


Theodore R. Kulongoski, Governor

September 29, 2004

W. Jim Bruce
Director
Douglas County Human Resources Department
Douglas County Courthouse, Room 322
Roseburg, Oregon 97470

Dear Mr. Bruce:

This is in response to your correspondence dated July 8, 2004 regarding a proposal for a public agency to pay an agency manager's dues to join a service organization.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION NO. 04S-007**

STATED FACTS: A public agency has been formed through an intergovernmental agreement between a port authority and a county government. A three member Management Committee manages the agency created by the intergovernmental agreement. One member is appointed by the port authority, another by the county and a third is recommended by the two appointees and ratified by the port and county.

The Management Committee has been given the combined authorities of the port and county. The committee would like to include the initial fees and annual dues required for membership in a service organization in the compensation package for a harbor manager.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.020(15) " 'Public official' means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services."

244.020(16) " 'Relative' means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse."

244.040 "**Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:"

244.040(1)(a) "No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated."

QUESTION: Would the harbor manager violate Oregon Government Standards and Practices laws by accepting a public agency compensation package, which included the payment of fees and dues required for membership in a service organization?

OPINION: No. ORS 244.040(1)(a) would prohibit the harbor manager from using the position as a public official to gain a financial benefit that would not otherwise be available but for holding the position of harbor manager. There are some financial benefits that are exempt from this prohibition. Those are "official salary, honoraria, reimbursement of expenses or unsolicited awards for professional achievement." The stated facts indicate that the cost of membership in the service organization would be included in the compensation package of the harbor manager. The GSPC believes that all elements of a public official's compensation such as insurance, retirement or other delineated benefits, constitute the "official salary" allowed in ORS 244.040(1)(a). Accordingly, the harbor manager would not violate the provisions of ORS Chapter 244 by accepting the compensation package that included the cost of membership in a service organization.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL

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**ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON STANDARDS
AND PRACTICES COMMISSION.**

Please contact this office again if you would like this opinion submitted to the Government Standards and Practices Commission for adoption as a formal advisory opinion pursuant to ORS 244.280.

Sincerely,

L. Patrick Hearn
Executive Director

LPH/dc 04S-007