

CONNECTICUT STATE ETHICS COMMISSION
30 TRINITY STREET
HARTFORD, CONNECTICUT 06115

In the Matter of a Request
for a Declaratory Ruling

Common Cause in Connecticut,
Applicant

78-A

Pursuant to section 4-176, Connecticut General Statutes, Common Cause has requested a declaratory ruling stating whether or not, in the financial report concerning lobbying activities which is required by section 7 of Public Act Number 77-605, contracts, agreements, or promises must be reported irrespective of the time of receipt of payment or expenditure of funds. In its petition Common Cause argues that, since legislative lobbyists must file financial reports during only part of the calendar year, contracts must be reported when signed and agreements reported when made in order to have timely and accurate disclosure by those who attempt to influence legislative action. The petition points out that a number of individuals who had reported receiving substantial compensation for lobbying during the 1977 legislative session had reported, through the closing days of the 1978 session, receipt of no payments for lobbying. This was despite registration in 1978 to lobby before the legislature on behalf of their clients.

In the years prior to 1978, those who compensated an individual to influence legislation on their behalf were required to file "... within two months after the adjournment of the general assembly, ... an itemized verified statement showing in detail all items paid, incurred or promised, directly or indirectly, in connection with the legislation pending at the last previous session, with the names of the payees and the amount paid to each...." Section 2-45, Connecticut General Statutes.

Since January 1, 1978, both the individual who attempts to influence legislative action and the person on whose behalf the lobbying is done have been required, if they meet the financial threshold, to register with the Ethics Commission and to "file with the commission between the first and tenth day of each month that the legislature is in session, a financial report concerning such lobbying activities during the previous month.... Such financial report shall be on a form prescribed by the commission and shall include an itemized verified statement of each expenditure of twenty-five dollars or more per occasion made by the registrant for the benefit of a public official in the legislative or executive branch, a member of his staff or immediate family, itemized by date, beneficiary, amount and circumstances of the transaction." Section 7, Public Act Number 77-605.

The difference in timing of reports under the previous and the present statute is largely responsible for the situation which a declaratory ruling has been requested to clarify. The former statute not only specifically required reporting of items incurred or promised, as well as those paid, but allowed the report to be made up to two months after the end of the legislative session. Even if a lobbyist waited until the end of the session before billing his client, all bills for legislative lobbying during the session probably would have been rendered (and most paid) before the close of the two-month period permitted for reporting. On the other hand, the current statute is so phrased that lobbyists are not even required to file a financial report covering the last month that the legislature is in session. In 1978, notwithstanding a trailer session in June, the statute did not mandate a financial report after the one for the month of May. Some individual lobbyists paid on a fee or retainer basis might not have billed their clients by the end of May. More would not yet have been paid for some or all of their lobbying efforts during the session. In other words, many cash transactions undoubtedly had not yet occurred, although the agreements and promises on which later payment would be based presumably had been entered into prior to or during the reporting period.

The current statute does not identify what should be contained in the "financial report concerning such lobbying activities", except for each "expenditure" of twenty-five dollars or more per occasion made for the benefit of a public official in the legislative or executive branch, a member of his staff or immediate family. Section 7, Public Act Number 77-605. "Expenditure" is defined in terms of both payments and "... any contract, agreement, promise or other obligation...." Section 1(f), *id.* The statute thus sets an express requirement for reporting other than payments only in the case of expenditures for the benefit of a public official.

The State Ethics Commission has promulgated additional guidance regarding the content of financial reports. Section 1-92-48, Regulations of the State Ethics Commission, requires the reporting of compensation and reimbursement paid or received by registrants. Both "compensation" and "reimbursement" are defined in the statute in terms of value "received or to be received". Sections 1(d) and 1(r), Public Act Number 77-605. Therefore, the applicable terms of a contract, agreement, or promise to pay compensation or reimbursement for lobbying should be reported by, if they are registered, the prospective payor and the payee in the first financial report filed after the contract, agreement, or promise is made. Then, payments made or received should be disclosed in the financial report covering the period in which the transaction occurred.

Section 1-92-49, Regulations of the State Ethics Commission, requires client registrants to disclose other expenditures for lobbying, including office expenses, paid communications, and the cost of certain indirect lobbying. In view of the definition of "expenditure" quoted above, this requires the reporting of the value or general terms of contracts, agreements, promises, and other obligations concerning office expenses, paid advertisements, and solicitations,

as well as subsequent payments made pursuant to the obligation.

(Similarly, the obligation to pay or to receive compensation or reimbursement for lobbying or to make expenditures in furtherance of lobbying which singly or together meet, or are expected to meet, the statutory threshold triggers registration just as would cash transactions of the same amount. Sections 1(1) and 5, Public Act Number 77-605.)

The legislative history of Public Act Number 77-605 is replete with evidence that the General Assembly intended to reform and strengthen the procedures for regulating lobbyists. Previously mandated was the filing, after the end of the legislative session, of "... an itemized verified statement showing in detail all items paid, incurred or promised, directly or indirectly, in connection with the legislation pending at the last previous session...." The present statute, as interpreted in the Commission's Regulations, requires at least as much detailed reporting of items paid, incurred, or promised, and on a more timely basis. By approving the Regulations of the State Ethics Commission, the Legislative Regulations Review Committee agreed that this interpretation is within the intent of the General Assembly and the language of Public Act Number 77-605.

It is the ruling of the State Ethics Commission that registrants must include in their periodic financial reports compensation and reimbursement for lobbying received or to be received, and the payment of, or a contract, agreement, promise, or other obligation to pay, reportable expenditures in furtherance of lobbying or for the benefit of a public official, a member of his staff or immediate family.

Since the State Ethics Commission has not demanded reporting of other than cash transactions during the initial year of operation of Public Act Number 77-605, it will not enforce the requirement to report obligations, as well as receipts and payments, until calendar year 1979.

By order of the Commission,

Thomas J. Lynch

Rev. Thomas J. Lynch
Chairman

Dated November 6, 1978

