

LEGISLATIVE ETHICS BOARD MINUTES

January 20, 2005

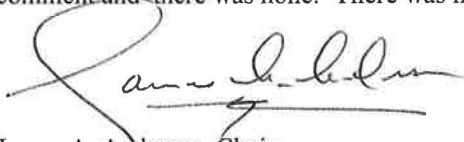
Members and Staff Present: James A. Andersen, Chair; John Betrozoff; Wayne Ehlers; Representative Doug Ericksen; Senator Stephen Johnson; Donna L. McKereghan; Representative Ed Murray; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; Tim Sekerak, Designated House Ethics Adviser.

The December minutes were approved. Chair Andersen introduced and welcomed new Board member, Donna L. McKereghan. Ms. McKereghan is from Spokane and replaces former member William F. Asbury. The citizen members elected James A. Andersen as Chair and John Betrozoff as Vice-Chair for 2005.

Counsel reported on three examples of informal advice provided to legislators and staff since the December meeting. (1) A signature petition directed at legislators, urging them to take action to provide for a revote of the Governor's race, is not a "ballot proposition or measure." (2) It is possible for a legislator, acting as a private businessperson, to include the list of registered lobbyists supplied by the Public Disclosure Commission, in a larger business subscription list provided several steps are taken to ensure the legislator is not using his legislative position to secure special privileges in contravention of the Ethics Act. (3) A legislator should not accept free travel on a corporate jet to attend a bill signing ceremony in Olympia.

Mr. Betrozoff suggested the Board consider written guidelines or a written policy statement to help guide future Board members in the administration of the Ethics Act. Following discussion, Ms. McKereghan and Ms. Schroeder offered to provide materials in support of the idea and Counsel was directed to place the issue on a future agenda for further discussion.

The Board approved a draft opinion on congratulatory letters, Advisory Opinion 2005 – No. 1, and directed that it be published. The Chair called for public comment and there was none. The Board convened in executive session to consider a pending complaint. The Board reconvened in public session. The Board directed that Complaint Opinion 2004 – No. 3 be published. Chair Andersen again called for public comment and there was none. There was no further business and the meeting was adjourned.

A handwritten signature in black ink, appearing to read "James A. Andersen", with a horizontal line underneath it.


James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

February 17, 2005

Members and Staff Present: James A. Andersen, Chair; Representative Doug Ericksen; Senator Stephen Johnson; Donna L. McKereghan; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; also present was Ken Wilson, investigator.

The February meeting was limited to an executive session to discuss preliminary matters relative to pending complaints – Complaints 2005 No's 1 and 2.


James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

March 17, 2005

Members and staff present: James A. Andersen, Chair; Wayne Ehlers; Representative Doug Ericksen; Senator Stephen Johnson; Donna L. McKereghan; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; Tim Sekerak and Marty Lovinger, Designated Ethics Advisers. Also in attendance was Mr. Ken Wilson, a private investigator.

The February minutes were approved.

Senator Luke Esser presented his offer of employment from the Office of the Attorney General (OAG) in accordance with RCW 42.52.120, as well as his Employment Disclosure form with attachments. The Board previewed the employment offer as required by the Ethics Act when a legislator is offered employment with a state agency through a non-competitive hiring process. In response to questions from Board members, the Senator stated that his role would be in the nature of a community relations director for his former employer, Attorney General McKenna. He continued by advising the Board that he would be taking unpaid leave from the OAG during legislative sessions and legislative meetings. He stated the job duties specifically excepted legislation. In response to further questions, Senator Esser said he understood that in his capacity as an executive branch employee he would be subject to the jurisdiction of the Executive Ethics Board and that in his capacity as a legislator, the jurisdiction of the Legislative Ethics Board. It was moved and seconded that the Board approve the Senator's request to accept the job offer as presented. The motion passed unanimously.

Counsel informed the Board of one example of informal advice given since the last meeting. Members, staff and lobbyists were reminded that RCW 42.52.150, the limitation on gifts, generally prohibits receipt of most gifts valued in excess of \$50 in a calendar year from the same source. Also, a permissible gift might be given by multiple sources but it is the value of the gift, not the cost to each person giving it, which triggers the \$50 limitation. A round of golf was used as an example. Assume the round costs \$99 and there are three contributors at \$33 each. The value of the gift is \$99. In the past there has been some confusion on this as it appears multiple donors may have advised legislators that since each were gifting only \$33, the golf round could be accepted regardless of its total cost. That advice is in error.

An update on pending ethics legislation was deferred until the next meeting. Representatives Ross Hunter and Toby Nixon, House employee Larry Clark and House Counsel, Tim Sekerak presented information to the Board concerning House plans to permit certain computer links from legislative documents. These non-governmental sites which would be linked would be scrutinized by House administration for relevancy to legislative topics. The Board members generally supported these efforts due to the ability of the public to be better informed on issues before the Legislature. There were some concerns expressed about security, the ability of the public to question the appropriateness of the linked sites, and the potential for certain links to involve prohibited uses of public resources, and the Representatives agreed to consider those concerns and have Mr. Sekerak present an amended draft of the proposed policy at the next meeting. Also for the next meeting the Board accepted Ms. McKereghan's offer to prepare a document in the nature of a basic primer on computer terms, as well as some points for discussion with regard to linking issues.

The Chair next called for public comment and there was none. The public meeting was recessed at 1:20 p.m. and the Board convened in executive session to discuss preliminary matters related to pending complaints. The Board reconvened in public session at 2:20 p.m. There was no further business and the meeting was adjourned.



James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

April 21, 2005

Members and Staff Present: James A. Andersen, Chair; John Betrozoff, Vice-Chair; Wayne Ehlers; Senator Stephen Johnson; Representative John Lovick; Donna McKereghan; Ruth Schroeder; Mike O'Connell, Counsel; Tim Sekerak, House Counsel.

The March minutes were approved.

Chair Andersen introduced and welcomed former Board member and Chair Will Bachofner. Mr. Bachofner then introduced new Board member, Representative John Lovick. Mr. Bachofner proudly noted that Representative Lovick was hired by the Washington State Patrol when he, Mr. Bachofner, was Chief of the patrol, and they have retained a friendship over many years. He was pleased that Representative Lovick was now a member of this Board and wished him well on his important new assignment.

Counsel reported on two examples of informal advice since the last Board meeting. (1) Members, staff and lobbyists were reminded that lobbyists may not be solicited by members or staff for any thing of value and that lobbyist-hosted appreciation dinners for staff, whether solicited or not, are not permitted pursuant to RCW 42.52.140. That statute prohibits the acceptance of any thing of value if it could reasonably be expected the gift could be considered a reward for action or inaction. (2) A Senate employee was advised that RCW 42.52.120 required her to file an employment form with the Board within thirty days of her competitive selection to a position on a state commission.

House Counsel Tim Sekerak presented the updated House policy on permitting links from the House website to non-governmental websites. Ms. McKereghan provided the Board members with written examples of how links may be used, as well as some unintended consequences which could flow from links to "outside" sources. Mr. Sekerak acknowledged the earlier receipt of this information and pointed to several provisions in the House policy which are designed to avoid these types of difficulties as well as conflicts with the Ethics Act. Mr. Ehlers commented that he thought the Internet could be very informative and useful to the public and that the House was going in the right direction. Mr. Betrozoff noted the House had taken steps to address his concerns about inadvertent linkage to inappropriate sites. Ms. McKereghan said that once on the Internet, there will always be the possibility that links may result in unintended consequences. She observed that the House policy calls for preview of external sites and a disclaimer on the House website when a user was switching to an external link and that these are positive steps. Mr. Sekerak, in response to a question from Representative Lovick, said the legislative computer system is being constantly updated with new software directed at tagging or identifying improper sites but that process does not guarantee a foolproof system. Chair Andersen concluded the discussion by thanking Mr. Sekerak and the House members for including the Board in the development of the policy and for responding to the comments of the Board members in crafting the policy.

At the March meeting, Ms. Schroeder distributed a draft Statement of Common Principles which had been provided to the Board by Dr. Lois Price Spratlen, Chair of the King County Board of Ethics. The Ethics Board, Ms. Schroeder explained, was being asked to review and comment on the draft and to discuss whether it would consider signing or adopting this multi-jurisdictional document. The Board proceeded to a thorough discussion of the issue. Chair Andersen stated that he thought much good work had gone into the draft and he appreciated the effort. He also thanked Ms. Schroeder for attending a meeting on the subject on behalf of the Board. He stated he had concerns about the proposal in that this Board is a creature of the Legislature and its duties and responsibilities are subject to change by the Legislature and, in fact, the Legislature has amended the Ethics Act and thereby the duties of this Board on many occasions. In a way, he said, the Act is the Board's constitution. To the degree that the proposed statement differs from the rather unique Legislative Ethics Act, there may be unforeseen difficulties in joining other entities, with other duties and responsibilities, in a multi-jurisdictional statement. The reality of a citizen-legislature, with the attendant rules on conflicts-of-interest, is illustrative of the somewhat unique issues which are addressed by this Board and not the other boards. Ms. Schroeder said she felt this draft could certainly be

amended and it was these types of comments which were being invited. Mr. Ehlers said he agreed with the Chair's concerns and doubted whether it was a good idea for the Board to try to amend the statement. He noted that two of the entities involved in this effort are the Seattle Ethics and Elections Committee and the King County Board of Ethics. He felt they had much more in common with each other than either do with the Legislative Ethics Board, which is charged with enforcing a very specific set of rules for legislators and legislative branch employees. He also expressed concern about whether this Board could agree to a multi-jurisdictional statement which seemed to apply more to local or regional units of government, as opposed to the statewide enforcement of standards for the separate legislative branch of state government. He noted, for example, that many of the rules applicable to executive agencies are not applicable to a non-regulatory agency such as the legislature and that legislators are citizen-legislators, and the conflict-of-interest analysis is totally different than that applied to regulatory agencies. Ms. McKereghan said that all ethics boards should be encouraged to develop a statement of principles and should share ideas and work together whenever possible. However, she expressed misgivings about a multi-jurisdictional agreement for many of the reasons expressed by other members of this Board. The discussion concluded with a direction to Counsel to draft a response to Dr. Spratlen for the Board's consideration at the May meeting and that the response be consistent with these observations.

The Chair invited public comment and there was none.

Chair Andersen recessed the public meeting at 1:20 p.m. and the Board convened in executive session to discuss preliminary matters related to pending complaints. The public meeting was reconvened at 2:20 p.m.

There was no further business and the Board adjourned.


John Betrozoff – Vice Chair

LEGISLATIVE ETHICS BOARD MINUTES

May 19, 2005

Members and staff present: John Betrozoff, Vice-Chair; Wayne Ehlers; Senator Stephen Johnson; Representative John Lovick; Donna McKereghan; Ruth Schroeder; Mike O'Connell, Board Counsel; Mike Hoover, Senate Counsel

The April minutes were approved.

The Board resumed its discussion from the April meeting on the request from the King County Board of Ethics to join that Board, and others, in adopting a Statement of Common Principles. Board members reviewed and approved a draft response for Mr. Betrozoff's signature.

Ms. McKereghan suggested the Board might wish to clarify the language in the Operating Policies which address how board votes are recorded. Following discussion, Senator Johnson moved to amend present language by substituting the following:

Written board opinions and board minutes will not reflect the board's vote, although any member may request his or her vote be shown in the record.

The motion was adopted and Counsel was directed to see that the change was reflected in the next edition of the ethics manual and on the board web site.

On the issue of the web site, Counsel reported that work was continuing on the site, with the help of the Legislative Service Center (LSC). LSC is involved in a large project involving many issues with the legislative network and has provided resources to the Board to make its site more useful and user friendly. Counsel will try to schedule an opportunity for members to view those changes and ask questions of LSC staff.

At a previous meeting Mr. Betrozoff had proposed to the Board that it consider adoption of a mission statement to serve as a guideline for the Board now and in the future. Based on suggestions provided by Mr. Betrozoff for the Board's consideration, Counsel presented a draft mission statement for consideration. Following discussion, and amendment, Mr. Ehlers moved the statement be adopted and the motion passed. Counsel reported that at the end of April the Board was \$16,715 under budget for fiscal year 05.

The Vice-Chair called for public comment and there was none. The public meeting was recessed at 1:10 and the Board convened in executive session to consider a pending complaint – Complaint 2005 – No. 1. Following discussion the executive session was adjourned and the Board reconvened in public session at 2:05. There was no further business and the Board adjourned.

John W. Betrozoff
Vice-Chair

LEGISLATIVE ETHICS BOARD MINUTES

July 21, 2005

Members and staff present: James A. Andersen, Chair; John Betrozoff, Vice-Chair; Wayne Ehlers; Rep. Doug Ericksen; Senator Stephen Johnson; Rep. John Lovick; Donna McKereghan; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; Marty Lovinger and Tim Sekerak; Designated Ethics Advisers.

The May minutes were approved. There was no meeting in June.

Ms. Schroeder notified the Board she was resigning her position on the Board but would serve until the citizen members appointed her successor. The Board deferred further discussion of the appointment process until the next meeting and Chair Andersen requested that members forward the names of potential applicants to Counsel. Ms. McKereghan requested that at the next meeting the Board discuss training and orientation for new members and the Board agreed to place the topic on the next meeting agenda.

Board members were advised that the Legislature had offered to pay registration fees for the members to attend the annual meeting of the National Conference of State Legislatures to be held in August in Seattle. Members were advised to contact the Secretary of the Senate for further information. Counsel presented five examples of informal advice rendered since the last meeting. (1) Legislators could accept an unsolicited desk item from a state agency as a token of general appreciation for their support of agency goals and objectives. (2) A gubernatorial appointment is an honor of sufficient magnitude to allow a legislator to send a congratulatory letter at public expense. (3) A legislator may not sign a letter to lobbyists, whether on public stationary or not, soliciting funds for an account to pay for legislative travel. (4) A legislator may, in his campaign mailing, provide internet addresses to executive branch, government sites which provide information about consumer assistance and government construction projects and (5) under the facts presented, the presumption that a legislator may attend a charitable event on a complimentary basis, notwithstanding the \$50 gift limit, is applicable when the event is a golf event.

The Chair called for public comment. Mr. David Coffman, Attorney at Law and complainant in Complaint 2005 – No. 6, briefly addressed the Board. Mr. Coffman said he wasn't in attendance to discuss the pending complaint but rather to observe the public meeting and learn who was on the Board. Following Mr. Coffman's remarks, Chair Andersen recessed the public meeting and the Board convened in executive session to discuss preliminary matters relative to pending complaints. Following this discussion the Board reconvened in public session. The Chair again called for public comment and there was none. There was no further business and the Board adjourned.


James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

September 15, 2005

Members and staff present: James A. Andersen, Chair; John Betrozoff, Vice-Chair; Wayne Ehlers; Rep. Doug Ericksen; Senator Stephen Johnson; Representative John Lovick; Donna McKereghan; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; Mike Hoover and Marty Lovinger, Designated Ethics Advisers.

The July minutes were approved. There was no meeting in August.

The Board discussed procedures for appointing a successor to Ms. Schroeder. It was agreed that a notice advertising the position would be posted on the Board's web site, with an application deadline of October 10. Any members with suggestions for applicants were asked to contact Counsel. The citizen members who are to make the appointment determined they would interview applicants on October 20, the date of the next regular Board meeting, and Counsel was directed to set up the interview schedule.

Representatives from the Legislative Service Center (LSC) presented Board members with a demonstration of the Board's new web site. Members asked a number of questions and requested some minor changes to the site. LSC personnel in attendance were Ms. Ronda Tentarelli, Ms. Sharon McGuire and Mr. Nate Naismith. On behalf of the Board, Chair Andersen expressed appreciation for LSC's efforts and thanked the individuals for a more efficient and user-friendly site. Next, the Board discussed its role in public outreach. The Board concluded that its duties, as defined by statute, did not include a formal education outreach beyond legislators and legislative staff, that members should feel free to accept invitations to speak to groups, but that members should not speak to what the Board may or may not decide in the future. The Board accepted Ms. McKereghan's offer to prepare introductory/educational materials for new Board members.

Senator Johnson suggested that legislators and staff might find it helpful to receive a one page "ethics board alert" at the beginning of the legislative session. The document could summarize important opinions, statutory changes, etc. Representative Lovick and Mr. Betrozoff spoke in favor and Counsel was directed to prepare the document.

Chair Andersen called for public comment and there was none. The public meeting was recessed and the Board convened in executive session to discuss preliminary matters relative to pending complaints. The Board reconvened in public session at 2 p.m. Chair Andersen again called for public comment and there was none. There was no further business and the meeting was adjourned.


James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

October 20, 2005

Present: James A. Andersen, Chair; John Betrozoff, Vice-Chair; Wayne Ehlers; Rep. Doug Ericksen; Senator Stephen Johnson; Rep. John Lovick; Donna McKereghan; Ruth Schroeder; Mike O'Connell, Counsel.

The September minutes were approved.

Chair Andersen reminded members that the COGEL conference is scheduled December 4-7 in Boston and if anyone is interested in attending they may work with Counsel on arrangements. It appears that several in-state ethics entities, including this Board, will co-sponsor a state ethics conference next June. More information will be provided when available.

The Board received a budget report through September of the 2005-2006 fiscal year. The Board was advised that Counsel and the designated advisers participated in an all-day continuing legal education class for legislative staff on October 6, and that on December 7 they would provide ethics training for the staff of the Office of State Actuary.

Counsel presented two examples of informal advice given since the last meeting. (1) The gift restrictions were not applicable in the case of the University of Washington seeking to provide a letterman's jacket to a Senator who had earned a varsity letter at the UW but had never received the jacket. NCAA guidelines allow the UW to provide the jackets to alumni athletes who may not have received them or who may need a replacement due to loss or damage. (2) A legislator was advised not to use public resources to prepare an op-ed piece supporting transportation projects and the legislature's passage of a gas tax to fund those projects, 27 days before the issue of repealing that tax was to be voted on via the initiative process.

The Chair asked for public comment and there was none. The public meeting was recessed and the Board convened in executive session to discuss preliminary matters related to pending complaints. Following the executive session the public meeting was reconvened. The Chair again called for public comment and there was none. There was no further business and the meeting was adjourned.


James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

December 6, 2005

Present: James A. Andersen, Chair; Tony M. Cook; Wayne Ehlers; Senator Stephen Johnson; Representative John Lovick; Donna McKereghan; Mike O'Connell, Counsel.

The October minutes were approved. The Board did not meet in November.

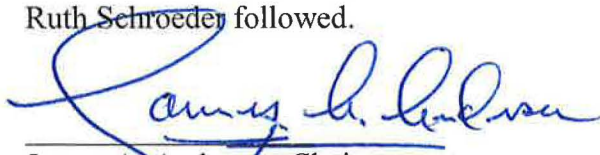
Members welcomed Tony M. Cook to the Board, replacing Ruth Schroeder whose term had expired.

Following discussion, the Board agreed to support legislation proposed by the Attorney General which would allow citizen members of the Executive and Legislative Ethics Boards to serve a second five year term.

Chair Andersen called for public comment and there was none.

The public meeting was recessed and the Board convened in executive session to discuss preliminary matters relative to Complaints 2005 – No's 7 and 8. The Board reconvened in public session and the Chair again called for public comment and there was none. Chair Andersen acknowledged the presence of former Board members Will Bachofner and Ruth Schroeder.

There was no further business and the meeting was adjourned. A reception in honor of Ruth Schroeder followed.



James A. Andersen, Chair