

June 12, 1997

**Advisory Opinion 1997 - No. 6
Temporary Club Memberships**

The Board has received an advisory opinion request from Senator Jim Horn, who has waived confidentiality.

QUESTIONS

The Seattle Yacht Club offers temporary membership to state legislators; U.S. Congress members; locally stationed, high ranking Navy officers; and Seattle port commissioners. Temporary membership costs \$10 annually, and provides entry into the club restaurant and club events. Temporary members pay full cost for meals and beverages. Full members, who pay "several thousand dollars" in initiation fees and annual dues, are also entitled to use the clubs mooring facilities on Lake Union and throughout the Puget Sound. Temporary members are not entitled to use the club's mooring facilities. Assuming these facts, the questions are:

1. Would a legislator's acceptance of the offer of temporary membership violate the prohibition in RCW 42.52.150 on accepting gifts over \$50.00 from a single source annually?
2. Would acceptance of the temporary membership based on status as a legislator violate the special privileges provisions of RCW 42.52.070?

OPINION

Based on the facts presented in this request, the Board concludes that it would be a violation of the State Ethics Act to accept the temporary membership.

ANALYSIS

Gift valuation. RCW 42.52.150 prohibits acceptance of gifts "with an aggregate value in excess of fifty dollars from a single source in a calendar year." Although the stated cost of the temporary membership is only \$10, the Board considers this as a nominal amount which does not reflect its full value. Since the statute uses the term "value" rather than "cost," the Board will seek to determine the value of a gift, when possible, on the basis of fair market value. In this instance the Board has not determined a precise value, but it is clearly in excess of \$50 per year. Typical social memberships in golf and country clubs, which offer similar limited privileges, cost over \$50 per year.

Assuming that the value is greater than \$50 per year, the membership would only be permissible if it fit one of the exceptions stated in RCW 42.52.150. The only one relevant to this question is subsection (9)(i), which exempts "discounts available to an individual as a member of an employee group, occupation, or similar broad-based group." The Board re-affirms its interpretation stated in **Advisory Opinion 1995 - No. 13** regarding a similar list of officials: "The high-ranking government positions stated in the club's by-laws do not constitute a discernible employee or occupational broad-based group. Even though a fairly large number of individuals may qualify . . . the Board believes that the 'discount' exclusion is only appropriate when a truly 'broad-based' group is involved, rather than a selection of specific positions."

Special Privileges. RCW 42.52.070 prohibits the use of official position "to secure special privileges or exemptions" for self or others. In this opinion request, the temporary membership is not available to the general public; it is only offered to certain officials by virtue of their official position. Therefore it is a "special privilege" only extended on the basis of position. Accepting that privilege would be a use of the position to obtain the privilege in violation of the statute, regardless of the value placed on the membership.