
Coates' Canons Blog: Board Members Who Serve on Nonprofit Boards – Conflict of Interest?

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It's budget season, and several nonprofit organizations hope to receive funding from your city or county to provide programs and services for the benefit of your citizens. An increasingly common situation is that you have one or more members of your city or county governing board who also serve on the boards of some of these local nonprofit organizations. Does this create a conflict of interest when it comes time to vote on funding decisions, or even on the budget itself? I don't think so. As noted in earlier posts, the city and county voting statutes create an obligation to vote, and allow a person to be excused from voting on matters involving their own financial interest or official conduct. Service on a nonprofit board does not result in personal financial benefit. A person who argues in favor of funding for a local nonprofit organization does not do so for personal financial gain. Certainly, such a person is not neutral on the subject. But neutrality is not required in this context. (It's important to note that if the matter involved a quasi-judicial land use issue, the voting statute dealing with quasi-judicial issues would require the person to disclose the connection and most likely, to be excused from voting.) When it comes to voting on budgetary decisions, there's not much difference between a person who's simply an advocate for a particular cause, and a person who's an advocate and happens to sit on the board of the nonprofit dedicated to the cause.

This is an example of a situation where the notion of avoiding even "an appearance" of conflict, advice that is often given to board members, is overridden by the obligation to vote that our statutes create. There may well be sticky issues down the road when a local governing board member serves on a nonprofit board that receives funding from the local government. What if there is a dispute about whether the funds have been properly used? There may be conflicts of allegiance for the board member, or even a competing set of fiduciary duties to each board that the member will have to resolve. But even if future votes are required to resolve these issues, they're not likely to involve any personal, financial interests of the board member who serves on the nonprofit board. This suggests that it's very important for the board member, and for the nonprofit, to carefully examine and discuss their respective motivations and expectations about service on the nonprofit board. That discussion should give due consideration to the obligations of the local governing board member to carry out his or her legal responsibilities, including the obligation to vote, as dictated by the statutes.

Links

- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-75.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-44.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-388.html