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ADVISORY OPINION NUMBER 78-14

Branch or Subdivision of State Government

Two organizations formed by municipally - owned utilities have asked whether they, and those representing them, must register under Public Act Number 77-605 if they engage in lobbying.

Only publicly - owned utilities may be members of either organization. These utilities are divisions of their respective municipalities. The organizations are funded by assessments against member utilities. A member utility's funds are derived from earnings through its rate structure, supplemented if necessary by monies from the municipality it serves. The board of directors of each organization is composed of municipal officials: commissioners and executive officers of the member utilities plus, in the case of one organization, the chief executive officers of the municipalities owning the utilities. Both organizations were considered exempt from registration under the language of the former lobbying statute, section 2-45, Connecticut General Statutes, presumably as duly accredited agents of municipal corporations.

One organization, a voluntary association of municipally - owned electric and gas utilities, was formed in 1961 to promote and protect the interests of its members. It serves as a forum and a program sponsor for activities such as employee training, exchanging technical information, and attempting to influence legislative action which would affect the association's members. It also litigates matters before the courts and administrative agencies.

The other organization is a municipal electric energy cooperative established in 1976 under chapter 101a, Connecticut General Statutes. Such a cooperative is declared to be a public body corporate and politic, and to be exercising an essential government function when it furthers its purpose of providing facilities for the generation and transmission of electric power. Section 7-233e, Connecticut General Statutes.

The electric energy cooperative is a quasi - municipal corporation, authorized by the State to carry out one of its governmental purposes. Cf. Regional High School District No. 3 vs. Newtown, 134 Conn. 613, 620-621 (1948); 1 Mc Quillan Mun. Corp. section 2.13 (3d ed. rev. 1971). As such, it would seem to be a "branch of state government or a subdivision thereof", as those terms are used in section 1(1)(1), Public Act Number 77-605. By virtue of its status as a subdivision or branch of government, there is no requirement that the electric energy cooperative register even though it expends \$100 or more in a calendar year in furtherance of lobbying. A public official or a municipality owning

a member utility, or an employee of the municipality or the cooperative, lobbying in the course of his duties on behalf of the cooperative would be exempt from the definition of "lobbyist". Section 1(1)(1), Public Act Number 77-605. An individual lobbying for the cooperative as an independent contractor, on the other hand, would have to register as a lobbyist if he met the requirements of section 5, Public Act Number 77-605. State Ethics Commission Advisory Opinion 78-11, 40 Conn. L.J., No. 1, p. 12.

The voluntary association of utilities, in contrast, holds no special status under any statute, including Public Act Number 77-605. As other persons who attempt to influence legislative or administrative action, it must register if it meets the financial threshold of section 5 of that Act. In computing the threshold for registration, the compensation of an official or employee of a municipality who, acting within the scope of his authority or employment, lobbies on behalf of the association would not be considered. Section 1(1)(1), Public Act Number 77-605. Other individuals representing the association as lobbyists would have to register with the Ethics Commission if they met or exceeded the financial threshold and were not otherwise exempt under some provision of the Act.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

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