

MINUTES
LEGISLATIVE ETHICS BOARD
January 16, 2003

Members and Staff Present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; John Betrozoff; Representative Doug Ericksen; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder; Mike O'Connell, Counsel; Mike Hoover, Martin Lovinger and Tim Sekerak, Designated Ethics Advisers.

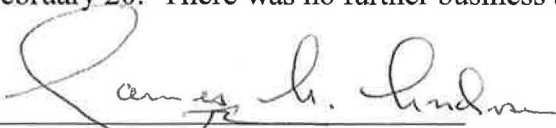
The December minutes were approved. The citizen members of the Board unanimously elected James A. Andersen and William F. Asbury chair and vice-chair, respectively, for 2003.

Counsel presented three examples of informal advice given since the last meeting. (1) A session employee was advised not to accept session employment with a newspaper when that job would consist of writing opinion pieces on pending legislation. (2) The prohibition on legislative staff lobbying for or against a bill does not prohibit an employee's spouse from testifying before a legislative committee. (3) An unsolicited coupon received by legislators from a local business entity, valued in excess of \$50, does not constitute the "receipt" of a gift but rather an offer to the legislator to purchase a service at a discounted price. A legislator's use of the coupon may or may not invoke the gift laws depending upon facts not presented in this inquiry.

Counsel presented the Board with an outline of the pending lawsuit between the Washington Education Association and the Public Disclosure Commission and was directed to continue to monitor the case and keep the Board informed. Counsel advised that the Board's request legislation, dealing with investigations, had been introduced in both houses of the legislature.

Personal Financial Affairs Statements were distributed to the citizen members for them to complete and file with the Public Disclosure Commission by April 15, 2003.

The Chair called for public comment and one person spoke briefly, thanking the Board for the opportunity to attend and observe the proceedings. The Board agreed to next meet in Olympia on February 20. There was no further business and the Board adjourned.



James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD

February 20, 2003

Members and staff present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; Representative Doug Ericksen; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder; Mike O'Connell, Counsel; Mike Hoover, Martin Lovinger and Tim Sekerak, Designated Ethics Advisers.


The January minutes were approved. Chair Andersen stated that due to the relatively short period of time available for the meeting, public comment would be the first agenda item in order to insure the public an opportunity to address the Board. There was no public comment.

The Chair advised that the Board was faced with a basic procedural question and that was how to proceed, if at all, in response to a Letter of Referral from the Senate which advised the Board of potential issues related to the privacy and confidentiality of electronic messages (e-mail). The Chair reviewed the provisions of the Ethics Act and the procedural precedents of the Board with regard to options the Board may wish to consider. These options included, but were not necessarily limited to, the following.

1. The Board could file a complaint on its own motion.
2. Board staff could be directed to do further fact finding.
3. The Board could request the Senate to continue its investigation and provide the Board with a report of its findings.
4. The Board could file a complaint on its own motion and refer the complaint to the Senate.
5. The Board could monitor the ongoing dispute and retain the option of taking some action at a later time.
6. The Board could defer consideration of these options until a future meeting.

Mr. Asbury noted that although the issues referred to in the letter had been reported by the news media, today's meeting presented the first opportunity for the Board to discuss the issues. He stated that the Board does not have sufficient time at this meeting, nor sufficient facts, to engage in a discussion of the merits of how or whether a complaint should be filed. Mr. Aldinger and Senator Johnson agreed. Mr. Aldinger moved the second option, further fact finding. Representative Ericksen asked if the Board intended to limit fact finding to the issue of e-mail privacy. Discussion followed on the scope of the fact finding and Mr. Aldinger accepted an amendment to his motion to clarify that fact finding include the e-mail content and associated deminimis personal use issues. The amended motion passed unanimously.

The public meeting was recessed and the Board convened in executive session to consider preliminary issues relative to a pending complaint. The Board reconvened in public session, the Chair again called for any public comment and there was none. There was no further business and the Board adjourned.


James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD
March 20, 2003

Members and staff present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice-chair; Representative Doug Ericksen; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder; Mike O'Connell, Counsel; Martin Lovinger and Tim Sekerak, Designated Ethics Advisers.

The February minutes were approved as corrected.

Counsel presented three examples of informal advice offered since the February meeting. (1) Legislators were advised not to accept an offer from a lobbyist-employer to make a charitable contribution to the legislator's favorite, named charity. (2) A legislator was advised that the Ethics Act allowed her to accept a complimentary dinner at an event sponsored by a college in her legislative district. (3) Legislators were advised not to solicit products from a Washington business that would be used to promote those products during a party hosted by the legislators for their legislative colleagues.

The Board reviewed all the bills introduced during the 2003 legislative session that would amend RCW 42.52, the Ethics in Public Service Act. Following discussion, Chair Andersen appointed a subcommittee to study the bills in greater detail and to report its recommendations to the legislative members of the Ethics Board for their consideration. Mr. Asbury chaired the subcommittee and he and fellow members, Ms. Schroeder and Mr. Aldinger announced they would meet following the adjournment of the Board meeting and complete their task.

Counsel presented a budget update and following discussion the Board directed Counsel to work with the House and Senate budget writers on issues relating to the Board's budget.

Chairman Andersen called for public comment and there was none.

The Board recessed the public meeting and convened in executive session to discuss preliminary issues relative to pending complaints.

The Board reconvened in public session and, after discussion, authorized the hiring of Mr. Ken Wilson to perform investigative services for the Board for one pending complaint. The Chair, Vice-chair and Counsel were directed to meet with Mr. Wilson and work out the details for his services. The Chair again called for public comment and there was none. There was no further business and the Board adjourned.


James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD
May 15, 2003

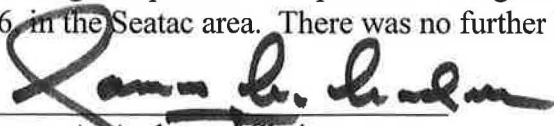
Members and staff present: Paul Aldinger; James A. Andersen, Chair; John Betrozoff; Representative Doug Ericksen; Senator Stephen Johnson; Senator Debbie Regala; Representative Phil Rockefeller; Ruth Schroeder; Mike O'Connell, Counsel; Mike Hoover, Martin Lovinger and Tim Sekerak, Designated Ethics Advisers.

The March minutes were approved (the Board did not meet in April). Counsel presented the following examples of informal advice since the last meeting. (1) In two cases involving the offer of admission and dinner to legislators from their employers, one offer was acceptable because it was clearly related to the legislator's outside business and not related to his legislative duties. The other offer was not acceptable because the facts showed that it was tendered solely because the employee was a legislator. In the second case the event was a fund raiser for the legislator's political party. (2) A legislator was advised he should not accept a free product from a manufacturer, regardless of value, as a thank you for the legislator's active support in favor of successful legislation sought by the manufacturer. (3) A legislator was advised that it was a proper use of public resources to have her staff prepare and mail a congratulatory letter on office letterhead to a twelve year old constituent who had been accepted to Harvard University.

The Board reviewed the status of 2003 ethics legislation. A final report, if the legislature is adjourned, will be given at the June meeting.

Counsel updated the Board on its 2002-2003 budget expenditures. There will be a further report on the budget in June.

The Chair called for public comment and there was none. The Chair recessed the public meeting and the Board convened in executive session at 12:25 pm to consider preliminary matters related to pending complaints. The public meeting reconvened at 2 pm. The next meeting was set for June 26 in the Seatac area. There was no further business and the Board adjourned.


James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD

June 26, 2003

Members and staff present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, vice-Chair; John Betrozoff; Senator Stephen Johnson; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Board Counsel; Martin Lovinger and Tim Sekerak, Designated Ethics Advisers.

The minutes from the May meeting were approved.

Counsel distributed copies of the new Ethics Manual, 2003 Edition, and informed the Board the manual had been printed by House Production Services, at a substantial savings from the estimate presented by the state Department of Printing. Board members were informed that final budget numbers for the 2002-2003 fiscal year, which ends June 30, should be available in August but that it seemed likely the Board would end the year with a modest budget balance.

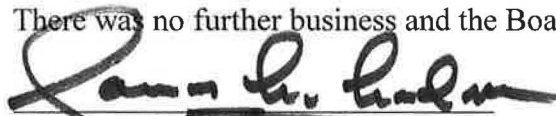
A copy of an editorial printed in The Olympian, dated June 7, calling the Board's attention to a recent mailing sent by several members of the House of Representatives to their constituents, was distributed. Counsel discussed six prior Board decisions which dealt with legislative mailings and Designated Ethics Adviser and House Counsel, Tim Sekerak, explained the history of this particular mailing, the House policies on mailings and the approval and budget processes associated with mailings in general. This was an information item only.

Counsel reported that he had informally advised a legislative staff member that he could accept a complimentary admission to a presidential fund raiser from representatives for the presidential candidate, when the staff person had volunteered his own time to work on the campaign.

The Chair called for public comment and there was none.

The Board recessed the public meeting at 12:40 pm and convened in executive session to discuss pending complaints. The public meeting was reconvened at 2 pm. The Board scheduled its next meeting for July 17th at the Doubletree.

There was no further business and the Board adjourned.


James A. Andersen - Chair

MINUTES
LEGISLATIVE ETHICS BOARD

July 27, 2003

Members and staff present: Paul Aldinger; James A. Andersen, Chair; John Betrozoff; Representative Doug Ericksen; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Board Counsel.

Others present: Ken Wilson, professional investigator under contract with the Board.

The minutes from the June meeting were approved.

The meeting notice had designated this meeting as devoted to an executive session to discuss preliminary issues related to pending complaints. No members of the public were present.

The Board proceeded to convene in executive session.

At 1:50 pm the Chair briefly reconvened the Board in public session. The Board scheduled its next meeting for August 21st. There was no further business and the Board adjourned.



James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD

August 21, 2003

Members and staff present: James A. Andersen, Chair; William F. Asbury, Vice-Chair; John Betrozoff; Senator Stephen Johnson; Representative Doug Ericksen; Senator Debbie Regala; Mike O'Connell, Counsel.

The minutes from the July meeting were approved.

Counsel reported he had informally advised that a third party's offer to pay the expenses of a legislator's spouse to accompany the legislator to an approved legislative conference was subject to the limitations on receipt of gifts. Counsel will attend the annual Conference on Governmental Ethics Laws (COGEL) next month in Texas.

Senator Johnson submitted an Employment Disclosure Form, relative to his potential appointment as a judge pro tempore, for the Board's consideration. Based on the information provided and the Board's opinion in AO 2001 – No. 1, the Board concluded the appointment presented no conflict of interest. Senator Johnson will file the form each January if his appointment is extended and pursuant to the Ethics Law the Board need not engage in further conflict of interest analysis.

The Chair called for public comment and there was none. The Board convened in executive session to discuss pending complaints. The Chair reconvened the public meeting at 1:55 pm.

The next meeting was scheduled for September 18 in Olympia. There was no further business and the Board adjourned.



James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD

September 18, 2003

Members and staff present: James A. Andersen, Chair; Paul Aldinger; William F. Asbury, Vice-Chair; John Betrozoff; Representative Doug Ericksen; Senator Stephen Johnson; Senator Debbie Regala; Ruth Schroeder; Mike O'Connell, Counsel; Mike Hoover, Marty Lovinger and Tim Sekerak, Designated Ethics Advisers.

The minutes from August were approved.

The Board reviewed a filing of an Employment Disclosure Form by Representative Jeff Morris. The Form reflected that Representative Morris had accepted a position with the University of Washington following a competitive hiring process.

Counsel advised that he and the ethics advisers from the House and Senate would be conducting a one hour continuing legal education class for legislative staff on October 1. The class will focus on recent Board decisions with an emphasis on privacy and e-mail.

Counsel reported he had informally advised legislative staff and interested lobbyists that in most cases the value of a gift to a member of a legislator's family was subject to the gift limitations applicable to legislators.

The Board reviewed its budget for fiscal year 2003-2004.

At the request of Ms. Schroeder, counsel and the designated ethics advisers reviewed the relationship between the Ethics Act and the Public Disclosure Commissions gift reporting requirements.

The Board discussed its opinions relating to charitable fund raising by legislators. The issue was raised on behalf of a legislator who had been asked to accept an appointment as head of a charity's fundraising effort. The Board concluded that the earlier opinions on the subject adequately addressed the questions associated with this particular appointment.

The Chair called for public comment and there was none.

The next meeting was scheduled for October 23. There was no further business and the Board adjourned.



James A. Andersen, Chair

LEGISLATIVE ETHICS BOARD MINUTES

October 23, 2003

Members and staff present: Paul Aldinger; James A. Andersen, Chair; William F. Asbury, Vice- Chair; John Betrozoff; Senator Stephen Johnson; Representative Edward Murray; Ruth Schroeder; Mike O'Connell, Counsel.

The September minutes were approved.

Counsel reported on three examples of informal advice given to legislators and staff since the last Board meeting. (1) A legislator may not accept an honorarium for appearing before a group to discuss the results of the recently completed legislative session. (2) A legislative assistant may work as a volunteer in a political party's fair booth provided she does so on her own time. (3) A legislative newsletter may not contain an advertisement for a private business.

Following discussion, the Board agreed to continue its support of pending legislation which would permit the Board to make discretionary, rather than mandatory, referrals of certain cases to the Attorney General for investigation. Current law requires that all complaints alleging a violation of the prohibition on use of public resources to assist a campaign be assigned to the Attorney General regardless of complexity. Legislative members of the Board agreed to convey the Board's support to their colleagues.

The Chair called for public comment and there was none.

The Chair recessed the public meeting and the Board convened in executive session to discuss a pending complaint and receive an investigative report from the Attorney General.

The public meeting was reconvened, the Chair called for public comment and there was none. The next Board meeting was scheduled for December 4 in Olympia. There was no further business and the Board adjourned.



James A. Andersen, Chair

MINUTES
LEGISLATIVE ETHICS BOARD

December 4, 2003

Members and staff present: James A. Andersen, Chair; Paul Aldinger; William F. Asbury, Vice-Chair; Ruth Schroeder; Mike O'Connell, Counsel; Marty Lovinger and Tim Sekerak, Designated Ethics Advisers.

Consideration of the minutes from the October meeting was deferred until the next meeting (the Board did not meet in November).

Tim Sekerak introduced the new Chief Clerk of the House, Rich Nafziger. The Chair and Vice-Chair welcomed Mr. Nafziger and expressed their thanks to him for attending the Board meeting.

Counsel reported on three, related examples of informal advice given since the last meeting. (1) Mailing restrictions on legislators during the twelve months preceding elections are found in RCW 42.52.185 but those restrictions address mailings to "constituents." .185 defines "constituent" as a person living in the legislator's legislative district. Therefore, .185 does not address the ability of a legislator to mail outside her/his legislative district during the time the mailing restrictions are in place. (2) Since the restrictions found in .185 apply to mailings (including e-mails) using state resources, legislator's may under certain conditions e-mail from a home computer at their own expense. One of the conditions is that e-mail lists generated in their legislative office may not be used for campaign purposes. (3) Legislators subject to the mailing restrictions of .185 have routinely, based on informal advice from Board legal counsel, included a statement in their last newsletter explaining that the Ethics Act prohibits more than two newsletters at public expense. Following the advice in (2) above, the question was whether the legislator could include a question/offer to continue legislative-related e mail newsletters produced without the use of public resources. Those constituents who answered "yes" would then receive a newsletter prepared by the legislator from his or her home computer. The advice was "yes," such a statement and follow-up does not seem to be prohibited by the Ethics Act. However, a "home computer" is not a district office computer and legislative assistants are public resources so legislators must be careful that any such newsletters be their own product. As far as using state resources as sources of information for these newsletters, the advice was that legislators are entitled to use documents available to the general public, such as committee bill reports, voting records, etc. but that legislative staff should not be used to prepare other information designed solely for these newsletters. And, again, legislators are cautioned that to use their legislative newsletter to solicit names to an e mail list which is used for campaign purposes would be a violation of the prohibition on the use of public resources to assist a campaign.

Counsel presented a budget update. Next, the Board reviewed a handout which depicted the history of the Board's advisory and complaint opinions since 1995, which was the first year of operation for the reconstituted Ethics Board following legislative enactment of a new ethics law in 1994. Mr. Asbury, chair of the subcommittee on Board publications, suggested this information be included in the Board's next newsletter and counsel was directed to follow through on the suggestion.

The Chair called for public comment and there was none. The next meeting was scheduled for January 22 in Olympia. There was no further business and the Board adjourned.



James A. Andersen, Chair