



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 53

September 10, 1992

Whether a person who voluntarily registers as a lobbyist but who is not required by law to register must comply with the burdens of the lobby statute. (AOR-46)

The Texas Ethics Commission has been asked to consider whether the commission may impose a penalty for filing a late report on a person who registered as a lobbyist for 1991 and filed lobbying reports for all but one filing period that year, but who did not meet both of the then applicable thresholds for required registration.

In 1991, registrants were required to file monthly activity reports for periods during which the legislature was in session; quarterly reports were required for the periods when the legislature was not in session. Gov't Code § 305.007 (Vernon 1988). The requestor registered as a lobbyist in March 1991 and filed all reports on time, except for the final quarterly report. The final report, covering the period from October 1, 1991, to December 31, 1991, was due January 10, 1992.¹ *Id.* § 305.007(b).

The requestor argues that he is not subject to a late fine, Gov't Code § 305.033 (Vernon 1988), because he was never actually required to register as a lobbyist. Under the provisions of the lobby statute in effect in 1991, a person was required to register as a lobbyist if he exceeded both an expenditure threshold and a compensation threshold in a calendar quarter. *Id.* § 305.003. Even though the requestor registered as a lobbyist in March 1991, he apparently never exceeded the expenditure threshold in 1991. Because of this, he argues that the various burdens of the lobby statute are not applicable to him. He bases this argument on the definition of "registrant" in the lobby statute as "a person required to register" and the fact that thereporting requirements applied to "registrants." *Id.* §§ 305.002(9), 305.006. Therefore, the requestor argues, none of the reporting requirements were applicable to him and he is not subject to a penalty for late filing of the lobby report.²

We do not think the legislature intended for there to be "voluntary" registrants who were not subject to the burdens of the lobby statute. *See* Gov't Code § 305.008 (Vernon 1988) (a person who ceases to engage in lobby activity is required to terminate his registration). Therefore, once a person chooses to register as a lobbyist, he is a "registrant" and subject to the various requirements of the act. We assume that the legislature defined "registrant" as "a person required to register" to make clear that the requirements of the lobby statute are applicable to someone who was required to register, but had not done so, rather than to exclude people who had in fact registered but were not required to do so. The registrant in this situation is liable to the state for a late report.

SUMMARY

A person who registered as a lobbyist in March 1991, but who never met the then applicable threshold requirements for registration, was subject to the lobby reporting requirements in effect at that time. A person who chooses to register as a lobbyist is subject to the various requirements of the lobby act.

¹ The requestor filed the final quarterly report. It was, however, filed untimely after the Ethics Commission notified the requestor that the report had not been filed.

² The penalty for a late filing is \$100, set by commission rule. Tex. Ethics Comm'n, 17 Tex. Reg. 4446 (1992) (to be a codified at title 1, section 40.29, of the Texas Administrative Code). In 1991, the statutory penalty was \$100. Gov't Code § 305.033 (Vernon 1988).