April 21, 2015

Draft **Advisory Opinion 2015 – No. 1**

The Board has received a request for an advisory opinion from Al Rose, Executive Director of Justice Services for Pierce County. Mr. Rose has waived the right of confidentiality available to requestors of advisory opinions.

QUESTION

Would it violate the Ethics Act for Pierce County (Pierce) to provide complimentary admission to legislators to the U.S. Open golf tournament under the following circumstances?

The United States Golf Association (USGA) awarded the 2015 U.S. Open to Chambers Bay municipal golf course. As part of the contract between Pierce and the USGA, Pierce receives 300 admissions tickets to the event which it can give to guests on a complimentary basis. The tickets provide access to a hospitality tent with tables, chairs, reader boards, televisions and self-serving refreshments paid for by Pierce. Pierce values the tickets at $110. The Open begins with practice rounds followed by four days of competition which begins on Thursday, June 18. Legislators would be invited to attend the event on either the 18th or the 19th.

Legislators who attend on either day will participate in an approximate three hour program which will include presentations on a number of subjects related to the efforts of Pierce and others to host the Open. According to the itinerary provided by Pierce, the program will include briefings on transportation planning, security, examples of inter-governmental cooperation, the expansion and modernization of a waste water treatment plant, plans for an ADA-accessible pier in the area in conjunction with the opening of 2 miles of beach access and the economic impact of the Open.

OPINION

Acceptance of the complimentary admission would not violate the Ethics Act under the facts provided by Pierce.

ANALYSIS

RCW 42.52.150 prohibits the acceptance by legislators of most gifts from a single source with a value in excess of $50 in a calendar year. However, the Ethics Act exempts or otherwise permits the acceptance of a number of complimentary items without regard to the $50 limit. One of these exemptions is found in RCW 42.52.010(9)(d). This exemption provides, in part, that if a legislator is making an "appearance…in an official capacity" the expenses associated with the appearance may be provided on a complimentary basis.

This board has addressed the question of what constitutes an appearance in an official capacity and has identified some non-exclusive tests and areas of inquiry which have proven helpful in the analysis. There must be a legislative purpose which may be viewed as substantive and not minor and a non-exclusive factor which may illustrate such a purpose could be "an invitation, itinerary or agenda which shows that the legislator performs substantial services on behalf of the state or the legislature (Advisory Opinion 2002-No.1)." Complimentary admission provided to a legislator to a VIP area at hydroplane races, standing alone, was not an appearance in an official capacity "because there is no official purpose served by the attendance of legislators at the event. The race is purely a sports entertainment event which is not part of official duties (Advisory Opinion 1996-No.10)."

More recently, we were asked to review this gift exemption in the case of a legislator who received complimentary expenses associated with travel to a foreign country. The itinerary for this multi-day travel reflected that some days consisted of visits to historical sights and other culture-related activities, but that several other days were devoted to topics and briefings which were viewed as related to the legislator's official duties. We determined that, overall, the activities in which the legislator participated created an objectively reasonable nexus with the travel and her legislative duties and therefore the acceptance of the expenses was permitted under the gift exemption (Complaint Opinion 20140-No. 3).

In the present case Pierce will provide more than complimentary attendance to a sports event. A significant portion of the legislator's day will be spent, according to the itinerary, on a tour and briefings on subjects which have an objectively reasonable nexus with legislative duties. Under these facts the gift exemption is applicable.