

## MINUTES

### LEGISLATIVE ETHICS BOARD

January 14, 1999  
Senate Hearing Room 3, JAC Bldg., Olympia

Members Present: Paul Aldinger; James Andersen; William Asbury, Chair; Will Bachofner; Rep. Dow Constantine; Rep. John Pennington; Senator Harriet Spanel.

Counsel: Mike O'Connell

Designated ethics advisers: Milt Doumit and Marty Lovinger

Also present: Richard Heath, Sr. Assistant Attorney General; Meg Grimaldi, Executive Secretary, Executive Ethics Board; Chuck Sauvage, Common Cause; Frank Tennison, Investigator, Office of the Attorney General.

Mr. Asbury called the meeting to order at 10:22 a.m.

Minutes: Motion was made/seconded/approved to adopt the minutes of the December 3 meeting.

Vacancies: Mr. Asbury announced the Board had received notice of the resignation of Senator Long and that Senator Spanel would be leaving the Board at the end of her term (1/31). The Board directed that letters of appreciation be sent to both Senators for their contributions.

Executive Ethics Board: Mr. Asbury introduced Meg Grimaldi, Executive Secretary of the Executive Ethics Board. Mr. Asbury explained that he invited Ms. Grimaldi to speak about the Executive Board approach to analyzing allegations of use of public facilities for campaign purposes, a topic which is common to both boards. Ms. Grimaldi discussed the recent Executive Board decision in the case involving the Lt. Governor as an example of that Board's approach to these issues. Ms. Grimaldi, when asked if the Lt. Governor enjoyed the same flexibility as the Governor in speaking out on initiatives, replied that the Executive Board worked through the facts to determine if the Lt. Governor was at any time the acting Governor at the time any of the acts complained of took place. The Board found that was not the case and did not feel the duties of the office of the Lt. Governor encompassed the ability to use public facilities to speak out on the drug initiatives while they were ballot issues. Judge Anderson questioned whether that wasn't a narrow interpretation of the Lt. Governor's duties, since they weren't really defined anywhere. but everyone knows that this Lt. Governor is active in the area of fighting drugs and that Lt. Governor Pritchard was active in literacy issues. Ms. Grimaldi responded that in this case the Executive Board felt the use of public facilities to oppose these drug initiatives went beyond the constitutional and statutory duties of the office.

Training: Counsel reviewed the training for House and Senate members and employees which took place the week before session. Mr. Bachofner asked if there was any training for the employees who wrote and printed some of the materials which ended up before this Board and whether we needed to do a better job with this current group of people. Representative Pennington believes some staff may be "testing the waters" in these areas and more training is probably a good idea. Judge Andersen asked if the Board hadn't been clear in its request that it wanted ethics advisers in each house so that the focus was on prevention rather than discipline after-the-fact. Mr. Asbury asked if it was appropriate for the Board to express itself on this point and to request that someone from each House caucus, or some person acceptable to both caucuses, be appointed as the designated ethics adviser(s). Representative Pennington agreed that the House needed to fill the void created by the departure of Jim Blundell, House Counsel, who had served the House very well as the designated ethics adviser. He stated that he felt the House would resolve this issue without the Board having to formally express its opinion. Mr. Bachofner reiterated that members and staff who deal with mailings and publications need to have someone review these things before they are mailed and they need good training on what is and isn't appropriate. Representative Pennington stated that while members have ultimate responsibility, more emphasis must be placed with the media services people. The Board members agreed and asked him to give a brief report at the next meeting on the progress made on the issue of designated ethics advisers for the House. The Board also agreed to invite the Co-Chief Clerks to visit with the Board sometime in the future to discuss the issue of preview of materials before publication and mailing.

Annual financial statements: Lay members were given their annual financial statement forms from the PDC and advised that these are to be completed and turned in to that agency by April 15. Mr. Aldinger was advised that members could use the "short form", F-1A, in the event there was no material change in their status since last years report.

Public comment: Chuck Sauvage, from Common Cause, spoke briefly about the legislation proposed by the Board and stated that there is some concern being expressed that the bill might open up the possibility of increased use of taxpayer dollars to fight for or against initiatives. Senator Spanel stated that the intent of the bill is to make sure that both Ethics Boards are consistent with the Public Disclosure Commission on the issue of initiatives to the legislature. Meg Grimaldi confirmed that the proposed bill is intended to clarify the jurisdictional boundaries of the PDC and the Executive Ethics Board.

Executive session: Following a brief recess at 11:20 a.m. the Board convened in executive session to discuss pending complaints.

The meeting was adjourned at 1:20 p.m.

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William Asbury, Chair

# Legislative Ethics Board

**BOARD MEMBERS:**  
PAUL ALDINGER  
WILLIAM ASBURY, CHAIR  
JAMES ANDERSEN, VICE CHAIR  
JOHN BETROZOFF  
REP. DOW CONSTANTINE  
SEN. STEPHEN JOHNSON  
SEN. JULIA PATTERSON  
REP. JOHN PENNINGTON  
RUTH SCHROEDER



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## MINUTES OF THE LEGISLATIVE ETHICS BOARD February 10, 1999

**Members Present:** Paul Aldinger; William F. Asbury; James Andersen, Chair; Representative Dow Constantine; Senator Steve Johnson; Senator Julia Patterson; Representative John Pennington; Ruth Schroeder.

**Counsel and Ethics Advisers:** Mike O'Connell; Milt Doumit; Jennifer Joly; Marty Lovinger.

**Minutes:** Moved to adopt the minutes with one correction to page 2. The chairman noted that the Board had agreed to not take a position on legislation proposed by the Executive Ethics Board and that the minutes should reflect that decision. The amendment was adopted and the minutes were approved as otherwise submitted.

Chairman Andersen noted that the amended agenda called for a suspension of the regular counsel's report until next month in an effort to provide as much time as possible for today's executive session.

The chairman reported on his invitation and attendance, with board counsel, at a Senate joint caucus as part of the Board's statutory responsibility to promote education in the area of ethics.

The Board directed counsel to request the House and the Senate to provide particulars with regard to the recently publicized personnel actions taken in those two bodies related to the improper use of the Internet. The Board noted that this appeared to be an area where concurrent jurisdiction fell to the House/Senate and the Board, since personnel actions are the proper province of the legislature while the ultimate responsibility for enforcement of the State Ethics Act is vested in the Board.

The Board then discussed Advisory Opinion request 2000, No. 1, dealing with charitable fund-raising by legislators. Counsel pointed out that there are few restraints on legislators as private citizens, except for the prohibition on soliciting lobbyists, and that the law and Board precedents do not recognize a "good works" exemption from the statute limiting the use of public resources. Senator Patterson inquired whether the law would prohibit a legislator acting as a private citizen from seeking donations to, for example, the local PTA or the March of Dimes, from a corporation or business which might have lobbyist-employees. Counsel responded that these

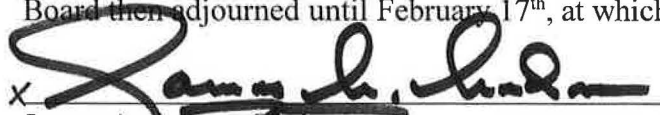
types of questions were analyzed on a case-by-case basis and the advice has been to erect a "firewall" between the legislator/private citizen and the lobbyist. For instance, some employers have foundations or contact persons for the very purpose of being made aware of charitable needs and so long as the lobbyists are not involved and the "firewall" prevents both the de jure and the defacto solicitation of the lobbyist by the legislator, staff has been able to work with most every situation. The Board was advised that efforts such as the Habitat for Humanity is an example of a legislative project which was kept separate from lobbyists. The lobbyists were free to donate directly to the Habitat for Humanity but not to the House or the Senate and the House and Senate kept the "firewall" up to the extent lobbyists were not solicited and did not join in with the legislature in this charitable effort. The Board directed counsel to prepare a draft response for discussion at the March meeting in accordance with applicable precedent and the thoughts expressed in today's discussion.

The chairman recognized the arrival of Mr. Asbury, who is still a board member because no replacement had yet been named by the Governor and in such cases the law provides he may serve until his successor is appointed. Mr. Asbury retains the office of vice-chairman.

The Board approved the formation of a sub-committee, consisting of Mr. Aldinger (chair) and Representative Pennington, to work with staff and prepare a report to the Board on the ethical issues presented by the rapid advancements in technology. It is anticipated that this sub-committee would include a recommendation as to whether the Board should institute an advisory opinion on the issues. Parameters of the report and the timing of it's efforts would rest with the sub-committee.

There was no public comment.

At 12:40, the Board commenced executive session. Executive session concluded at 1 p.m.. The Board then adjourned until February 17<sup>th</sup>, at which time the executive session will reconvene.

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James Andersen, Chairman

MINUTES  
LEGISLATIVE ETHICS BOARD

February 11, 1999  
Senate Hearing Room 3, JAC Bldg., Olympia

Members Present: Paul Aldinger; James Andersen; William Asbury, Chair; Representative Dow Constantine; Senator Steve Johnson; Senator Julia Patterson; Representative John Pennington; Ruth Schroeder.

Counsel: Mike O'Connell

Designated ethics advisers: Milt Doumit and Marty Lovinger

Also present: Richard Heath, Sr. Assistant Attorney General; Frank Tennison, Investigator, Office of the Attorney General.

Mr. Asbury called the meeting to order at 10:00 a.m.

Minutes: Motion was made/seconded/approved to adopt the minutes of the January 14 meeting.

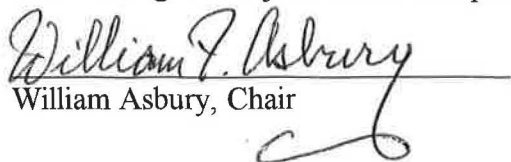
New Members: Mr. Asbury introduced the two new members to the Board, Senators Steve Johnson and Julia Patterson, replacing Senators Jeanine Long and Harriet Spanel. It was announced that Representatives Constantine and Pennington had been reappointed by the House to new terms on the Board.

Representative Pennington reported that the House was making progress on hiring a permanent ethics adviser and he was hopeful the decision could be made in the next two weeks.

Staff report: Substitute Senate Bill 5025, the Board request legislation, was reported out of committee and was referred to the Rules committee. It has been changed, slightly, to clarify the time period when an initiative to the legislature ceases to be a ballot measure. Staff will monitor the progress of the bill and keep the chair informed between Board meetings. The new ethics manuals have been distributed to both houses, the Board mailing list, and the capitol press corp. Arrangements will be made to coordinate distribution with the registered lobbyists. Judge Andersen requested, and the Board agreed, that in the future the manual should be dated and numbered and it should be noted that it is a Board publication.

No member of the public had any comments.

Executive session: The Board went to executive session to discuss pending complaints. The meeting was adjourned at 1:05 p.m.

  
William Asbury, Chair

MINUTES  
LEGISLATIVE ETHICS BOARD

March 18, 1999  
Senate Hearing Room 3, JAC Bldg., Olympia

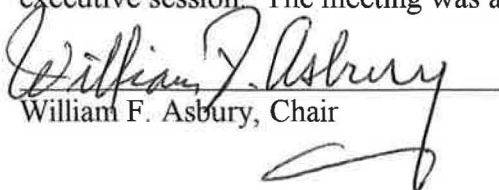
Members Present: Paul Aldinger; James Andersen; William Asbury, Chair; Will Bachofner; Representative Dow Constantine; Senator Julia Patterson; Representative John Pennington; Ruth Schroeder.

Counsel and Designated Ethics Advisers: Mike O'Connell; Milt Doumit and Marty Lovinger

Minutes: Moved, seconded and approved to adopt the minutes of the February 11 meeting

Staff report: Four examples of informal opinions by counsel were discussed. Those were (1) conditions under which lobbyists could invite legislators to tour a segment of the agricultural industry; (2) whether a legislator could use public resources to solicit contributions from a foundation on behalf of homeless children; (3) whether staff could routinely send publications, such as press releases, to political parties and to campaign websites; and (4) a discussion of applicable ethics rules in the case of a legislator who wished to form a non-profit corporation which would be involved in public policy issues. Staff advised that in the case of (3), they had approved the routing of legislative publications, prepared in the normal course of legislative activity and which had complied with all applicable rules and opinions of the Board, to whomever had requested them, without distinguishing between the recipients. The Board's discussion on this issue recognized that the test was whether public resources were being used to further a campaign. Senator Patterson commented that one could take the view that any communication supplied to the parties was an indirect assistance to their #1 purpose, electing candidates. Mr. Asbury stated that he felt this might be a slight assistance to campaign efforts but the inquiry is best directed at whether these publications or press releases meet all the tests the statute and the Board have laid down for legitimate legislative documents. Representative Pennington agreed, so long as the documents in question have passed the "tests", it shouldn't be a problem. Mr. Aldinger agreed. Counsel reported that the Board's request legislation failed to survive the legislative cutoff in part, at least, because of proposed amendments which would have altered the intent of the bill.

There was no public comment. Mr. Aldinger and Mr. Asbury explained to the public the need to go to executive session at this point in the meeting. Both stated that in the formative stages of a complaint, the Board deals with "untested and raw material" which can affect the reputations of the parties to the complaint. The law provides that this type of material be reviewed by the Board prior to determining a course of action. Mr. Asbury invited comments from the audience on the issue of executive sessions but no one requested to make any remarks. The Board then went to executive session. The meeting was adjourned at 12:35 p.m.

  
William F. Asbury, Chair

**MINUTES  
LEGISLATIVE ETHICS BOARD**

**May 13, 1999 - 10:30 a.m.**

Senate Hearing Room 3, John Cherberg Building

Members Present: Paul Aldinger; James Andersen; William Asbury, Chair; Representative Dow Constantine; Senator Steve Johnson; Senator Julia Patterson.

Counsel and Ethics Advisers: Mike O'Connell, Milt Doumit and Marty Lovinger.

Minutes: Moved, seconded and approved to adopt the minutes of the March 18, meeting.

Report of Counsel: Examples of informal opinions by counsel were discussed. Issues included (1) a legislator's proposed news release which contained a substantial amount of non-legislative information; (2) a proposed Second Annual Legislative Day at Emerald Downs; (3) a proposed legislative news release on a Washington Education Association salary initiative which, it has been announced, will not be pursued by the WEA; and (4) under what circumstances a legislator could include a reference to a non-profit organization in a legislative newsletter. Counsel advised that: (1) the legislator had agreed to either remove the non-legislative information or to produce the press release at no state expense; (2) the Legislative Day was subject to a gift analysis and was proper under that statute; (3) there is in effect no ballot issue on teacher's salaries so legislator's may feel free to discuss the issue in their newsletters; (4) the 1999 Legislative Ethics Manual states that it is permissible to include a reference to an outside group in a newsletter in connection with a relevant legislative issue but it would be improper to include an endorsement for donations, for example.

The Board reviewed a news article which discussed Senator Don Benton's fund raising efforts during the 1999 legislative session in an attempt to pay debts from a prior congressional race and to establish a fund to explore a future congressional race. This issue was brought to the Board as an example of the differences between state and federal fund raising laws. State law establishes a "freeze period" for fund raising during session but Federal law does not. Senator Patterson asked if the legislature could include congressional fund raising in the state ban and Senator Johnson asked if money raised for congressional races could be transferred to state races. Counsel will check with the Public Disclosure Commission for answers to those questions.

Counsel reported that the House Republicans had not yet recommended a replacement for Will Bachofner. Mr. Asbury requested that the minutes of this meeting specifically reflect the admiration and respect this Board has for Mr. Bachofner. Mr. Asbury stated that Mr. Bachofner was a true public servant, a person who is a "good American" and one who exhibited uncommon good sense and that "I personally will miss him a great deal." Judge Andersen remarked that he had known Mr. Bachofner for many years and had seen numerous examples of his good judgement during some very tough times of civil unrest in this country. Judge Andersen said that "Chief" Bachofner was a man of great stature and the kind of man you would want alongside you in times of trouble and that "state

government and this Board is going to miss him a great deal." The Chair was requested to send a letter to Mr. Will "Chief" Bachofner expressing the sentiments of the Board.

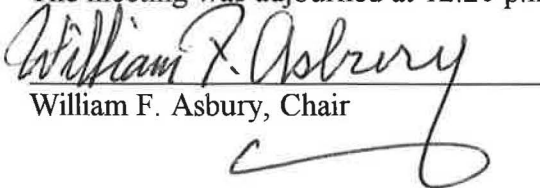
Other Reports/Presentations: Ms. Catherine Clemons, Administrator for the King County Board of Ethics, appeared before the Board and explained her role and the role of the King County Board. In addition, Ms. Clemons presented the Board with resource materials produced by the Board and discussed the upcoming ethics conference in Seattle. Mr. Asbury polled the members on their plans to attend the conference and instructed counsel to process the registrations.

House Accountant, Carolyn Lindsey, presented the Board with an update of the budget. For the benefit of the new Board members, Mr. Asbury explained that the House of Representatives and the Senate perform the accounting functions for the Board but that this money is appropriated to the Board during the normal appropriation process. The chair and vice-chair expressed their thanks to Ms. Lindsey for her efforts in assisting the Board and also expressed thanks to the Senate for supporting the Board during the legislative session by providing facilities for Board meetings. Secretary of the Senate, Tony Cook, was in attendance and accepted the thanks on behalf of the Senate. Ms. Lindsey's update showed that the budget allotments exceeded expenditures and that the financial picture looked very good. She also explained that "allotments" for the various categories of expenditures (salaries; benefits; goods and services; and travel) were estimations for budgeting purposes and were not restrictive in nature. In other words, within the overall appropriation, money could be spent in each category above or below the estimates.

Milt Doumit and Marty Lovinger presented an overview of all legislation introduced in the 1999 regular legislative session which would amend the State Ethics Act - RCW 42.52.. Senator Patterson noted that the failure of the Board's "request" legislation was directly tied to proposed floor amendments and she was hopeful that the legislature would revisit the underlying bill. Judge Andersen reminded the members that this bill was basically the request of the Executive Ethics Board. Mr. Asbury expressed his concern that the failure of the bill would hinder the Executive Board as it tried to address issues involving a very large constituency. The Board agreed to discuss these issues prior to the next regular session.

There was no public comment.

The meeting was adjourned at 12:20 p.m.

  
William F. Asbury, Chair



**MINUTES  
LEGISLATIVE ETHICS BOARD**

**June 25, 1999**

Room 603 - Washington Convention and Trade Center

Members Present: Paul Aldinger; James Andersen; Senator Steve Johnson; Ruth Schroeder; Senator Julia Patterson.

Counsel and Ethics Advisers: Mike O'Connell, and Marty Lovinger.

Vice-Chairman Andersen called the meeting to order shortly after 5 p.m., following the conclusion of the 3<sup>rd</sup> Annual Washington State Ethics Conference.

Minutes: Moved, seconded and approved to adopt the minutes of the May 13, meeting.

Report of Counsel: Counsel presented examples of informal opinion requests since the last meeting. Issues included (1) whether a proposed tour for legislators and staff qualified as an exemption from the "gift" definition; (2) how to value the cost of a "reception" for gift purposes; (3) whether a partisan cartoon could be included in a session-ending newsletter; (4) if a Senator could provide materials produced by legislative staff to a political party; and (5) how to value the cost of participation in a golf tournament for purposes of the "gift" statute.

Informal advice was: (1) the tour appeared to meet the exemption from the definition of "gift" because it was limited to "reasonable expenses" as defined in the State Ethics Act, it was designed to educate legislators and staff on issues appropriate to their legislative duties and it did not involve payment of any expenses incurred by any family members who might accompany a legislator; (2) although characterized as a "reception", this event was to be hosted by a lobbyist-employer and was, basically, an entertainment event devoid of legislative purpose and therefore subject to the gift limitations; (3) the cartoon, directed at the debate surrounding the biennial state budget, appeared to meet the standards for content established by the Board through its opinions which recognize, in most instances, the propriety of partisan mailings; (4) legislative materials, viewed as "public" in nature, may be supplied upon request to whomever asks but one copy is sufficient and the party is capable of reproducing, at its own expense, extra copies as needed; (5) the cost of entry to the golf tournament is the proper value to use when analyzing the gift statute, not the normal cost of a round of golf at the same course on another day.

Counsel reported that the Public Disclosure Commission had not yet published a written order on the issue of the University of Washington providing elected officials with tickets to football games.

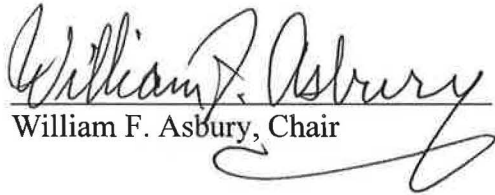
The Board briefly reviewed the action of the Executive Ethics Board in failing to find an exemption under the State Ethics Act which would have permitted the Attorney General to accept a large monetary gift which was largely based on the potential donor's perception of job performance.

Board members discussed the proposed interim meeting schedule and directed Counsel to consult with the chair and convey the suggestion that (1) the proposed July meeting be canceled and that the September meeting be rescheduled to coincide with the legislature's committee meeting schedule (assembly days) on September 16-17.

Members were advised that the 2<sup>nd</sup> Thursday in November (the 11<sup>th</sup>) is Veterans Day. If that meeting is moved up a week (11/4), only three weeks will have passed since the October meeting. Also, the legislature will hold the second round of interim committee meetings in Olympia during December 2-3. Discussion indicated that the members would like to continue coordinating meetings with the legislature's "assembly days", when possible. If the November meeting is delayed a week (11/18), only two weeks separate that date from "assembly days". Vice Chairman Andersen stated that although we do not know what issues may come up which might affect the meeting schedule, members should give some thought to the schedule and the discussion can continue at the next meeting when more members are present. Senator Patterson agreed and felt that the Board should consider canceling the November meeting always subject, of course, to the possibility that a special meeting may be necessary at any time to address imminent issues.

There was no further business and no public testimony.

Vice Chairman Andersen adjourned the meeting at 5:45 p.m..

  
William F. Asbury, Chair

**MINUTES  
LEGISLATIVE ETHICS BOARD**

**August 12, 1999**

**La Quinta Motor Inn, Seattle**

Members Present: Paul Aldinger; William F. Asbury, Chair; James Andersen; John Betrozoff; Representative Dow Constantine; Senator Stephen Johnson; Senator Julia Patterson; Representative John Pennington; Ruth Schroeder.

Counsel & Ethics Advisers: Mike O'Connell, Milt Doumit and Jennifer Joly.

Minutes: Moved, seconded and approved to adopt the minutes of the June 10, meeting.

Mr. Asbury introduced new Board member John W. Betrozoff and House Counsel, Jennifer Joly. Several members expressed their delight in having both Mr. Betrozoff and Ms. Joly available for Board business.

Board members thanked Milt Doumit and Marty Lovinger for their efforts in supplying ethics advice for the House of Representatives during the time the House was without House Counsel.

The Board considered the draft opinion of Advisory Opinion 1999 - No. 1.. Counsel discussed precedents in the area of conflict of interest and noted that neither this Board nor its predecessor had had the opportunity to speak directly to the question of whether a particular elective office, school board in this case, might present a staff person with such a conflict. Senator Patterson requested examples of what other members might see as conflicts for this person who worked in the area of education policy. One of the examples given was in the area of budget policy. Representative Constantine and Representative Pennington thought it was important to know whether this staff person was a caucus or committee employee because what might constitute a conflict for a committee employee might be quite proper and expected behavior on the part of the caucus employee. Counsel explained that the staff person who requested this opinion had not waived identity and did not volunteer the information about committee or caucus employment. Representative Constantine expressed concerns about adopting too broad a policy in this area of conflict of interest and that each case must be carefully looked at. Senator Johnson agreed and felt the wording of the draft made it clear that this opinion was limited to the particular facts and was not a broad statement that staff could never occupy an elective office. Judge Andersen noted that this was an expedited request, due to the proximity of the filing period for the school board position. He felt that it was proper, as was done in this case, to initially discuss a draft opinion by phone when circumstances demand a quick answer, but that it was important to remember that in the normal course of the Board's business it is preferable to have a group discussion and to share ideas and opinions in a meeting and in an aura of collegiality and respect for all points of view. Representative Pennington stated that a crucial fact was missing in the draft opinion and

that was whether this employee worked for a caucus or a committee. Without that information he could not vote for a decision which purported to give advice in the area of conflict of interest.

Mr. Aldinger moved to adopt the opinion as drafted and Senator Johnson seconded the motion. Pursuant to the Board's guidelines, Representative Pennington requested the minutes and the opinion reflect he was a "nay". The opinion was adopted by a vote of 8 aye and 1 nay.


Report of Counsel: Examples of informal advice were given. Counsel advised a legislator that distribution of government guides through door belling was strictly controlled by the one opinion on the subject issued by the Board. That opinion did not contemplate creating documents for the express purpose of door belling but rather addressed the sole issue of surplus documents. A staff person was advised it was appropriate to accept Mariner's tickets from a legislator. The staff person was the legislator's Legislative Assistant and the legislator had paid face value for the two tickets. A legislator was advised that he could accept a complimentary golf game as the golf was provided by his employer and was clearly associated with performance issues related to his outside employment.

Initiatives and Use of Public Facilities: Members and staff engaged in a lengthy discussion of the Board's precedents and the language of the Ethics Act relative to the use of public facilities to discuss and/or debate a pending ballot measure. Much concern was expressed that there had to be some ability on the part of legislators to address impacts of an initiative, such as I-695, when passage of such a measure would have such a profound impact on the legislative budget-writing process. Counsel reviewed the decision of the board relative to the use of a committee hearing to provide a forum for pro and con advocates of a ballot measure. That decision affirmed the ability of a legislative committee to hold a timely work session to prepare and/or discuss possible legislative courses of action. The Board expressed appreciation to House and Senate Counsel for working with the Legislature and helping members and staff understand where legitimate legislative discussion ended and impermissible use of public facilities began.

COGEL: Mr. Asbury pointed out that each member had received information about the national ethics convention in Rhode Island in early December and that any one who wished to attend should make that request known at the October meeting due to early registration requirements.

Mr. Asbury recognized Meg Grimaldi, representing the Executive Ethics Board, and welcomed her attendance.

With no further business to come before the Board, Mr. Asbury adjourned the meeting at 12 noon.

  
William F. Asbury, Chair.



## MINUTES

### LEGISLATIVE ETHICS BOARD

October 14, 1999

La Quinta Motor Inn, Seattle

Members Present: Paul Aldinger; William F. Asbury, Chair; James Andersen; John Betrozoff; Senator Julia Patterson; Representative John Pennington.

Counsel and Ethics Advisers: Mike O'Connell, Milt Doumit, Jennifer Joly and Marty Lovinger.

Minutes: Moved, seconded and approved to adopt the minutes of the August 12, meeting.

The Board considered a request from the Executive Ethics Board to comment on a proposal to amend the State Ethics Act. The Executive Board had advised the Attorney General against the acceptance of a monetary award because of the restrictions contained in the Act. In addition to offering language which would amend the Act, the Executive Board letter requested this Board's support in the proposed changes. Judge Andersen questioned why this Board would be involved. The Executive and Legislative Boards are different, and may have different needs. Since one shoe does not fit all, should this Board become involved at this point in supporting a change in the law which does not seem to address a legislative ethics issue? Mr. Aldinger remarked that there may be times or instances where we would see our interests so intertwined with the Executive Board that we would consider a united front but this does not seem like one of those issues. Mr. Betrozoff noted that the doctrine of separation of powers was very important and that we should be careful to avoid the unnecessary blurring of the lines between the executive and the legislative. He felt this Board should refrain from participating in this legislative effort at this time. Representative Pennington felt that counsel should communicate to the Executive Board that the Legislative Board is not interested at this time in taking a position for or against the proposal and that the Legislative Board should let the legislative process play out a bit and revisit the issue later. Judge Andersen moved, and it was seconded, that our response be that we have no position at this time, for or against the proposal. Senator Patterson suggested that this Board should revisit this issue at a later time if the Executive Board proceeded with the proposed changes. Judge Andersen's motion carried unanimously.

Counsel reminded the members that among the bills still alive in the 2000 legislative session is the bill which would have amended the ethics law by (1) permitting administrative dismissal of some complaints, (2) redefining "initiative to the legislature" and (3) forbidding public officials to use public resources to influence appointments. A lengthy discussion followed. Due to the controversy surrounding any discussion of use of public facilities relative to initiatives, Representative Pennington questioned whether that bill should be separated so that each of the issues might be singly debated. Senator Patterson, who currently chairs the committee which has historically exercised jurisdiction over the Ethics Act, said she was leaning toward hearing the bill in its entirety and seeing where the debate led. Representative Pennington felt he would pursue breaking the bill

down into separate measures in the House and introducing them as separate bills. Mr. Asbury asked whether the members felt the Board should take a position on this bill, noting that it did support this bill last session, even though the proposed changes came at the request of the Executive Board. Judge Andersen felt there wasn't an "action" item before the Board - it was good to stay informed but we should just see how the respective houses deal with this legislation and be aware that at some time the Board may be asked for input. Mr. Aldinger agreed that the Board should not anticipate legislative action on these bills. Mr. Asbury said that he felt the members were saying that at this time the Board had no position on the legislation. Senator Patterson asked if the Board would come forward with a position if requested to do so by a legislative committee. Judge Andersen suggested that at the next meeting the Board should consider establishing a mechanism, perhaps through an executive committee, which would allow a Board response to such a request, as well as the performance of such other tasks or responsibilities as Board members may direct. By consensus, the formation of an executive committee will be a December agenda item.

Counsel introduced two topics which were subjects of informal advice since the last Board meeting. The Board spent a great deal of time discussing when, if ever, it was permissible to use taxpayer funded materials to doorbell within a legislative district. The Board had issued an opinion on this subject in Advisory Opinion 1997 - No. 7., but several members of the current Board were not members at that time so many questions were asked. Senator Patterson was concerned that legislators might be advised they could never doorbell outside a campaign context. Judge Andersen responded that the opinion did not forbid door belling but rather discussed under what circumstances a legislator might use a handout which was prepared at taxpayer expense while door belling. Mr. Aldinger asked if the opinion in any way restricted a legislator from door belling for campaign purposes and counsel advised that the opinion did not restrict campaign door belling provided surplus newsletters, produced at public expense, were not utilized. Mr. Aldinger also asked if the opinion allowed legislators to door bell outside a campaign context, using surplus newsletters as handouts. Counsel advised that this opinion permitted legislators to door bell their districts while on legislative business with surplus newsletters up to June 30 of an election year and members were free to door bell for campaign purposes at any time, without using taxpayer produced materials. Mr. Aldinger then asked if a legislator could, at his or her own expense, reproduce a previously published newsletter and door bell with it in a campaign context. Counsel advised that the Board had discussed this issue in many different situations and has said "yes", assuming no use of any public facilities to reproduce the document. Counsel was instructed to continue to apply the tests laid down within AO 1997 - No. 17 when asked for informal advice.

A second topic of informal advice involved a question of whether a proposed anti-tax mailer, slated for distribution immediately before the general election, might be perceived as use of public resources to affect that election since the ballot contained a controversial tax-cutting measure. The mailer did not mention the ballot measure. The legislator who proposed the mailing agreed to delay the distribution until the election was over so that there would be no question as to her intent not to try to influence the outcome.

The Board directed counsel to prepare changes to the 1999 Legislative Ethics Manual in time to have the 2<sup>nd</sup> edition available for orientation in January.

Representative Pennington requested that all legislators be given a copy of Alan Rosenthal's list of 15 ethical rules/lessons for new legislators.

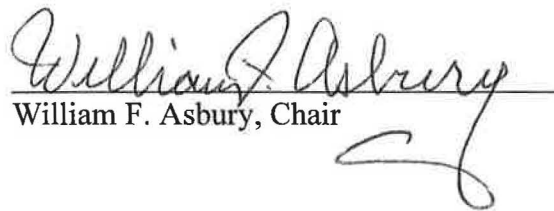
Mr. Asbury informed members that he had requested counsel to attend the COGEL conference in Providence, Rhode Island in December. Mr. Asbury also announced that his term of appointment to the Board had expired and that he was not seeking reappointment. The statute permits him to serve until the Governor names a new appointee and he would serve until the process could be completed.

Mr. Asbury next welcomed Mr. Will Squire, who was attending the Board meeting on behalf of Common Cause. Mr. Squire made a few brief remarks, noting how he had enjoyed being present during the discussion and how he had appreciated the thoughtfulness of the members as they dealt with difficult issues.

Mr. Asbury announced that the next regularly scheduled meeting of the Board would be in Olympia on December 2, in the John Cherberg Building, Hearing Room #4.

The Board then assembled in executive session to discuss Complaint 1999 - No. 4, which alleged a newsletter was used as campaign material.

The Board returned to open session at 12:45 p.m.. There was no further business and the meeting was adjourned.

  
William F. Asbury, Chair

# Legislative Ethics Board

**BOARD MEMBERS:**  
PAUL ALDINGER  
WILLIAM ASBURY, CHAIR  
JAMES ANDERSEN, VICE CHAIR  
JOHN BETROZOFF  
REP. DOW CONSTANTINE  
SEN. STEPHEN JOHNSON  
SEN. JULIA PATTERSON  
REP. JOHN PENNINGTON  
RUTH SCHROEDER

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## MINUTES OF THE LEGISLATIVE ETHICS BOARD December 2, 1999

**Members Present:** Paul Aldinger; William F. Asbury, Chair; James Andersen; Senator Steve Johnson; Senator Julia Patterson; Representative John Pennington; Ruth Schroeder.

**Counsel and Ethics Advisers:** Mike O'Connell, Milt Doumit, Jennifer Joly and Marty Lovinger.

**Minutes:** Moved, seconded and approved to adopt the minutes of the October 14, 1999.

Mr. Asbury informed the Board that his term of office on the Board had ended and he would be stepping down as chair. The law permits him to continue on the Board until a replacement is chosen. Judge Andersen was elected the new chair. Mr. Aldinger suggested that Mr. Asbury be elected vice-chair and that when the new layperson was appointed the position of vice-chair would once again be before the Board. Mr. Asbury was then elected vice-chair.

Counsel presented an advisory opinion request from Representative Ed Murray and discussed Board precedents in the areas of contract filing and conflict of interest. After extensive discussion the Board advised that non-competitive employment contracts between state agencies and legislators, even though they be part-time, are subject to the filing and preview requirements of RCW 42.52.120. Absent such filing and preview such contracts would be viewed, in the future, as void from the outset.

The Board determined to consider the second issue, conflict of interest, at the next meeting, which was scheduled for January 6 in the Sea-Tac area. Time and place to be announced.

During the public comment portion of the meeting, Chuck Sauvage of Common Cause noted that he thought that requests for advisory opinions, after the fact, placed the Board in a very difficult position. The Board agreed. There was no further business and the meeting was adjourned.

  
James Andersen, Chair