

New Lobbyist Requirements For Those Marketing Local Governments

Short message: key people with engineering firms who market local governments must register as a lobbyist with the state and file monthly reports disclosing expenditures.

Bad news: There is enormous confusion over exactly who must register and whether the law actually reflects the intent of the 2010 General Assembly. There are some technical issues that even the staff of the state commission that administers the law thinks could be improved. The law also does not provide authority to the commission to promulgate rules/regulations/guidelines to add clarity and help with compliance.

Good news (perhaps): This new law surprised many people and has created quite a flap. There is talk among many affected by the law (especially registered and prospective lobbyists) of amending it in the 2011 Session, so much remains uncertain.

Background: Under previous law, individuals who market state agencies and contact elected and agency officials must register as a lobbyist and file monthly disclosure reports. The 2010 General Assembly approved SB 17, which considerably expanded the rules for who must register is a lobbyist and penalties for filing late disclosure reports. This law took effect on January 10, 2011. The most significant change is that the definition of “state agency” was amended to add “. . . local political subdivision of this state . . .”, which includes any city, county, school board, local authority, etc.

There are four categories of lobbyist:

1. State. One who works to influence state legislation; contacts legislators and usually spends time at the Capitol, and spends more than \$250/year on this.
2. Local. One who works to influence local government ordinances and contacts local elected officials, and spends more than \$250/year on this.
3. State Agency. One who works to influence rules or regulations of a state agency.
4. Vendor. One who works to influence public officials and state agencies regarding selection of a vendor to provide goods or services.

The group most affected by the new law are vendor lobbyists, which the law defines as:
“Any natural person who, for compensation, either individually or as an employee of another person is hired specifically to undertake influencing a public officer or state agency in the selection of a vendor to supply any goods or services to any state agency but does not include any employee of the vendor solely on the basis that such employee participates in soliciting a bid or in preparing a written bid, written proposal, or other document relating to a potential sale to a stat agency.”
OCGA 21-5-70(5) (G)

In this definition, a “natural person” is an individual, not a company. “For compensation” is very important. It draws the line between a lobbyist (who is paid) and

an “ordinary” person (who is not) who is simply speaking to a legislator or agency manager about public policy or a project. A marketing employee of an engineering firm calls on a client and is paid to do so (“for compensation”). This applies to “any goods or services”; engineering, architecture, fire hydrants, insurance, bond underwriting, construction manager . . .

The lobbyist must register with the newly renamed “Georgia Government Transparency and Campaign Finance Commission” (formerly the Ethics Commission) if the person lobbies. The vendor lobbyist must file monthly reports (reports must be filed electronically), which disclose the expenditures associated with lobbying. “Expenditures” can have a complicated definition, but in general it is a payment incurred during ordinary marketing endeavors, such as “anything of value made for the purpose of influencing the actions of any public officer of public employee” (say event tickets, fishing, entertainment, etc.), or “food or beverage consumed at a single meal or event by a public officer or public employee or a member of the family of such public officer or public employee”, or costs so a public official may attend a “meeting or conference so as to permit such public officer’s participation in such meeting or conference” (costs like “travel, lodging, registration, food, beverages” . . . etc.).

There is a \$300 fee to register with the state Commission as a lobbyist. The disclosure report for a Vendor lobbyist must be filed by the 5th of the month for the preceding month. There is a \$275 penalty for a late report (even if there are no expenditures to report), a \$1,000 penalty for a report that is 15 days late and a \$10,000 penalty if 45 days late.

For more information and to register online, go to: <http://www.ethics.ga.gov>. If you have a specific question, it is probably best to email the commission at gaethics@ethics.ga.gov Maria Bazile is the Commission’s Education Coordinator and has provided several training sessions for lobbyists. Office: 404-463-1980 Toll-Free: 866-589-7327

ACEC/G is contemplating a seminar on this matter in February 2011. As this matter becomes clearer, there will be firmer plans to help understand the requirements and how to effectively respond to them.

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