



## State Ethics Commission of Georgia

### ADVISORY OPINION NO. 2001-31

June 29, 2001

**SUBJECT:** LOBBYIST REGISTRATION REQUIREMENTS RELATED TO PROMOTING THE HIRING OF A FIRM WHICH PROVIDES FAMILIARITY WITH PROFESSIONAL SERVICES TO STATE AND LOCAL GOVERNMENTS

#### REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES

A firm engaged in the business of providing professional services to state and local governments asks whether an employee of the firm who promotes the firm's ability to provide these services must register as a "lobbyist" under O.C.G.A. § 21-5-71 if the governing authorities routinely finalize the retention of consultants or contractors by adopting an ordinance or resolution.

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There would be no question of the foregoing activities requiring registration as a lobbyist under the original Public Officials Conduct and Lobbyist Disclosure Act of 1992 because only state legislation was covered by that enactment. However, in 1994 the coverage of the term "lobbyist" was expanded to include certain persons promoting or opposing the passage of any ordinance or resolution by cities or counties.

As the inquiry points out, cities and counties "as a matter of practice" take action "by adopting an ordinance or resolution." Indeed, some authorities hold that local governments always take formal actions through either ordinances or resolutions. McQUILLEN, MUNICIPAL CORPORATIONS §§15.02, 15.03 (3rd ed. 1996)

The original intent of the Act was to make public the identities of those individuals who advocate for or against "the passage of any legislation" by the Georgia General Assembly. See O.C.G.A. § 21-5-70(6)(A-C). During the 1994 session of the General Assembly, the term "lobbyist" was modified to include individuals who advocate for or against "the passage of any ordinance or resolution" before elected county and municipal officials. See O.C.G.A. § 21-5-70(6)(D-F); see also 1995 Op. Att'y Gen. U95-2. It therefore appears that the conduct sought to be regulated by registration of individuals who lobby local governing authorities is connected to purely legislative actions taken by these governing authorities, as opposed to the contractual functions of such authorities.

Of course, the purpose underlying the requirements of registration of those who lobby state and local officials for or against legislative activity is to make the public aware of persons who are paid or expend money to influence official legislative action. While it is arguable that those who lobby to do business with the state should disclose what they spend on public officers or to otherwise influence procurement decisions, the General Assembly has not yet required such disclosure.

Consistent with the original purpose of the Act, the conduct intended to be regulated is advocating for or against the adoption of legislation, not entering into a contractual agreement which happens to become effective by adopting an ordinance or resolution.

Accordingly, an individual touting his or his firm's services or seeking to be retained by local governments is not required to register as a lobbyist under O.C.G.A. § 21-5-71 unless other activities amounting to promoting or opposing the enactment of legislation by the local government requires such registration.