

Advisory Opinion

IECDB AO 2002-10

April 11, 2002

The Honorable Dennis Black
State Senator
5239 E. 156th St. S.
Grinnell, Iowa 50112

Dear Senator Black:

This opinion is in response to your letter of February 20, 2002, in which you request an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as a State Senator and on behalf of the Iowa Association of County Conservation Boards. You advise us that in certain situations an employee of a county conservation board is required to live in a county provided residence. The employee, or a member of the employee's family, would like to engage in activities at the residence that would generate income such as cosmetic sales, vitamin sales, craft and handmade art sales, and baby-sitting. However, no county owned equipment or supplies would be used.

QUESTION:

Does engaging in activities that generate income at a county provided residence create a conflict of interest as prohibited by Iowa Code section 68B.2A?

OPINION:

Iowa Code section 68B.2A prohibits the use of governmental time, facilities, equipment, supplies, or "other evidences of office or employment" to give the employee or member of the employee's immediate family an "advantage or pecuniary benefit that is not available to the similarly situated members...of the public." The Board does not believe the list of items set out in the statute should be interpreted to include a county provided residence. In addition, we do not see how the situation you describe would give the employee or a family member an "advantage or pecuniary benefit that is not available" to other members of the public. This is especially true since the equipment and supplies for the outside activity would be personally provided.

Therefore, the situation you describe does not create a conflict of interest as prohibited by Iowa Code section 68B.2A. Thus, county conservation board employees and their family members could use a county provided residence for the purposes described in your letter without violating the statute.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair Gwen Boeke
Mark McCormick
Bernie McKinley
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel