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Opinion No. 89-E-24

May 17, 1989

Ms. Ada Hollingsworth
Public Affairs Manager
Weyerhaeuser Company
P.O. Box 1060
Hot Springs, Arkansas 71902

Dear Ms. Hollingsworth:

You have requested several opinions under the authority granted in Initiated Act 1 of 1988 which is cited as "The Disclosure Act for Lobbyist and State Officials". Specifically, you ask three questions about the Act and I will render my opinions as to your questions in the order listed in your letter of April 4, 1989.

1. If a full-time employee of a company, acting in such capacity, performs acts which come within the definition of "lobbying," is that EMPLOYEE required to be registered as a lobbyist?

It is my opinion that the answer to your first question is "yes". Any person who is a lobbyist as defined by Initiated Act 1 of 1988 is required to be registered as a lobbyist, with certain exceptions not relevant to your request. I have previously opined that a salaried individual who is periodically required to engage in lobbying activities is required to register as a lobbyist, Attorney General's Opinion No. 89-E-7. The Act does not require that a portion

of a person's salary be earmarked as compensation for lobbying in order for the person to be considered a lobbyist. Therefore if a salaried employee is compensated in excess of \$250 per calendar quarter and engages in periodic lobbying, then the employee is required to register as a lobbyist.

2. If a full-time employee of a company, acting in such capacity, performs acts which come within the definition of "lobbying," is that COMPANY required to be registered as a lobbyist?

A corporate entity clearly can be a lobbyist pursuant to Initiated Act 1 of 1988. Corporations can only act through their individual employees and agents. When an employee of a corporation lobbies in the course of and in furtherance of his corporate role this is tantamount to corporate action and accordingly the corporation, as an entity, would be required to register as a lobbyist. This assumes that the employee in question is being compensated in excess of \$250 per calendar quarter for the lobbying activities undertaken during that quarter. It should also be noted that § 21-8-601(a)(3) provides "a person whose only act of lobbying is to compensate or reimburse a registered lobbyist in the person's behalf shall not be required to register as a lobbyist". Each factual setting must be examined closely to determine whether or not the corporate entity is engaged in other acts of lobbying, through its employees and agents, besides merely compensating another person for lobbying. If after such examination, it is determined that the only act of lobbying is to compensate another for the lobbying effort, then no registration would be required by the corporation. §21-8-601(a)(3).

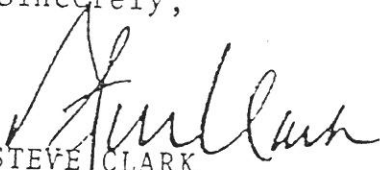
3. If a company is registered as a lobbyist, and if a full-time employee of that company performs an act of lobbying on behalf of that company, does that EMPLOYEE have to be registered as a lobbyist?

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Section 21-8-601(a)(1) states in part "a lobbyist shall (emphasis supplied) register within five days after beginning lobbying. I interpret this portion of Initiated Act 1 of 1988 to be mandatory, so that all persons, as defined by the act, would be required to register if they engage in lobbying activities. In your hypothetical, both the individual as well as the corporate entity have engaged in lobbying activities, even though the activity was performed by one specific individual acting in his capacity as a corporate employee.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Bill McLean.

Sincerely,


STEVE CLARK
Attorney General

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