

**April 2, 1998**  
**Advisory Opinion 1998 - No. 2**  
**State fairs' pass**

The Board has received a request for an advisory opinion from Heather Hansen, a contract lobbyist for the Washington State Fairs Association. Ms. Hansen has waived confidentiality.

**QUESTION**

Would it be a violation of the State Ethics Act to allow legislators to accept complimentary fair passes from the Washington State Fairs Association?

The pass states that it is good for admission for the "bearer and one guest to any participating fair in the State of Washington." The participating fairs include 74 state, county, and community fairs throughout Washington for calendar year 1998.

**OPINION**

Acceptance of the fair pass is a violation of the State Ethics Act, unless the restrictions set forth in this opinion are followed. The issuer of multiple-use passes must limit the number of uses to a cumulative value of no more than \$50.00 in a calendar year. Holders of such passes are also responsible to ensure that their usage does not exceed \$50.00.

**ANALYSIS**

The statutes related to this request are RCW 42.52.140 and .150, which read in relevant part as follows:

*RCW 42.52.140 Gifts.* No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

*RCW 42.52.150 Limitations on gifts.* (1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

...

(g) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

...

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

The request makes no assertion that the fair attendance is expected in connection with official duties or as an educational program. Therefore fair attendance using the pass would be considered complimentary admission to a community entertainment event, which would ordinarily be exempt under the presumption in section (2)(g) stated above. However, in **Advisory Opinion 1996 - No. 10**, the Board stated that complimentary admission to the SEAFAIR hydroplane race would be subject to the \$50.00 gift limit if "the invitation to a community entertainment event comes directly from a registered lobbyist or lobbyist-employer." Since the pass in this request would be received from a lobbyist on behalf of a lobbyist employer, the \$50.00 limit applies.

The pass in this request is not an item which can be purchased, so there is no stated price. In **Advisory Opinion 1997 - No. 6, temporary club memberships**, the Board stated that "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 seeking to determine the value of the pass, the Board notes that of the 74 participating fairs, only 46 charge any admission. Of those that do charge, the highest fee is \$7.50 and the lowest is \$1.00. The median charge is \$5.00. The Board also notes that the pass includes complimentary admission for a "guest." In **Advisory Opinion 1997 - No. 10**, museum reception, the Board stated that the value of "guest" admissions would be attributed to the primary recipient of the gift. That interpretation was recently enacted into law (Chapter 7, Laws of 1998 (SB 6118)).

Considering the number of fairs involved, and the guest attribution, the potential value of the pass is substantially in excess of \$50.00. To be accepted without violation of the statutory limit, the Board requires that multiple use passes from lobbyists or lobbyist-employers be limited to a value of \$50.00 per calendar year.

Acceptance of the fair pass would not be a violation if the Association establishes a method to restrict total usage of the pass. Since the method of restriction may not be completely effective in every case, however, users of the pass are cautioned that a violation of the State Ethics Act would occur in the event that a legislator used the pass for more than \$50.00 worth of admissions.