



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
200 TOWER BUILDING
4TH & CENTER STREETS
LITTLE ROCK, ARKANSAS 72201

(501) 682-2007

Opinion No. 89-E-7

February 8, 1989

The Honorable Myra Jones
State Representative
2001 North Tyler
Little Rock, AR 72207

Dear Representative Jones

You have requested an opinion under the authority granted in Initiated Act 1 of 1988 which is cited as "The Disclosure Act for Lobbyists and State Officials". Specifically, you ask two questions about the Act in its present form, not as to how the Act would be affected by amendments pending before the General Assembly.

1. Under Initiated Act 1 of 1988, would a person be considered to have received income for lobbying if the person's employment requires him from time to time to engage in lobbying but the person receives no specific compensation for lobbying services?

I believe the answer to your question is "yes".

Section 21-8-402(j)(1) defines a "lobbyist" as person who "[r]eceives income or reimbursement in a combined amount of two hundred fifty dollars (\$250.00) or more in a calendar quarter for lobbying;..."

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. It is my opinion that the Act is clear; if a person is compensated in excess of \$250 per calendar quarter, and periodic lobbying is an

inherent part of his job, he is receiving income for lobbying. There is no provision for prorating amounts attributable to lobbying. Thus, H.B. 1004 would represent a change from our interpretation of Initiated Act I.

2. Under the Initiated Act, if a public official or employee expends \$250.00 or more of governmental funds in a calendar quarter for lobbying, is the person required to register as a lobbyist?

I believe that the answer to this question is "no".

Section 21-8-601(a)(2) states:

A lobbyist shall not be required to register if he or she engages in no lobbying other than the following activities:

(C) Action in a person's official capacity as a public official, as an employee of a governmental body, or as an elected or appointed official of a county, school district, or municipal government; however, if the person receives income from a nongovernmental person in excess of two hundred fifty dollars (\$250.00) in a quarter for lobbying, or expends or is reimbursed in excess of two hundred fifty dollars (\$250.00) in a quarter for lobbying, excluding the cost of personal travel, lodging, meals, dues, or informational material, that person shall be required to register as a lobbyist.


The above-cited provision clearly states that a public official or employee who expends in excess of \$250.00 per calendar quarter for lobbying, but does so in his official capacity, is not required to register as a lobbyist. A review of the facts of each particular case would be required to determine if a public official or employee had acted in his official capacity.

It should also be noted that the language of H.B. 1029 would, in my opinion, add a new requirement in that under the current Act (Section 21-8-601(a)(2)(c)), the provision involving expenditures or reimbursements in excess of

The Honorable Myra Jones
Opinion No. 89-E-7
Page 3

\$250.00 applies only to nongovernmental sources. Your provision would specifically require registration regardless of the source of these funds.

Sincerely



STEVE CLARK
Attorney General

SC/jel