitation.

*b. May legislators and legislative employees accept gifts donated for the purpose of the 2009 Annual Meeting?*

Yes. Donations to CSG or to the General Assembly for the purpose of the 2009 Annual Meeting would be indirect gifts to a legislator or legislative employee and therefore prohibited unless a gift ban exception applies

Monetary donations. Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member are not a violation of the gifts ban. G.S. 120C-303(d). Therefore, legislators and legislative employees may accept the items purchased with the money given to CSG.

In-Kind donations. Legislators and legislative employees may accept in-kind donations made to the General Assembly for the purpose of 2009 Annual Meeting by lobbyist principals under G.S. 138A-32(e)(3). This provision permits a legislator or legislative employee to accept "reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with ... (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position ... provided the following conditions are met:

1. The reasonable actual expenditures shall be made by a lobbyist principal, and not a lobbyist.
2. Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting must be given at least 10 days in advance.
3. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.
4. Any entertainment must be incidental to the principal agenda of the meeting. ..."

As long as the conditions are met, in-kind gifts made by lobbyist principals may be accepted by the legislators and legislative employees in attendance at the 2009 Annual Meeting.

- c. *May lobbyists and lobbyist principals make donations for the purpose of the 2009 Annual Meeting, and if so, will those donations, whether monetary gifts or in-kind gifts, be reported?*

Yes. Generally, direct and indirect gifts valued more than \$10 per day per legislator or legislative employee made by lobbyists and lobbyist principals must be reported under Article 4 of Chapter 120C.

- d. *May the Council of State Governments grant complimentary registration to donors for the 2009 Annual Meeting?*

Yes. There are no provisions in the State Government Ethics Act that would prohibit the Council of State Governments from allowing complimentary admittance to a lobbyist or lobbyist principal in return for a donation.

By a copy of this letter, the Legislative Ethics Committee is submitting its formal advisory opinion to the State Ethics Commission in accordance with G.S. 120-104(f), and the State Ethics Commission will publish a version of this opinion after the formal advisory opinion is edited to protect your identity in accordance with G.S. 138A-13(d).

If you have any questions concerning this matter, please let us know

Sincerely,



Representative Rick Glazier  
House Co-chair,  
on behalf of the Legislative Ethics Committee

cc: State Ethics Commission