

ADVISORY OPINION

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REFERENCES: RCW 42.52.160

SUMMARY OF CHANGES: No changes.

Use of State Resources/Combined Fund Drive

QUESTION

Does the use of state resources such as employee time, equipment, and supplies for the Combined Fund Drive violate RCW 42.52.160(1)?

ANSWER

No. RCW 42.52.160(1) does not apply to the conduct of state business. The Combined Fund Drive is part of the business of the state, so RCW 42.52.160(1) does not apply. However, the amount of state resources that may be devoted to the drive is a matter left to the discretion of each agency.

ANALYSIS

This opinion concerns the Combined Fund Drive. RCW 41.04.036 authorizes voluntary deductions from the pay of state officers and employees for charity. In 1984, Governor Spellman issued Executive Order 84-13. The Order noted that there were a number of charitable fund raising drives directed at state employees. The Order sought to solve this problem by setting up one annual fund raising drive. To implement the Executive Order, in 1985 the Governor's Office adopted rules establishing the State Employee Combined Charitable Contribution Program, WAC 240-10. WAC 240-10-010(2) established the Washington State Employee Combined Fund Drive Committee. The purpose of the program was to:

- (a) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;
- (b) Provide a convenient channel through which state employees may contribute to the efforts of the qualifying voluntary health and welfare organizations

providing services in the community or region where the employees live and work and overseas;

(c) Minimize both the disruption of the state work place and the costs to taxpayers that multiple charitable fund drives have caused; and

(d) Ensure that recipient agencies are fiscally responsible in the uses of the moneys so raised.

WAC 240-10-020(2).

The rules establish the composition of the committee. WAC 240-10-010(3). The department of personnel provides the administrative support for the operation of the committee. WAC 240-10-010(11). At present, the committee has three full-time staff members. The rules set up criteria a charitable organization must meet before being allowed to participate in the combined fund drive. WAC 240-10-040 and 050. The Committee is responsible for determining eligibility. WAC 240-10-055. At present, approximately 4,200 charities participate in the drive.

The fund drive operates through each state agency. The committee seeks to appoint a fund coordinator in each agency. In some large agencies multiple employees may share the coordinator's job. The committee also tries to have a coordinator in each local office. The amount of time an agency or local coordinator spends on the combined fund drive depends on agency management. Some are supportive and the coordinator may devote a lot of time to the drive. In other agencies very little is done.

The question is whether the use of agency personnel and resources for the Combined Fund Drive violates RCW 42.52.160, which provides, in part:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(Emphasis added.)

The answer is no. The combined fund drive is conducted pursuant to RCW 41.04.036 and WAC 240-10. The purpose of the drive is not only to raise money for charity. It is also designed to reduce the disruption to government that formerly existed when there were a number of fund drives. RCW 42.52.160(2) provides that the limits on using state resources in RCW 42.52.160(1) do not apply when the use of resources is part of a state officer's or employee's official duties. The Combined

Fund Drive is part of the official duties of any officer or employee assigned to run the drive in his or her agency.

Although participation in the combined fund drive is part of an officer's or employee's duties, the time devoted to this task must be compatible with the officer's or employee's other duties. Thus, agency management is responsible for determining how much time can be devoted to this task.