



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 266

June 16, 1995

Whether a company's receipt of income from "900-number" phone tolls requires the company to register as a lobbyist in a given situation. (AOR 293)

The Texas Ethics Commission has been asked whether a company's receipt of income from "900-number" phone tolls requires the company to register as a lobbyist in a given situation. The company currently operates various "900" numbers. The company proposes to offer a service whereby callers could call a "900" number and express their views about pending legislation. Information compiled from these calls would be forwarded by the company to members of the legislature, a fact the company would advertise to prospective callers. The company would not engage in other activity regulated by the lobby law. The requestor asks whether the company would be required to register under the lobby law if its income from the tolls collected from the calls crossed the compensation threshold for lobby registration.

The lobby law provides that a person must register with the Texas 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 . . . 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). Currently, the compensation threshold set by commission rule is \$1000 in a calendar quarter. 1 T.A.C. § 30.11.

The lobby law defines the term "communicates directly with" to mean "contact in person or by telephone, fax, telegraph, or letter." *Id.* § 30.1. The 900 company proposes to contact members by forwarding the callers' messages and views; presumably, the callers hope to influence the members' decisions. In this sense, the company would communicate directly with members of the legislative branch to influence legislation. Nevertheless, we do not find that the company's actions would constitute lobbying or require the company to register as a lobbyist in this particular situation. The requestor informs us that callers would express their views either by pressing numbers to indicate "yes" or "no" to some questions about pending legislation, or by recording brief messages (perhaps 30 seconds long) expressing their views. The company would forward to the legislators a report of the number of callers and the number of "yes" and "no" responses recorded. If callers recorded messages, the company would forward a summary of the type and frequency of responses received. Commission rules exclude certain compensation from consideration when determining whether the compensation threshold has been met. One exclusion is for compensation received for mere "clerical assistance" to another's lobbying, as when a person types or delivers another person's letter to a member of the executive or legislative branch. 1 T.A.C. § 30.19(a)(10). In our opinion, the company's involvement in the proposed transaction amounts to no more than clerical assistance in forwarding the callers' views to the members.

The lobby law requires registration by those who either make lobby expenditures of a certain amount in attempting to influence legislation or receive compensation of more than a certain amount to speak for others who wish to influence legislation. Under the facts provided, the "900" company will do neither. The company will not be compensated to speak for the callers, but merely to deliver the callers' messages. We recognize that it

would be possible for a "900 company" to operate in such a way that it would be accepting compensation to lobby. The requestor of this opinion, however, does not present such a case.

SUMMARY

A company's receipt of income from "900-number" phone tolls in the specific situation described in this opinion does not require the company to register as the lobbyist in the given situation.