



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 43

July 24, 1992

Lobby registration requirements of corporation employees who research and analyze proposals concerning matters to be considered by the legislature. (AOR-65)

The Texas Ethics Commission has been asked to consider a situation in which employees of a corporation spend a great deal of time researching and analyzing proposals in regard to a matter to be considered by the legislature. The employees then make contact with various members of the executive and legislative branches. In regard to this situation, the requestor asks the following:

The specific question raised in this request concerns the scope of the definition of "lobby activities." Are the internal activities described above included within the definition of "lobby activities" under §305 of the Texas Government Code and §10.11 of the emergency rules promulgated by the Texas Ethics Commission? Are they included within the definition even if they do not ultimately result in a direct communication to influence the action of a state administrative agency or the legislature?

Chapter 305 of the Government Code requires a person to register with the Ethics Commission if the person receives compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than an amount determined by commission rule but not less than \$200 in a calendar quarter from another person to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

Gov't Code § 305.003(a)(2); *see id.* § 305.002(2) (defining the phrase "communicates directly with" or any variation of that phrase to mean "contact in person or by telephone, telegraph, or letter"); Tex. Ethics Comm'n, 17 Tex. Reg. 4444 (1992) (to be codified at title 1, section 40.3(a)(2), of the Texas Administrative Code) (setting compensation threshold at "more than \$200").¹ A person who does not communicate with a member of the legislative or executive branch is not required to register as a lobbyist, even if that person is compensated to perform work for someone else who communicates with members of the legislative or executive branch to influence legislation or administrative action.

Once a person communicates directly with a member of the legislative or executive branch to influence legislation or administrative action, however, the time that person spends on activities such as conducting research to prepare for the communication is included in calculating whether the registration threshold has been met and in calculating the amount of compensation that must be reported. Tex. Ethics Comm'n, 17 Tex. Reg. 4445 (1992) (to be codified at title 1, section 40.11(a), of the Texas Administrative Code).²

SUMMARY

A person who does not communicate with a member of the legislative or executive branch is not required to register as a lobbyist, even if that person is compensated to perform work for someone else who communicates with members of the legislative or executive branch to influence legislation or administrative action. If a person communicates directly with a member of the legislative or executive branch to influence legislation or

administrative action, however, the time that person spends on activities such as conducting research to prepare for the communication is included in calculating whether the registration threshold has been met and in calculating the amount of compensation that must be reported.

¹ A person must also register if the person makes more than \$200 in a calendar quarter in expenditures in connection with lobby activity. Gov't Code § 305.003(a)(1); Tex. Ethics Comm'n, 17 Tex. Reg. 4444 (1992) (to be codified at title 1, section 40.1, of the Texas Administrative Code). The requestor describes no such expenditures.

² A person who prepares another person to communicate to influence legislative or administrative action may have to be identified on the latter's registration. Gov't Code § 305.005(f)(5); Tex. Ethics Comm'n, 17 Tex. Reg. 4445 (1992) (to be codified at title 1, section 40.9, of the Texas Administrative Code).