

## Advisory Opinion

IECDB AO 2004-07

June 23, 2004

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on a lobbyist who is also a candidate for state office making contributions to own campaign during the legislative session. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

OPINION:

Iowa Code section 68A.504 prohibits, in part, lobbyists from making monetary or in-kind contributions<sup>1</sup> to candidates for state office during the regular legislative session. The prohibition extends for an additional 30 days after session for contributions to the Governor or gubernatorial candidates.<sup>2</sup> The issue has been raised concerning whether or not a lobbyist who is a candidate for state office may contribute money to the lobbyist's campaign during session.

The Board first notes that since elected statewide officials and members of the General Assembly may not be lobbyists, except when representing the official position of their own agencies,<sup>3</sup> the scope of this opinion is limited to the narrow factual scenario of a registered lobbyist seeking state office and making contributions to his or her own campaign during the legislative session.

The purpose behind the law is to prohibit even the appearance of lobbyists using campaign contributions in exchange for legislative action. The law seeks to treat incumbents and challengers evenhandedly as both are prohibited from receiving such contributions. If the prohibition were to be applied to a lobbyist who is also a candidate, the lobbyist would be prohibited from using the lobbyist's personal funds to make even a loan to his or her own campaign during session.

We are of the opinion that no actual or perceived impropriety exists when the lobbyist and candidate is the same person. As the United States Supreme Court first held in the *Buckley v. Valeo*, 424 U.S. 1 (1976) decision, and subsequent courts have agreed with, an individual cannot corrupt him or herself. In addition, it would be unfair for the lobbyist-candidate to be prohibited from donating to his or her own campaign during session while an opponent for the same office could do so.

For these reasons, the Board believes that a lobbyist may make contributions to his or her own campaign for state office at any time.

In closing, the Board notes that this opinion does not affect the prohibitions on the lobbyist-candidate from making contributions to other candidates during session or receiving contributions from other lobbyists or political committees (PACs) during session.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Phyllis Peters, Vice Chair  
Janet Carl  
Gerald Sullivan  
Betsy Roe  
John Walsh

Submitted by: W. Charles Smithson, Board Legal Counsel

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<sup>11</sup> Iowa Code section 68A.102(10) defines, in part, "contribution" as a "gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind (sic)."

<sup>2</sup> The General Assembly in 2004 Iowa Acts, HF 2318, section 8, amended Iowa Code section 68A.504 to also prohibit candidates for state office from receiving contributions from lobbyists during the regular legislative session.

<sup>3</sup> See Iowa Code section 68B.5A(1)