

Advisory Opinion 2012-3
Response to a Request for an Advisory Opinion
from Representative John A. Burt
(April 6, 2012)

Please Note: For clarity, references to and excerpts from provisions of statutes or the Ethics Guidelines have been updated to conform to subsequent changes in numbering and language, where the changes have not affected the substance of the Opinion.

Pursuant to RSA 14-B:3, I (c), Representative John A. Burt has requested an Advisory Opinion whether, consistent with applicable statutes and the Ethics Guidelines, he may proceed with promotion and organization of an event he refers to as "Representative Burt's Hot Dog Day."

According to information provided to the Committee by Rep. Burt, the event would be a hot dog roast to take place at lunch time on the State House Plaza. Financial support for the event would come in the form of cash donations from lobbyists and others including fellow Representatives, as well as in-kind contributions, in response to requests from Rep. Burt. Donations would be received by Representative Burt. Cash donations would be deposited by him in a special bank account, from which he would disburse funds to pay the expenses of the event. After all expenses had been paid, any remaining funds would be donated to a charity of Rep. Burt's choice.

Specifically, Rep. Burt asks whether, based on the facts he has provided, he may proceed with the event as described.

Relevant provisions of applicable law are:

RSA 14-C:2 Definitions. –In this chapter:

* * *

IV (a) "Gift" means:

(1) Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money.

(2) Any other tangible thing, intangible thing, service, or the use thereof having an individual value of greater than \$50.

(3) Multiple tangible things, intangible things, services, or the use thereof having an individual value \$50 or less with an aggregate value greater than \$250 from any single source during any calendar year.

RSA 14-C:3 Prohibition on Gifts; Duty to Report

I. It shall be unlawful to knowingly give any gift as defined in this chapter, directly or indirectly, to any legislator or legislative employee.

III. It shall be unlawful for any legislator or legislative employee to solicit or to knowingly accept, directly or indirectly, any gift, as defined in this chapter, or to fail to meet the reporting requirements of this chapter.

Ethics Guidelines, Section 3, Prohibited Activities.

II. Legislators shall not solicit, accept, or agree to accept anything of value from another for themselves or other persons, if the legislator receives such thing of value:

* * *

(b) Knowing or believing that the giver is or is likely to become subject to or interested in any matter or action pending before or contemplated by the legislator or the General Court.

* * *

Ethics Guidelines, Section 4, Permitted Activities; Permitted Gifts.

I. Nothing in section 3, Prohibited Activities, shall be construed to prohibit the following:

* * *

(h) Acceptance of anything permitted to be accepted pursuant to RSA 14-C * * * *

We advise as follows:

While we commend efforts of legislators to promote fellowship and comity among their colleagues, we are concerned that direct solicitation and receipt by legislators of cash contributions for the proposed event, from any source, would violate the prohibitions set forth in RSA 14-C:3 and Ethics Guidelines Section 3, II(b). We have previously approved of legislators organizing and promoting legislature-related events and activities, so long as there is no direct solicitation or receipt of cash by legislators, and the contributions are directed to charitable organizations which sponsor the event. See Advisory Opinions 2008-2 (White-Blaisdell Golf Tournament) and 2009-3 (Concord Hospital-Payson Center Rock 'n' Race)(summaries and full texts available at:

http://gencourt.state.nh.us/ethics/Advisory_Opinions/AO_Blurbs.htm).

We therefore advise that for this event, violation of the statute and Guidelines may be avoided if arrangements are made for sponsorship by a charitable organization registered as such with the New Hampshire Department of Justice, announcement of the event is limited to publication in legislative calendars or other general means of communication, and all cash contributions are directed to the sponsoring charitable organization, rather than to any legislator. Any cash contributions for the event previously received by Rep. Burt or other individual legislators, should be returned to the donors. Non-cash contributions valued at \$50 or less may be solicited and received.

We appreciate the opportunity to be of assistance.

Martin L. Gross, Chairman
For the Committee