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ADVISORY OPINION NUMBER 78-13

Influencing Legislative Action

An insurance firm has asked the Ethics Commission whether supplying information requested by members or staff of the General Assembly constitutes lobbying under Public Act 77-605. Examples given to represent the types of situation in question are:

1. A legislative committee, at the request of its chairman, visited the firm's home office. During the meeting some legislators asked the firm for the impact of legislation enacted during a previous session. The firm compiled and supplied the information requested.
2. At the request of the same committee, the firm furnished a description of the operation of one of its programs.
3. The chairman of another committee asked the firm for data regarding certain activities taking place among related insurance firms outside Connecticut. This information is being collected by an association with which the firms are affiliated and will be provided to the committee.

In each case, the insurance firm knew of no related bill or other legislative matter pending before the committee involved.

"Lobbying" includes communicating with an official or his staff in the legislative branch for the purpose of influencing legislative action. Section 1(k), Public Act Number 77-605. A "lobbyist" is a person who, in furtherance of lobbying, exceeds a specific financial threshold in a calendar year. Id., section 1(l). A lobbyist must register with the Ethics Commission and file periodic financial reports concerning his lobbying activities, Id., sections 5 and 7. "Legislative action", that which a legislative lobbyist attempts to influence, is defined as "introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, overriding of a veto or any other official action or non-action" with regard to (1) "any bill, resolution, amendment, nomination, appointment, report", or (2) "any other matter pending or proposed in a committee or in either houses of the legislature", or (3) "any matter which is within the official jurisdiction of the legislature." Id., section 1(j).

It can be seen from the definition of legislative action that the type of action which the legislature may take, and the subject matter which the legislature may act, could hardly be defined more broadly. Any "official action or non-action" or "any matter which is within the official jurisdiction of the legislature" is essentially all-embracing.

considering the jurisdiction conferred on the General Assembly by the Constitution and statutes. It is spelled out that action or non-action on matters pending or proposed before a committee or either House of the General Assembly is legislative action. But the matter need not be before the General Assembly to be within the definition, for communicating with legislators or their staff for the purpose of promoting or preventing the introduction of any matter within the jurisdiction of the General Assembly would also be lobbying.

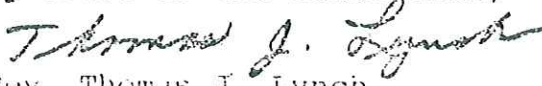
It is irrelevant, then, whether a matter is pending before the legislature when information regarding the matter is provided the legislature. Whether the information is volunteered or requested by the legislature and, in the latter case, the circumstances behind the request, are not controlling. What determines whether the insurance firm is lobbying is its intent in furnishing the information. If it is for the purpose of influencing legislative action, it is lobbying. Conversely, if it is not for the purpose of influencing legislative action, it is not lobbying.

The insurance firm is the best judge of its intent in providing information to a legislative committee, a legislator, or staff. Intent also can be manifested objectively in a number of ways. For example, the content of the information will normally give some indication of intent. Some information is patently neutral. Other might create an impression which, if the activity is not reported as lobbying, could require an explanation by the insurance firm as to why the furnishing of it should not be held to have been done for the purpose of influencing legislative action. How provision of the information was initiated may be meaningful. Whether related matters are being considered by the legislature might have some bearing. However proved, the intent of the firm is the central factor. If the purpose is to influence legislation, the cost of supplying the information should be included in determining whether the firm meets the threshold for registration under section 5, Public Act 77-605 and, if the threshold is met, should be included in the financial reports concerning lobbying activity required of registrants by section 7 of the Act.

If the firm has the required information already available in appropriate form and provides it with the intent to influence legislative action, the expenditure to be considered is the insignificant cost of pulling the information from the files and delivering it. If, on the other hand, the data must be collected, compiled, analyzed, or otherwise developed for delivery, the full cost of this effort is a lobbying cost notwithstanding that the study may subsequently be found useful for some management purpose.

Even if the purpose of supplying the information is not to influence legislation, whenever the cost of supplying the information exceeds \$25 consideration must be given to the fact that a registrant may have to report the event as an expenditure for the benefit of a public official in accordance with the last sentence of section 7, Public Act Number 77-605.

By order of the Commission,


Rev. Thomas J. Lynch
Chairman

Dated August 4, 1978