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State Ethics Commission of Georgia

ADVISORY OPINION NO. 2007-04

July 26, 2007

REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES

Whether Georgia law requires a person hired as a public relations employee to register and report as a lobbyist if they are involved in pursuing State public policy initiatives but do not have direct contact with legislators.

ADVISORY OPINION

Georgia law mandates that anyone engaged in lobbying must register with the State Ethics Commission. "Lobbying" means the activity of a lobbyist while acting in that capacity. See O.C.G.A. § 21-5-70(4). For purposes of this opinion, a "[L]obbyist is defined as "[A]ny natural person who, for compensation, either individually or as an employee of another person, undertakes to promote or oppose the passage of any legislation by the General Assembly..." or "[A]ny natural person who makes a total expenditure of more than \$250.00 in a calendar year...to promote or oppose the passage of any legislation by the General Assembly..." See O.C.G.A. § 21-5-70(5)(A) and (B).

The factual scenario as set forth in the instant opinion request is as follows: a public affairs group, with registered lobbyists, seeks to hire someone to handle public relations services to assist in the pursuit of key State public policy initiatives by shaping the debate "outside the Capitol." The question is whether direct contact with members of the legislature is the triggering event to require that this public relations employee register as a lobbyist.

Unlike the federal lobbyist disclosure laws, Georgia law is more encompassing of what constitutes lobbying, and does not envision contact, direct or indirect, with legislators as a requirement to registration and reporting as a lobbyist. Rather, Georgia law requires registration and reporting by any individual who is compensated, either individually or as an employee, who undertakes to promote or oppose the passage of legislation, or who spends \$250 in a calendar year to promote or oppose legislation, or who engages in any other activities as set forth in O.C.G.A. § 21-5-70 et seq. Georgia law would certainly distinguish between an employee hired to undertake to promote or oppose the passage of legislation by facilitating or coordinating efforts designed to impact legislation and an employee hired to stuff envelopes with flyers supporting or opposing legislation who by virtue of her job responsibilities is not 'undertaking' to promote or oppose legislation.

Whether a person hired to handle public relations will be required to register and report as a lobbyist is dependent upon whether the activities they engage in are seen as undertaking to promote or oppose legislation, or otherwise fit within the broad contours of the Ethics in Government Act, regardless of whether that person has contact with legislators.

Prepared by Kay Biebel