

MINUTES
LEGISLATIVE ETHICS COMMITTEE
OCTOBER 2, 2013 MEETING
{Approved: October 28, 2013}

The Legislative Ethics Committee (RSA 14-B:2) held a joint meeting with the Executive Branch Ethics Committee (RSA 21-G:29) on Wednesday, October 2, 2013, at 10:00 a.m. in Room 302 at the Office of the Attorney General.

The following Minutes from the joint meeting were approved by the Executive Branch Ethics Committee:

NEW HAMPSHIRE EXECUTIVE BRANCH ETHICS COMMITTEE
and
LEGISLATIVE ETHICS COMMITTEE

JOINT MEETING

OFFICE OF THE ATTORNEY GENERAL
ROOM 302

October 2, 2013
10:02 AM

Meeting called to order by Executive Branch Ethics Committee Chairman Joseph A. DiBrigida, Jr.

Present: Patricia Quigley, Alan Johnson, Dale Kuehne and Andrew Schulman of the Executive Branch Ethics Committee; Legislative Ethics Committee Chairman Martin L. Gross, Representative Janet G. Wall, Representative Jordan G. Ulery, Senator Jim Rausch, Wilfred L. Sanders, Jr., and David Welch of the Legislative Ethics Committee

Also Present: Executive Administrator of the Legislative Ethics Committee Richard Lambert, Recording Secretary for the Executive Branch Ethics Committee Kara-Lee Bean, House Legal Counsel Paul Twomey

- The committees discussed RSA 15-B, specifically the honorarium exception, the Executive Branch Ethics Committee (EBEC) opinion regarding RSA 15-B, what is meant by “unrelated to the government position held,” and the purpose of the honorarium exception. Chairman Gross mentioned to the EBEC members that there has been a legislative study commission formed to study RSA 15-B and the Legislative Ethics Committee (LEC).

At a later point in the meeting, Mr. Lambert listed members of the legislative study commission and informed the committees of the date and time of the organizational meeting. The committees discussed the specific language in RSA 15-B. Senator Rausch suggested that Chairman DiBrigida and Chairman Gross submit their comments and suggestions regarding RSA 15-B to the legislative study commission.

The committees also discussed the gift price limit and the exceptions thereto, and the balance between what price limit is reasonable and what price would be enough to influence behavior. Senator Rausch also mentioned the difference in the number of legislators in the House and Senate and finding the balance in that respect.

- The committees discussed some recent opinions, and a guideline regarding gift giving by Executive Branch employees to legislators that was recently issued by the EBEC at the request of the LEC. In the *Higgins* opinion, the LEC determined that a training was neither an honorarium nor an expenditure. In the *Sapareto* opinion, the LEC determined that free passes for tolls are a statutory exception. They also briefly discussed the temporarily obsolete LEC opinion 2012-3, regarding the redress of grievances committee. In addition, a discussion regarding privately and state sponsored travel and services was held.
- The committees discussed accumulation of gifts, the strength of the ethics program and the reporting requirements of people subject to the ethics laws, the purpose of the joint meeting and the history behind the formation of both committees.
- The staff person from each Committee will work together to create a joint coordinated index of opinions.
- Meeting adjourned at 11:03 a.m.

Respectfully Submitted
Kara-Lee Bean
Recording Secretary

The Legislative Ethics Committee held a separate meeting at approximately 11:00 a.m. in Room 104 of the Legislative Ethics Committee. The following members were present: Martin L. Gross, Chairman, Representative Janet G. Wall, Vice Chairman, Representative Jordan G. Ulery, Senator Jim Rausch, Mr. David A. Welch, and Attorney Wilfred L. Sanders, Jr. Senator Martha Fuller Clark was unable to attend. The meeting consisted of the following items:

ITEM #1

Consideration and Adoption of *Agenda*.

Vice Chairman Wall moved to adopt the proposed *Agenda*. Attorney Sanders seconded the motion and the Committee voted 6 to 0 in favor of the motion.

ITEM #2

Consideration of the draft *Minutes* from the Committee's meeting held on August 20, 2013.

Chairman Gross pointed out a typographical error. After review, Senator Rausch moved to adopt the *Minutes* as amended. Vice Chairman Wall seconded the motion and the Committee voted 6 to 0 in favor of the motion.

ITEM #3

Consideration of *Advisory Opinion 2013-3*.

Chairman Gross summarized the request dated September 14, 2013, from Representative Susan W. Almy asking whether she could accept a complimentary invitation from the Business and Industry Association of New Hampshire (BIA) to attend its Annual Dinner on October 23, 2013. He read directly from Representative Almy's request and noted that the request included a copy of BIA's invitation. Chairman Gross said that the Committee had also received a response from Attorney Bradford E. Cook submitted on BIA's behalf, dated September 20, 2013, to a request from the Committee for specific information relating to the Annual Dinner. Lastly he said that he had circulated a memorandum to the Committee with his preliminary thoughts about the subject, but wanted to note again that he was expressing his thoughts only in the memorandum and members should feel free to either agree or disagree.

Chairman Gross said the primary issue is whether the BIA event qualifies for any of the exceptions to "gift" in RSA 15-B. He said where he "came down very tentatively" in the memorandum was that if the event could be deemed a "celebratory" event, then it was eligible for the ceremonial or celebratory exception under RSA 15-B:2, V(b)(10)(A). He said: "The issue is whether the 'primary significance' of the BIA dinner was 'ceremonial or celebratory,' two terms that were not defined in the statute and which have not been interpreted or applied in specific circumstances by the Committee." He said that Attorney Cook stated in his letter who the BIA is honoring and what the general structure of the dinner would be.

Attorney Cook spoke to the Committee and said he tried to give a history in his letter of how the dinner has evolved over the years. The BIA's business meeting now occurs separately in the spring, he said, and the October dinner is a celebration of the people being honored.

Senator Rausch: "I read through (Chairman Gross's) whole synopsis of the issues and I concur with (his) conclusion, it's celebratory. And it's not a business meeting, and so I see that the invitations to those individuals are appropriate and they should be able to attend."

Attorney Sanders: "And I would echo that. I think the written materials are very very helpful ... having attended for many years, it's really become sort of a who's who for business and professional people in the state and I use that as an example of a very well run activity.... It is celebratory. The speeches are all about those who are getting the awards, and there is no lobbying."

Senator Rausch: "I'll make an additional comment. From a legislative standpoint, we require a lot from our businesses and we encourage business to move to our state because we get a lot of tax revenue from them. I think if we can't celebrate their success and show them by appropriate people attending, then I don't think we're doing what we are actually supposed to do, and you can't ask business to be taxed and move to our state and perform in the way we want them to and then not celebrate their success. So I think it is appropriate for us to have a presence there and I certainly don't believe it is in violation of our ethics rules to do that as a celebratory function."

Representative Ulery expressed concern about a potential situation where a lobbying organization with interests before the legislature could give an award to a legislator as "legislator of the year" and do so as a reward for voting in the lobbying organization's interest.

After further discussion, the Committee decided to add language to the draft opinion to say that to qualify for the exception the BIA event should not celebrate sitting legislators.

Attorney Sanders moved to issue an advisory opinion based on Chairman Gross's memorandum. Vice Chairman Wall seconded the motion and the Committee voted 6 to 0 in favor of the motion.

ITEM #4

New Business.

Senator Rausch moved to enter nonpublic session {pursuant to RSA 14-B:3(d)}. Vice Chairman Wall seconded the motion and the Committee voted as follows:

Representative Ulery	Yea
Senator Rausch	Yea
Vice Chairman Wall	Yea
Chairman Gross	Yea
Attorney Sanders	Yea
Mr. Welch	Yea

{MOTION ADOPTED}

{NONPUBLIC SESSION}

Senator Rausch moved to exit nonpublic session. Mr. Welch seconded the motion and the Committee voted as follows:

Representative Ulery	Yea
Senator Rausch	Yea
Vice Chairman Wall	Yea
Chairman Gross	Yea
Attorney Sanders	Yea
Mr. Welch	Yea

{MOTION ADOPTED}

Chairman Gross made the following statement: “We’re now back in public session and just to make sure the record is clear, the subject matter of our nonpublic session was a complaint, #2013-5, which the law requires to be maintained confidential at this point.”

ITEM #5

Old Business.

Update on status of compliance with NH Laws 2012, Chapter 126.

Chairman Gross reminded the Committee that the law requires that materials and records filed with the Secretary of State and House and Senate Clerks under the ethics laws or guidelines are required to be posted on the Committee’s website. He said that most of those materials have been posted for a while, and added: “but the one thing that was missing was the Declarations of Intent, and Rich was able to work things out with the Senate so that they – without any problem – get the Senate Declarations of Intent into electronic form so they can go up on our website, but we ran into problems with the House Clerk, and I’m glad to say, to make it short, that those have been resolved in ways satisfactory to us and to them. And where are we now, Rich? Are the declarations up?”

Mr. Lambert: “No. The word is that they will be up by the third week of October. The holdup now is, I guess, the workload of GCIS. The person who would do it had some other project... but the GCIS Manager, Scott Rupp, wrote an e-mail saying that he expects the other project to be completed so the forms will be up by the third week of October.”

Chairman Gross: “And I might say that the resolution was, I think, moved materially by the House Chief of Staff Ryan Mahoney, who sort of broke the log jam.”

ITEM #6

Scheduling of next meeting.

The Committee will meet next at the call of the Chair.

The Committee's meeting adjourned at approximately 12:45 a.m.

{Prepared by: Richard M. Lambert, Executive Administrator}