



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

DECLARATORY RULING 93-B

Application Of Conn. Gen. Stat. §1-84(m) To The Governor

Eric Lorenzini, Executive Director of Common Cause/Connecticut, has asked the Ethics Commission to clarify how §1-84(m) of the Code of Ethics for Public Officials applies to the Governor. (As a person not subject to the provisions to the Code of Ethics for Public Officials, Mr. Lorenzini does not have the right to obtain a Commission advisory opinion issued pursuant to Conn. Gen. Stat. §1-81(a)(3). He does, however, have standing to request a declaratory ruling regarding the application of the Code under the provisions of the Uniform Administrative Procedure Act, Conn. Gen. Stat. Chapter 54, and the Commission's Regulations, Regulations of Conn. State Agencies Secs. 1-92-39a and 39b. Responding in compliance with these provisions, the Ethics Commission hereby sets forth its prospective application of the Code to the questions posed.)

Enacted during the 1992 Legislative Session, and effective May 26, 1992, §1-84(m) states:

No public official or state employee serving in the executive branch or a quasi-public agency shall knowingly accept, directly or indirectly, any gift or gifts known to amount to fifty dollars or more in value in any calendar year from any person the official or employee knows or has reason to know: (1) is doing business with or seeking to do business with the department or agency in which the official or employee is employed, (2) is engaged in activities which are directly regulated by such department or agency or (3) has financial interests which may be substantially affected by the performance or nonperformance of official duties by the official or employee. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision.

In his request for advice, Mr. Lorenzini asks that the Commission address the application of §1-84(m) to the Governor, given his authority to either sign or veto all legislation enacted by the General Assembly. Specifically, he queries whether: 1. "If legislation has been proposed in the General Assembly which would substantially affect the financial interests of a particular corporation, would a gift from that corporation to the Governor be prohibited under the Code?"; and 2. "If based on historical precedent, it can reasonably be presumed that legislation will be considered by the General Assembly which would substantially affect the financial

interests of a particular corporation, would a gift from that corporation to the Governor be prohibited..." when the Legislature is not in session?

Among his other powers, in his role as the State's Chief Executive the Governor has the constitutional authority to approve or disapprove of all legislation passed by the General Assembly. Article Fourth, Sec. 15, Constitution Of The State Of Connecticut. As a consequence, through the performance or nonperformance of this official duty, he has the potential authority to substantially affect the financial interests of a corporation, if such interests would be so affected, either specifically or generally, by the enactment or rejection of legislation proposed in the General Assembly. Additionally, if the Governor "...knows or has reason to know..." that consideration of such legislation will occur in the forthcoming session, he, again, has the potential authority to substantially affect the corporation's financial interests. In either case, §1-84(m)(3) would apply to limit the Governor's acceptance of gifts from the corporation.

This Ruling will effectively preclude the Governor from accepting gifts above the statutory limit from many individuals and entities subject to Connecticut law; since the Governor's executive authority regarding budgetary, tax, and myriad other matters has the obvious and on-going potential to affect substantially the financial interests of all such persons. While this holding is admittedly broad in its effect, its scope is necessitated by the breadth of the Governor's powers and the degree of the State's involvement in the financial affairs of its citizenry. The Ruling is also in keeping with both the clear language of §1-84(m)(3) and the intent of the Ethics Commission in proposing this legislation: prevention of the corrosive affect of special interest gifts on the public's confidence in the integrity of governmental processes.

Furthermore, while the necessary application of the statute at issue is broad, this Ruling is neither limitless in effect nor unmindful of the practical and political realities of the legislative process. Consequently, when seeking to discern the likelihood of a 'substantial effect' on the financial interests of a possible benefactor, the Governor need be concerned only with matters that are of relative significance and not proposals with only a de minimis financial impact. Additionally, while the Governor will be required to ascertain the possibility of statutorily relevant legislation being introduced in the forthcoming legislative session, his inquiry need not attempt to divine the future. Rather, under this Ruling, the statute's "...knows or has reason to know..." standard can be met by

determining, from within the Administration, from the potential benefactor, and from the Legislative Leadership, the probability of germane legislation being introduced. If, after having made this requisite determination and after events have transpired, an unforeseen proposal of financial significance to the benefactor does emerge, whatever its genesis, the statutory restrictions of §1-84(m)(3) will not be found by the Ethics Commission to have been breached.

The Commission also notes that any theoretically harsh result of this Ruling is ameliorated by the Ethics Code in two ways. First, §1-84(m) applies only to the public official or state employee recipient, and does not extend to the individual's immediate family. Therefore, under that provision, the Governor's spouse or children, for example, could accept a gift or benefit above the statutory limits, as long as the transaction was not intended to indirectly benefit the Governor. Secondly, the limits at issue are not, in the Commission's view, draconian. Gifts under fifty dollars in the aggregate per recipient per calendar year, from whatever source, are expressly permitted. Additionally, the Code exempts from the definition of "Gift" a dozen categories of benefits including: gifts from immediate family members or one's fiance or fiancée; ceremonial awards costing less than one hundred dollars; rebates, discounts and promotional items available to the general public; food and drink costing up to one hundred and fifty dollars in the aggregate per recipient per calendar year (provided the person paying for the meal, or his or her representative, is in attendance); and gifts, without limit, given incident to a "major life event" (defined in Commission Regulations to include: a religious ceremonial event such as a confirmation or bar mitzvah; a wedding; a funeral; and the birth or adoption of a child. Regulations of Conn. State Agencies Sec. 1-92-53). Conn. Gen. Stat. §1-79(e). Furthermore, the Ethics Code, while banning the receipt of fees or honorariums for activities in one's official capacity, permits the public official or state employee to accept payment for his or her necessary expenses. Conn. Gen. Stat. §1-84(k). And, finally, the Code exempts gifts and other benefits costing less than ten dollars per person per occasion from counting toward any of the above limits.

As can be seen from these enumerated exceptions, the Ethics Code's gift limitations are drawn in a manner which seeks to recognize that public officials, no matter what their rank, also have private lives. In essence, the Code attempts to establish a balance: allowing legitimate and traditional social interaction; while prohibiting apparent efforts to improperly influence state decision-makers through the provision of

substantial benefits. While this balance is, in practice, not always a perfect one; the Code's gift provisions do, in the Ethics Commission's opinion, provide reasonable and workable parameters for the conduct of Connecticut's state servants.

By order of the Commission,



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Christopher T. Donohue  
Chairperson

Dated JULY 12, 1993