

LEGISLATIVE BOARD OF ETHICS

MINUTES

January 12, 1996

Legislative Building  
Olympia, Wa.

Members Present: Mrs. Jackson, chair; Mr. Aldinger ;  
Representative Appelwick; Mr. Asbury; Mr. Bachofner ;  
Representative Horn; Senator Long; and Senator Spanel

Staff: Messrs. Burke, Cook, and O' Connell

Also Present: Kathy Hoffstater, Corrections Dept. ; Greg Gurske,  
Dept. of Licensing; Roxyne Bentley, Dept. of General Admn. ; Jack  
and Annie Darragh, CLEAN; Jeri Sivertson, Dept. of  
Transportation; Sherry Bockwinkel, CLEAN; Krista Bunch, Bogard and  
White; Trenine Smith, Dept. of Revenue; Chuck Sauvage, Common  
Cause; and Margaret Part low, Dept. of Revenue

Mrs. Jackson called the meeting to order at 1:30 P.M.

The Board considered draft Advisory Opinion 1996 - No. 1. (This draft was a carryover from 1995 and was formerly designated as draft Advisory Opinion 1995 No. 20. ) The Board adopted an amendment deleting the last paragraph and then adopted the draft as amended. It was agreed that the Board's citizen members would submit letters to the Senate and House recommending that legislative appropriations be made available to pay for legislators' attendance at educational conferences .

The Board considered a draft rule relating to de minimis uses of public resources for private purposes. After substantial discussion by Board members and hearing testimony from Jack Darragh and Sherry Bockwinkel in general opposition to authorizing the private use of public resources, the Board decided that it would study the draft rule, Professor Aronson' s letter regarding the draft rule, and the Boeing policy statement on its employees'

uses of Boeing resources for personal purposes . It was also agreed that at its next meeting the members would be prepared to make decisions on the rule. The Board directed the staff to prepare a new draft with additional alternatives .

The Board heard from various agency staff present as to their particular interest in the meeting. They indicated that their job responsibilities included ethics matters and that the work of the various boards of ethics was of interest to them.

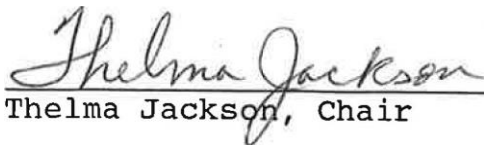
The staff provided a report on inquiries regarding whether, under the State Ethics Act, legislators may accept the traditional complementary tickets from political party organizations or other legislators, where the tickets would enable them to attend political events sponsored by the party or to attend campaign fundraiser events sponsored by the other legislators . The Board agreed that the act would not prohibit acceptance of such tickets, regardless of whether the ticket value is more than fifty dollars. The Board provided directions to the staff to prepare a draft advisory opinion authorizing acceptance of such tickets. The Board also agreed that legislators should be

informed that the Board has decided the question, that an opinion will be forthcoming, and that in the meantime they can accept the complementary tickets .

Mrs, Jackson reported on developments regarding the ethics conference scheduled for this Spring. She stated that she would be meeting on January 19, 1996 with representatives of state and local government ethics bodies for the purpose of conference planning .

The Board agreed that it would next meet on Friday, February 2, 1996, beginning at 1:30 P.M. , in Olympia.

The meeting was adjourned at 4:00 P.M.



Thelma Jackson, Chair

date

Presentation by Jack Darragh, board member CLEAN, before the state Legislative Ethics Board meeting, Jan. 12, 1996, Olympia.

Some of you are probably aware of the great concern CLEAN (Citizens for Leaders with Ethics and Accountability Now) has for the issue before you today: the use of public resources by state employees for private purposes, and our absolute opposition to such use no matter how minimal.

We are part of the group that transcribed the almost 100 taped interviews taken jointly by the Public Disclosure Commission and the Attorney General's office during their investigation into the "staffgate" mess in 1992. Myself and other ordinary citizens, read all of those transcripts. They revealed rampant abuse of state employees and resources for partisan political purposes. Fines were handed out, some lower level employees were fired, and some higher level ones left state employment under varying circumstances. The final cost to the taxpayer is still to be counted as there are several pending lawsuits by former state employees who maintain they were improperly discharged for not taking part in the illegal activity.

At least one certain conclusion was reached: state workers and elected and appointed officials lacked either the will or the knowledge to police and penalize many of the worst violations. Because of that realization, and after much work and many hearings, the Legislative and Executive Ethics board's were authorized to protect the taxpayers of this state against the waste of at least some of their money. So, it is to you we must now look to reestablish and preserve some of the integrity so recently lost.

Some of the hypotheticals posed in your draft present no problem for us: calling home to inquire after a sick child, or to see if they arrived home safely; posting notice on a bulletin board advertising sale of an auto, etc.; leaving out candy bars in the office for purchase with the proceeds given a youth activity; or conferring during lunch hour to organize agency athletic events. This is merely the social and civic glue that bonds us together.

It is when the term "de minimis" is used to cover use of state resources by private individuals, that the difficulty arises.

We saw from the 1992 investigation, that years earlier the use of state offices, computers, copiers, etc., for private benefit was just a little here and there, and now and then, and of not much consequence. It finally grew into an insidious monster that by some calculations wasted several million tax dollars, destroyed careers and severely affected some lives. Only a formal investigation by the PDC and the AG halted it. It certainly was not state employees policing each other that stopped the violations. The de minimis doctrine, if allowed, will again open the door to the same abuses.

One rationale cited is the public benefit, direct or indirect that may accrue by increasing employee job skills. We believe much of that justification is fallacious: it could be argued that even becoming an expert pickpocket would have this benefit as it would improve manual dexterity at the computer keyboard.

Example 6, talks of an employee using "her computer" to do her homework in the state office. The correct declaration of ownership should have been "the office computer". Too often state employees look upon state resources as an extension of their private resources and inevitably abuses occur. And to believe only her own paper will be used in printers or copiers is just not realistic: an employee alone, in a state office after working hours falls a few sheets short of the project. She leaves the office, gets in her car, drives many miles to secure a few more sheets, then returns, maybe late at night to finish. SURE! And, who pays the after-hours cost of heating, lighting and security while state offices are being used as private offices? We all know that answer.

It is in the area of computer technology that we are really on that slippery slope, here characterized as de

LEGISLATIVE BOARD OF ETHICS

MINUTES

February 2, 1996

Cherberg Building  
Olympia, Wa.

Members Present : Mrs. Jackson, chair; Mr . Asbury; Mr. Bachofner;  
and Senator Long .

Staff: Messrs. Burke, Cook, and O' Connell

Due to the lack of a quorum, the meeting was postponed until  
Wednesday, February 21st. It was agreed that the Board would .  
meet on that date in Olympia, beginning at 6:30 P.M.

In an informal meeting, the members present considered a "Casino  
Night" proposal by the Washington Highway Users Federation. There  
was concern that the proposal would conflict with the State  
Ethics Act's gift restrictions.

 3/6/96  
Helma Jackson Chair date

LEGISLATIVE BOARD OF ETHICS

MINUTES

February 22, 1996  
Cherberg Building  
Olympia, Wa.

Members Present: Mrs. Jackson, chair; Mr. Aldinger; Mr . Asbury ;  
Mr. Bachofner; Senator Long

Staff: Messrs. Burke, Cook, and O' Connell

Al SO Present: Jim Blundell, House Counsel

Mrs. Jackson called the meeting to order at 6:30 P.M.

The Board considered Representative Chopp's request for an advisory opinion. It directed the staff to request Representative Chopp to provide the Board with detailed information on how the FPÄ sets his salary and his salary history as an FPÄ employee.

The Board reviewed and amended Alternative Draft No. 1 of the proposed rule relating to the di minimis use of public resources. The Board approved the amended draft and agreed that its approval will be subject to the ten-day rule applicable to advisory opinion drafts and, absent objections, will become final in accordance with that rule.

The Board next considered a staff report and memo on issues presented when staff, a Board member, or the Board provides informal ethics advice to a legislator, legislative employee, or a lobbyist. After intensive discussion, the Board provided the staff with directions for preparing a draft rule dealing with the provision of informal advice. Generally, the rule would authorize the providing of such advice, provided that it is consistent with and reflects ethics laws, rules, regulations, and advisory opinions of the Board. It would provide guidelines for doing so and would resolve questions relating to the extent on which interested parties can rely on it.

The Board next considered draft Advisory Opinion 1996 - No. 2, relating to complimentary admissions. The Board approved the

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insertion of a paragraph suggested by the PDC staff and adopted the amended draft as its final opinion.

Staff reported on the status of ethics bills pending before the Legislature, on the Legislature's possible adoption of Joint Rules of Ethics, and on the Board's "home page" on the Internet.

The Board discussed its staffing needs. The chair stated that she and Vice Chair Asbury will be meeting on this matter.

The Chair reported on the Washington State Ethics Conference and on the successful planning meeting for the conference. She

stated that the Conference is scheduled for all day on Friday, June 21, 1996, and requested members to plan on attending.

Jim Blundell, Counsel for the House of Representatives, addressed the Board.

The Board next went into closed executive session. On Mr. Asbury's motion, the Board considered information which revealed that a legislative employee may have used legislative facilities for a campaign purpose. On Mr. Asbury's motion and in order to facilitate an investigation, the Board agreed that it would file a complaint in this matter .

The Board agreed that its next meeting would be on Friday, March 15, 1996, beginning at 9:30 A.M. in the Sea-Tac area.

The meeting was adjourned at 10:00 P.M.

  
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Thelma Jackson, Chair                      date

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LEGISLATIVE BOARD OF ETHICS

MINUTES

March 15, 1996

Washington State Training & Conference Center  
Seattle

Members Present: Mrs. Jackson, chair; Mr. Aldinger; Mr . Aronson; Representative Appelwick; Mr. Asbury; Mr. Bachofner ; Representative Horn; and Senator Spanel

Staff: Messrs. Burke, Cook, and O' Connell

AISO Present: Representative Chopp; Mr. Harvey Gertson; and Ms. Denise Hawthorne

Mrs. Jackson called the meeting to order at 9:30 A.M.

The Board amended Draft Rule 3, relating to de minimis uses, and adopted the draft as amended. However, because one amendment was approved in concept only, final approval of the draft is contingent on approval of this amendment .

The Board considered Representative Chopp's request for an advisory opinion, Advisory Opinion Request 1996 - No. 3. Representative Chopp provided additional information requested by the Board. The Board incorporated this additional information into the advisory opinion question and concluded that Representative Chopp would not have a "beneficial interest" in his employer's contracts with the state and therefore would not be required to obtain the Board's prior approval of the contracts. The Board provided staff with directions for preparing a draft advisory opinion.

The Board amended the draft rules relating to ethics advice and provided the staff with directions for preparing the revised

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draft rules.

Staff reported on the advice provided to legislators and legislative employees since the date of the last meeting. The report indicated that staff has provided advice in the following areas: Legislative letters congratulating persons for work promotions; the use of slogans in legislative newsletters ; legislative employees' receipt of complementary admissions under Advisory Opinion 1996 No. 2; third party donations to a charity in a legislator's name; legislators' acceptance of free admission to a campaign school; and PUD Association tours of energy-related sites under Advisory Opinion 1995 - No. 10.

The Chair provided an update on the upcoming ethics conference. She stated that the conference will take place on June





LEGISLATIVE BOARD OF ETHICS

MINUTES

March 19 , 1996  
Cherberg Bldg. Olympia

Members Present: Mrs. Jackson, chair; Mr. Aldinger ;  
Representative Appelwick; Mr. Bachofner; Representative Horn; and  
Senator Spanel

Staff: Misters Burke, Cook, and O'Connell  
From the Office of the Attorney General: Misters Richard  
Heath and Ken Wilson

Mrs. Jackson called the meeting to order at 2:30 P.M.

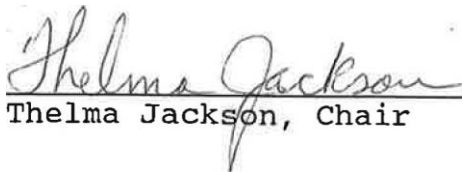
The Board considered the Attorney General's investigation reports on Complaint 1996 - No. 2 and Complaint 1996 - No. 3.

After considerable discussion, the Board directed Misters Heath and Wilson to continue the investigation on Complaint 1996 - No. 2.

On the motion of Mr. Aldinger, which was seconded by Mr. Bachofner, the Board, after considerable discussion, agreed to dismiss Complaint 1996 - No. 3 on the basis that there is not reasonable cause to believe that a violation has occurred. Each member present voted aye on the motion.

The Board agreed that it would resume consideration of Complaint 1996 - No. 2 at its meeting scheduled for Thursday, April 18th in the Sea-Tac area.

The meeting was adjourned at 5:30 P.M.

  
Thelma Jackson, Chair

\_\_\_\_\_ date



LEGISLATIVE BOARD OF ETHICS

MINUTES

April 18th, 1996

Washington State Training & Conference Center  
Seattle

Members Present: Mrs. Jackson, chair; Mr. Aldinger; Mr . Aronson; Representative Appelwick; Mr. Asbury; Mr. Bachofner; Representative Horn; Senator Long; and Senator Spanel

Staff: Misters Burke, Cook, and O'Connell. From the Office of the Attorney General: Misters Richard Heath and Ken Wilson

Also Present: Mr. Jim Blundell, House Counsel; Ms. Barbara Cook, Executive Ethics Board; and Mr. Harvey Gertson, DOT

Mrs. Jackson called the meeting to order at 9:30 A.M.

Complaint 1996 - No. 1: On Mr. Aronson's motion, seconded by Mr. Aldinger, the Board accepted Ms. Johnson's stipulation and, based on the stipulation, the Board concluded that she committed a minor violation of RCW 42.52.160. The Board interpreted RCW 42 . 52 . 160 as not permitting a legislative employee to make personal use of an office computer that appears to be for a campaign purpose, regardless of whether the use is, in fact, not for a campaign purpose. On a subsequent motion by Mr. Aronson, seconded by Mr. Aldinger, the Board also decided not to impose sanctions. On the subsequent motion, Representatives Appelwick and Senator Spanel voted "no t" and Senator Long abstained from voting. The Board provided the staff with instructions for preparing the draft disposition order .

Complaint 1996 - No. 2: On Mr. Aronson's motion, seconded by Mr. Asbury, the Board considered Mr. Heath's recommendation, dismissed the complaint against Representative McMahan, and .

provided the staff with instructions for preparing the draft disposition order.

Complaint 1996 - No. 3: It was reported that no Board member had registered any objection to the circulated draft disposition order and that under the Board's ten-day rule the draft order had become final.

Complaints 1996 Nos. 4 and 5 : On Representative Appelwick's motion, seconded by Mr. Aldinger, the Board adopted orders dismissing these complaints.

The Board amended Rule 3 to reflect its interpretation in the disposition of Complaint 1996 - No. 1.

The Board considered Advisory Opinion Request 1996 - No. 6, relating to the commencement date of the current newsletter mailing restriction period specified in RCW 42.17.132. The Board decided that any newsletter mailed before December 6, 1995 would not be included within the current period. The Board provided staff with instructions for preparing a draft opinion.

The Board reviewed a staff memo on "working hour" rules for purposes of RCW 42.52.180. On three separate motions by Representative Appelwick, the Board instructed staff to prepare a draft rule: (1) adopting the "individual work hour" approach described in the memo; (2) not prohibiting the use of lunch hours for private purposes, including campaigning; and (3) not prohibiting campaign activity while on leave status, so long as the leave has been previously approved and there is a written record showing such previous approval. Representative Horn voted "no" on motion (2) and Senator Spanel abstained from voting on motion (3) .

The staff reported that no member had objected to the circulated draft Advisory Opinion 1996 - Nos. 3, 4, and 5 and that, under the Board's ten-day rule, the drafts had become final opinions .

The staff reported that it had assumed the Board wanted the ten-day rule to also apply to the Board's draft rules, but because of some uncertainty on this question, the staff included in the members' meeting books the following draft rules that have been circulated per the ten-day rule without any member objecting to them: Draft Rule 3 , draft Rule 4 , and the amendment to draft Rule 1. The Board agreed on the final status of these rules (with the above-discussed amendment to Rule 3) .

The Board reviewed Advisory Opinion Request 1996 - No. 7, relating to congratulatory letters. Based on the language of RCW 42. 17. 132 and the AGO 1994 - No. 13, the Board agreed that congratulatory letters may not be mailed under the circumstances specified in the opinion request. The Board provided the staff with instructions for preparing a draft opinion.

The Board reviewed Advisory Opinion Request 1996 - No. 8, relating to travel. The Board agreed that, under the circumstances specified in the opinion request, the State Ethics Act would not prohibit the travel discussed in the request and provided the staff with instructions for preparing a draft opinion.

Mrs. Jackson reported on the Washington State Ethics Conference scheduled for June 21, 1996. With the exception of Mr. Aronson who had to check on a possible scheduling conflict, the Board members indicated that they would attend.

The Board considered its staffing needs resulting from Mr. Burke's imminent retirement. The Board agreed that it would continue with the current arrangement of two staff from the Senate and one from the House and that Mr. Blundell would serve as staff from the House.

Mr. Cook informed the Board that he provided a writer for Money Magazine with information regarding the State Ethics Act, the Board, and the Board's opinions.

At Representative Horn's request, the Board agreed that at its next meeting following the ethics conference it would consider the Board's evolving role.

The Board agreed to meet on Thursday, May 9th, beginning at 9:30 A.M. , in the Washington State Training and Conference Center .

The meeting was adjourned at 3:00 P.M.

Thelma Jackson 5/1/96  
Thelma Jackson, Chair date

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LEGISLATIVE BOARD OF ETHICS

May 9th, 1996

Washington State Training & Conference Center, Seattle

Members Present: Mrs. Jackson, chair; Mr. Aldinger; Mr. Aronson; Representative Appelwick; Mr. Asbury; Mr. Bachofner; Representative Horn; Senator Long; and Senator Spanel

Staff: Misters Burke, Cook, O'Connell and Blundell.

Also Present: No members of the public were in attendance.

Mrs. Jackson called the meeting to order at 9:34 A.M.

Advisory Opinion No. 1996 - No. 6

(Commencement date of mailing restriction

period). The Board considered a draft opinion that the Board had instructed staff to prepare. The Board determined that the opinion should include a recommendation to the Legislature that it amend the statute containing the mailing restrictions, RCW 42.17.132, to provide a specific date for the commencement of the twelve-month period. The Board also agreed that the opinion should include, as another basis for the statute's ambiguity, that legislators would have to consult three different statutes in order to determine the beginning of the twelve-month period. Mr. Aldinger moved, and it was seconded, that the Board adopt Advisory Opinion No. 1996 No. 6, as amended. The motion carried.

Advisory Opinion No. 1996 - No. 7 (Congratulatory letters). The Board considered a draft opinion that the Board had instructed staff to prepare. The Board discussed the appropriateness of responding to third-party requests for congratulatory letters. The Board agreed to amend the opinion to express the Board's opinion that the

proposed congratulatory letters are well within the proper performance of the duties of a legislator and that there is nothing inherently unethical about them, and that, therefore, the statute should be amended to allow letters of the type proposed. It was moved and seconded that the Board approve Advisory Opinion No. 1996 - No. 7, as amended. The motion carried.

Advisory Opinion No. 1996 - No. 8 (Trade mission and medical trip). The Board considered a draft opinion that the Board had instructed staff to prepare. The Board agreed that the opinion should state the Board's presumption that legislators did not have any participation in contractual matters in the reasonably foreseeable future and that the meaning of "contractual matters" should be clarified. The Board also agreed that the opinion should be amended to avoid an interpretation that would allow lobbyist thirdparties who are not involved in the trip and who would otherwise be precluded from paying for a legislator's trip expenses, to pay for such expenses by simply joining as a sponsor of the trip in name only. The Board concluded that on this point, the opinion should be specifically limited to the facts presented in the request. Mr. Aldinger moved, seconded by Mr. Asbury, that the Board approve Advisory Opinion No. 1996 - No. 8, as amended. The motion carried.

The Board expressed concern that the two trips involved in Advisory Opinion No. 1996 - No. 8 should be treated independently and directed staff to divide the two trips into two advisory opinions, with the opinion involving the second trip entitled Advisory Opinion No. 1996 - No. 9.

Rule 4 (Working hours). The Board considered a draft rule that the Board had instructed staff to prepare on the basis of changes at the previous meeting. The Board discussed the problem of the use of leave by legislative employees during the middle of the day to work on campaigns and whether, without a change in the law, a distinction between the use of leave for campaign purposes and its use for other purposes is even possible. The Board agreed that section 2 of the draft rule should be amended to reflect that non-standard lunch hours must be approved in the same manner provided in section I of the draft rule. Rep. Appelwick moved, seconded by Mr. Aronson, to approve Rule 4, as amended. With Rep. Horn voting no and all other members voting yes, the motion passed.

The Board heard a report from staff on the types of ethics questions recently received by staff.

Mr. Asbury raised the issue of alcohol consumption by legislators on the floor of

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the House. The Board discussed the matter.

The Board went into executive session to consider two complaints.

Complaint 1996 - No. 1. The Board considered three alternative draft disposition orders. The Board agreed to the adoption of one of the drafts and considered several amendments. On the motion of Mr. Aronson, seconded by Rep. Appelwick, the Board adopted Reasonable Cause Determination - Finding of Violation - Disposition Order, Complaint 1996 -No. 1, as amended. The Board also considered the method for presentation of stipulations to the Board in the future and directed staff to prepare a draft rule on this matter for presentation at the Board's next meeting.

Complaint 1996 - No. 2. The Board considered a draft disposition order that the Board had instructed staff to prepare. Mr. Appelwick moved and Mr. Aronson seconded that the Board adopt Reasonable Cause Determination - Order of Dismissal, Complaint 1996 - No. 2. The motion carried.

Complaint 1996 - No. 6. The Board considered a draft disposition order. It was moved and seconded that the Board adopt Reasonable Cause Determination - Order of Dismissals - Complaint 1996 - No. 6. The motion carried.

The Board ended its executive session and returned to its regular session.

Rep. Appelwick requested that the Board accept the assignment of Cathy Maynard, House Democratic Caucus Attorney, to serve as staff to the Board. The Board discussed the matter.

The Board agreed that their attendance at the Ethics Conference would serve in lieu of a meeting of the Board in the month of June and, therefore, no meeting was scheduled for the month of June. Because of scheduling conflicts in the month of July, the Board agreed to postpone setting a meeting for July until, at the call of the Chair, a meeting became necessary.

The meeting was adjourned at 12:30 P.M.



*Thelma Jackson*

Thelma Jackson, Chair

date

# MINUTES

## LEGISLATIVE BOARD OF ETHICS

July 10, 1996

John L. O'Brien Building, House Hearing Room C, Olympia

Members Present: Thelma Jackson, chair; Paul Aldinger; Rep. Marlin Appelwick; William Asbury; Will Bachofrer; Sen. Jeanine Long; and Sen. Harriet Spanel

Staff: Tony Cook, Mike O'Connell and Jim Blundell.

Also Present: Cathy Maynard, Democratic Caucus Counsel, House of Representatives.

Mrs. Jackson called the meeting to order at 9:55 A.M.

Rule Regarding Stipulations and/or Settlements. The Board considered the adoption of a rule regarding the procedure for considering stipulations made to the Board by respondents in cases involving complaints to the Board. Staff presented the following issues on the subject for the Board's consideration: the timing of the presentation of a stipulation, the requirement of a signature and whose signature, the effect of a stipulation on the proceedings, the separation of staff roles (i.e., prosecutor, negotiator, counsel), and the effect of a stipulation on an investigation. The Board discussed these issues and directed staff to prepare draft language for its next meeting.

Staff Reports. Staff presented several instances in which informal advice had been given in response to specific inquiries. Staff also followed up on a concern raised at the previous meeting of the Board regarding the PDC's authority on issues involving public office expense funds. Staff reported that the PDC took no action on a staff proposal to modify the definition of "nonreimbursed public office related expenses," but that it did ask the Attorney General for an opinion as to the underlying legality of public office funds themselves.

Advisory Opinion No. 1996 - No: IQ (Complimentary admission IQ Seafair event sponsored by. Texaco). The Board considered a request by Texaco to approve the receipt by legislators of complimentary passes to VIP seating at the Seafair hydroplane race event.

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The event is a widely-known sporting event of which Texaco is the primary sponsor. The Board first considered a motion to approve the request. The motion was not seconded. Instead, on a 5-2 vote, the Board adopted a motion rejecting the request and declaring the receipt of such passes by legislators to be a violation of RCW 42.52. Then, the Board discussed its justification for rejecting the request. The Board directed staff to prepare a draft advisory opinion based on the determination that the presumption found at RCW 42.52.150(2)(g) has been overcome where there is an appearance of direct influence by a lobbyist, lobbyist employer or lobbying entity. The two members who dissented in the vote on the motion expressed their desire that the record reflect their agreement with the motion based on the Board's justification for the decision.

The Board went into executive session to consider a pending complaint and general staffing matters.

The meeting was adjourned at 7:00 P.M.

 7/19/96  
Thelma Jackson, Chair                      date

August 8, 1996

John A. Cherberg Building, Conference Rooms B & C, Olympia

Members Present: William Asbury, vice-chair; Rep. Jim Horn; Paul Aldinger; Rep. Marlin Appelwick; Will Bachofner; Sen. Jeanine Long; and Sen. Harriet Spanel.

Staff: Tony Cook, Mike O'Connell and Jim Blundell; Richard Heath, Assistant Attorney General; Kenneth Wilson, Investigator, Office of the Attorney General.

Also present: Marty Brown, Secretary of the Senate; Tim Martin, Chief Clerk of the House of Representatives; Cathy Maynard, Democratic Caucus Counsel, House of Representatives; Dan Tritle, Information Officer, Democratic Caucus, House of Representatives; Tad Boggs, Information Officer, Democratic Caucus, House of Representatives; Don Peterson, American Association of Retired Persons; Harvey Gertson, Dept. of Transportation.

Mr. Asbury called the meeting to order at 9:45 A.M.

Board Member Vacancies. The Board discussed the vacancies on the Board caused by the recent resignations of Thelma Jackson and Rob Aronson. The Board reviewed the process used for filling the vacancies. The citizen members of the Board expressed the expectation that the position vacated by Mrs. Jackson will be filled first by appointment. Then, the four citizen members will interview and select the fifth, at-large citizen member, to fill the position vacated by Professor Aronson.

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governor). The Board considered a request by Tim Martin, Chief Clerk of the House of Representatives to issue an advisory opinion regarding the appropriateness of issuing legislative press releases in response to statements made by the governor. It was moved and seconded that the Board issue an advisory opinion in which the Board would hold that such legislative responses are not strictly prohibited by RCW 42.52.180, but that in individual cases, the Board will review the circumstances surrounding the response and will consider the following factors: (1) the timeliness of the response, (2) the proximity of the response to an election, (3) the relevance of the response to a legislative issue and to the initial outside statement, (4) the source of the initial outside statement, and (5) the tone and tenor of the response. The motion carried by a majority vote.

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ETHICS BOARD

The Board went into executive session to consider pending complaints. Following the executive session, the Board returned to the public portion of its agenda.

Rule Regarding Stipulations and/or Settlements. The Board considered a draft rule amending the Board's procedure for considering stipulations made to the Board by respondents in cases involving complaints to the Board. Upon a motion and second, the Board adopted the draft rule, with only minor modifications.

Advisory Opinion 1996 - 0 Complimentary admission sponsored by Texaco). The Board considered a draft advisory opinion that had been previously distributed to Board members. The opinion prohibits the receipt of complimentary admission and food and beverages to the Seafair event, unless the admission is presented to the legislator directly from Seafair and not from Texaco. With only minor modifications, the opinion was approved by the Board upon a motion and second.

Staff Reports. Staff presented several instances in which informal advice had been given in response to specific inquiries.

The Board determined that their next regular meeting would be held on Thursday, September 12, 1996 at the Washington State Training and Conference Center in Sea-Tac.

The meeting was adjourned at 12:50 P.M.

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William Asbury, Vice Chair

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date

September 12, 1996  
Washington State Training & Conference Center, Sea-Tac

Members Present: William Asbury, vice-chair and acting chair; Rep. Jim Horn; Paul Aldinger; Rep. Marlin Appelwick; Will Bachofner; Sen. Jeanine Long; and Sen. Harriet Spanel.

Staff: Tony Cook, Mike O'Connell and Jim Blundell.

Also Present: Jack Darragh, David Wickham, and Harvey Gertson, Dept. of Transportation.

Mr. Asbury called the meeting to order at 10:05 A.M

Internet Abuse. The Board discussed recent reports of the use of state computers and the Internet by legislative employees. Staff reported that the Board has addressed the issue in its Rule 3 on personal use of state resources. Staff also discussed the various methods of communicating using computers and the Internet.

The Board also received testimony on this subject from Jack Darragh and Chris Wickham. Mr. Wickham presented several examples in which state employees used state computers and the Internet for allegedly improper purposes.

The Board considered a motion to recommend that the House and the Senate insert a warning that will appear on each legislative computer during the log on process that will warn the user that the use of the computer is limited to official legislative purposes, except under limited exceptions. The motion was seconded and passed. The Board also determined that it would respond to Messrs. Darragh and Wickham, noting that the allegations of Internet abuse have been brought to the attention of the administrative

## MINUTES

### ETHICS BOARD

officers in the House and the Senate; that disciplinary and preventative actions have been taken; and requesting a report to the Board at its next meeting regarding these actions. The response will also mention the recommendation that will be made to the House and Senate regarding the log on warning.

Staff Reports. Staff reported on the following items:

1. Final status of Advisory Opinion 1996 - No. 11
2. Meeting of the Executive Ethics Board
3. Next year's State Ethics Conference
4. A list of titles to be used with the Board's opinions for the legislative search and retrieval system
5. Various staff inquiries on ethics issues

The Board entered an executive session to discuss the vacancies on the Board.

The Board reentered its regular session.

The Board determined that their next regular meeting would be held on Thursday, October 10, 1996, at 10:00 a.m., at the Washington State Training and Conference Center in Sea-Tac.

The meeting was adjourned at 12:30 P.M.

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William Asbury, Vice,Chair/Acting Chair

date

LEGISLATIVE

October 10, 1996

Washington State Training & Conference Center, Sea-Tac

Members Present: William Asbury, vice-chair and acting chair; Rep. Jim Horn; Paul Aldinger; Rep. Marlin Appelwick; Will Bachofner; Sen. Harriet Spanel; James Andersen; and Ruth Schroeder.

Staff: Tony Cook, Mike O'Connell and Jim Blundell.

Also Present: Harvey Gertson, Dept. of Transportation.

Mr. Asbury called the meeting to order at 9:45 A.M.

New Members and Officers. The acting chair, Mr. Asbury, introduced the new members of the Board, James Andersen and Ruth Schroeder, and welcomed them.

The acting chair opened the floor for nominations to the position of Chair. Mr. Asbury's name was placed in nomination and nominations were closed. Mr. Asbury was elected, by unanimous vote, to the position of Chair. The floor was opened for nominations to the position of Vice Chair. Nfr. Bachofner's name was placed into nomination and the nominations were closed. Mr. Bachofner was elected, by unanimous vote, to the position of Vice Chair.

Advisory Opinion 1996 -- No. 12. The Board discussed the request for an advisory opinion by Rep. Campbell on the issue of mailing follow-up responses to constituents who have contacted the legislator. TIE Board determined that, under the circumstances described in the opinion request, such a mailing would be prohibited by RCW 42.17.132. It was moved and seconded that the Board answer the advisory opinion request in the negative. The motion was approved. The Board directed staff to draft an opinion consistent with its determination.

Staff RepQrt\$.

Staff presented a memo discussing the apparent desire of the Board to make formal recommendations to the Legislature for amendments to RCW 42.17.132. The Board postponed action on this matter until the next meeting.

Staff reported progress in the House and the Senate on issues pertaining to Internet usage by employees. Both the Senate and the House reported that they had reiterated their policies on downloading software to employees. Both the Senate and the House are also considering the Board's suggestions with regard to blocking access to





Present: William Asbury, chair; Rep. Jim Horn; Paul Aldinger; Rep. Marlin Appelwick; Will Bachofner; Sen. Harriet Spanel; James Andersen; Sen. Jeannine Long; and Ruth Schroeder.

Staff Tony Cook and Jim Blundell.

Also Present: Rep. John Pennington; Harvey Gertson, Dept. of Transportation; and John Barnett, Legislative Service Center.

Mr. Asbury called the meeting to order at 9:50 A.M.

Announcements. Mr. Asbury announced that Rep. John Pennington was in attendance and that the Speaker of the House of Representatives intended to appoint Rep. Pennington to the Board in January, at the conclusion of Rep. Horn's term. Mr. Asbury welcomed Rep. Pennington, in advance.

The chair also announced that staff member Mike O'Connell had been selected to become the new Secretary of the Senate, that Mr. O'Connell would likely resign his position as staff to the Board, and that the Board would miss his outstanding service.

Minutex The chair reviewed the current practice involving the preparation, review and signing of the Board's meeting minutes. The current practice is for staff to prepare the minutes, send them to the chair for his review and signature, who then returns them to staff for filing. The Board voiced no objection to this practice and, therefore, the chair stated his intent to continue.

Advisory Opinion 1996 -- No. 13. The Board discussed the request for an advisory opinion by the Inaugural Ball Committee. The Committee asked the Board whether complimentary admission by legislators to the traditional inaugural ball, an event sponsored by a corporate lobbyist-employer, constitutes a violation of the Ethics Act. It was moved and seconded that the Board issue an advisory opinion approving complimentary admission to the ball on the grounds that such admission is not a prohibited gift either pursuant to the meal exception of RCW 42.52.150(5) ("food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer is related to the performance of official duties.") or pursuant to the exception found at RCW 42.52.150(2)(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"). The motion carried unanimously, and staff was directed to prepare a draft order for circulation.

Advisory Opinion 1996 - No. 14. The Board discussed a request for an advisory opinion from the Chief Clerk of the House of Representatives on behalf of a member of the House. The question is whether the member's travel to a conference, at public expense,

# MINUTES

## ETHICS BOARD

constitutes the use of state resources for campaign purposes in violation of RCW 42.52.180. The conference was described as a mix of educational and political sessions. It was moved and seconded that the Board decline to issue an advisory opinion on the ground that there was insufficient information to distinguish the ethics issues associated with the trip. The motion passed unanimously. Staff was directed to prepare a letter for circulation.

Contract Inquiry. The Board discussed a request by Terry Wilson, staff member to the Senate Committee on Ways and Means, for clarification of the requirements regarding his contract to provide a software product to the Senate, as well as possible future contracts with the House of Representatives and the Legislative Service Center. The Board determined that the contract was subject to its jurisdiction. A motion was made and seconded to find that the contract was not in conflict with the proper discharge of Mr. Wilson's official duties and to approve the contract. The motion passed with two dissenting votes. Staff was directed to prepare a draft letter for circulation.

Staff Rg2Qrts. Staff presented a memo discussing the apparent desire of the Board to make formal recommendations to the Legislature for amendments to RCW 42.17.132 and other statutes under its jurisdiction. The Board postponed action on this matter until the next meeting.

Public Comment. There were no comments from the public.

The Board entered an executive session to discuss pending complaints.

The Board reentered its regular session.

The Board determined that their next regular meeting would be held on Thursday, December 12, 1996, at 10 a.m., in Olympia.

The meeting was adjourned at 2:00 P.M.

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William Asbury, Chair

date

## LEGISLATIVE

December 12, 1996  
Senate Hearing Room 3, Cherberg Building, Olympia, WA

Members Present: William Asbury, chair; Rep. Jim Horn; Paul Aldinger; Rep. Marlin Appelwick; Will Bachofner; Sen. Harriet Spanel; and James Andersen.

Staff: Tony Cook and Jim Blundell.

Also Present: Rich Heath, Assistant Attorney General; Rebecca Bogard, Bogard & White; Harvey Gertson, Dept. of Transportation; and Cathy Maynard, House of Representatives Democratic Caucus Counsel.

Mr. Asbury called the meeting to order at 10: 15 A.M.

Advisory Opinion 1996 —No. 15. The Board discussed the request for an advisory opinion by Rebecca Bogard. The inquiry involves a gala dinner and entertainment event sponsored by clients of Ms. Bogard. Ms. Bogard asked whether the event is either a "hosted reception" or a "meal in the ordinary course" and, therefore, whether complimentary admission could be accepted by legislators. The consensus of the Board was that the dinner qualified as a meal in the ordinary course, that incidental music and entertainment would be allowable, but that additional, separate entertainment components would not be allowed. The Board directed staff to draft an advisory opinion consistent with the Board's consensus for presentation at the next meeting of the Board.

Amendments to RCW 42.17.132. The Board considered a proposed amendment to the mailing restrictions of RCW 42.17.132 prepared by staff. The Board made several changes to the draft and, by consensus, agreed to present the amendment as an agency request bill.

Other statutory changes. Consideration of other proposed changes was deferred to the next meeting. Staff was directed to prepare a draft bill regarding limitations on former members as candidates for legislative office.

Staff Reports. The Board heard reports from staff on several items. First, staff presented an inquiry from Sen. Bill Finkbeiner regarding a contract between his business and a software firm. The contract is funded by a grant of federal funds that is passed through the Department of

Transportation and, eventually, to the software firm. The Board determined that Sen. Finkbeiner's contract is a subcontract, is not a contract with the state and is, therefore, not subject to the restrictions of RCW 42.52.120 pertaining to contracts with the state. The Board directed staff to respond to Sen. Finkbeiner accordingly.

Staff also updated the Board on the status of Advisory Opinion 1996 — No. 13 (Inaugural Ball Dinner), Advisory Opinion 1996 — No. 14 (Travel to conference of mixed political and educational content), and the contract inquiry involving Senate employee Terry Wilson. The Inaugural Ball opinion is final. The request for an advisory opinion regarding travel to the conference was declined and a letter to the Chief Clerk to that effect was reviewed and will be sent out. The Chair will send a letter to Terry Wilson, a copy of which was reviewed by the Board.

Public Comment. There were no comments from the public.

The Board determined that its next regular meeting would be held on Thursday, January 9, 1996, at 10 a.m., in Olympia.

The Board entered an executive session to discuss pending complaints and staffing.

The Board reentered its regular session.

The meeting was adjourned at 3 P.M.

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William Asbury, Chair

date

