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Legal Background Briefings are prepared and updated periodically by the Legal Services Division of the Iowa Legislative Services Agency, a nonpartisan agency providing legislative drafting and research services to the committees and members of the Iowa General Assembly. The briefings provide background information regarding a particular area of law. Although a briefing may identify issues for consideration by the General Assembly, nothing contained in a briefing should be interpreted as advocating a particular course of action. The reader is cautioned against using information contained in a briefing to draw conclusions as to the legality of a particular behavior or set of circumstances.

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Legal Background Briefing on ...

Lobbyist Regulation in the Legislative Branch

Overview

Lobbying in the legislative branch is undertaken by many different people representing themselves, an informal group of people with similar interests, or more formal organizations or associations. Only the activities of certain types of lobbyists are regulated by the Iowa Code and rules adopted by the Senate and the House of Representatives. This document examines the types of lobbyists that fall under the regulatory provisions of the Iowa Code and the rules adopted by the Senate and the House of Representatives.

References to the Iowa Code in this briefing are to the 2011 Iowa Code and Code Supplement unless otherwise noted. References to Joint Rules Governing Lobbyists are to SCR 7, adopted by the 84th General Assembly in 2011.

What is Lobbying?

The term "lobbying" is not defined in either the Iowa Code or the Joint Rules Governing Lobbyists. The Joint Rules Governing Lobbyists provide the only suggestion of what may constitute lobbying services in a nonexclusive list of services to be reported by the clients of regulated lobbyists.¹

Who are Regulated Lobbyists?

The definition of the term "lobbyist" in the Iowa Code lists four types of lobbyists and includes eight exclusions to the definition.² Only the types of lobbyists described in the definition are regulated under the Iowa Code and the Joint Rules Governing Lobbyists.

The term "lobbyist," as it applies to the legislative branch, includes an individual that directly does any of the following:

1. *Compensated Lobbyist.* Receives compensation to encourage the passage, [or] defeat ... of legislation

- ... by the members of the General Assembly ...³
2. *Organization Lobbyist.* Is a designated representative of an organization which has as one of its purposes the encouragement of the passage, [or] defeat ... of legislation ... before the General Assembly ...⁴
 3. *Government Lobbyist.* Represents the position of a federal, state, or local government agency, in which the person serves or is employed as the designated representative, for purposes of encouraging the passage, [or] defeat ... of legislation ... by members of the General Assembly ...⁵
 4. *\$1,000 Expenditure.* Makes [annual] expenditures of more than \$1,000 ... to communicate in person with members of the General Assembly ... for purposes of encouraging the passage, [or] defeat ... of legislation ... [other than] to communicate with only the members of the General Assembly who represent the district in which the individual resides, [or] other than to pay compensation to an individual who provides the lobbying services ...⁶

Of the eight exceptions to the term “lobbyist”, six apply directly to persons before the legislative branch. Those exceptions include:

- *Party Officials.* Officials and employees of a political party organized in Iowa and representing more than two percent of the total votes cast for governor in the preceding general election, but only when representing the political party in an official capacity.⁷
- *News Media.* Members of the news media when engaged in the reporting and disseminating of news and editorials.⁸
- *Elected Officials.* All federal, state, and local elected officials, while performing the duties and responsibilities of office.⁹

- *Witnesses.* Persons whose activities are limited to appearances to give testimony or provide information or assistance at sessions of committees of the General Assembly or who are giving testimony or providing information or assistance at the request of public officials or employees.¹⁰
- *Legislative Staff.* Members of the staff of the United States Congress or the Iowa General Assembly.¹¹
- *Unpaid or Nondesignated Lobbyist.* An individual who is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, education, or charitable association, foundation, or organization who either is not paid compensation to be a lobbyist or is not specifically designated as a lobbyist by an organization.¹²

Lobbyist Regulations

If a person qualifies as a lobbyist under the Iowa Code definition of lobbyist and does not qualify under one of the exclusions in the definition, the person may be described as a regulated lobbyist.

If it is determined that a person is a regulated lobbyist, the person is subject to the following regulations in order to lobby before the General Assembly:

- Registration requirements.¹³
- Subject matter and bill lobbying registration requirements.¹⁴
- Gift law restrictions.¹⁵
- Loan and charge account restrictions.¹⁶
- Honoraria restrictions.¹⁷
- Revolving door restrictions.¹⁸

Prohibitions

A regulated lobbyist is prohibited from doing any of the following:

- *Economic Opportunities.* Offering economic or investment opportunities to a legislator with the intent to influence the

legislator's performance of official duties.¹⁹

- *Membership Contributions.* Paying for membership in or contributions to clubs or organizations on behalf of a member.²⁰
- *Excessive Payments.* Making payments to a member for property or services in excess of that which other persons would charge in the ordinary course of business.²¹
- *Result-based Fees.* Receiving a fee or bonus based on results attained by the lobbyist.²²
- *Creating Obligations.* Doing anything with the purpose of placing a member under personal or financial obligation to the lobbyist or the lobbyist's client.²³
- *Supporting Employment-related Legislation.* Causing or influencing the introduction of any bill or amendment for the purpose of being employed to secure its passage or defeat.²⁴
- *Promising Campaign Support.* Influencing or attempting to influence a member's actions by the promise of campaign support or support for an opposition candidate.²⁵
- *Influencing Legislator's Employer.* Communicating with a member's employer for the purpose of influencing the vote of a member.²⁶

Client of a Lobbyist Regulations

If a person is determined to be a regulated lobbyist, the client of the lobbyist is also subject to regulation. A client of a lobbyist is defined as a private person or a state, federal, or local government entity that pays compensation to or designates an individual to be a lobbyist.²⁷ The definition of "client" does not specify that members of a client organization or association are included within the definition. The regulations applicable to clients include the following:

- Reporting requirements.²⁸
- Gift restrictions.²⁹

- Honoraria restrictions.³⁰
- Charge account restrictions.³¹

Prohibitions

Economic Opportunities. A client of a lobbyist is prohibited from offering economic or investment opportunities to a member with the intent to influence the member's performance of official duties.³²

Membership Contributions. A client of a lobbyist is prohibited from paying for membership in or contributions to clubs or organizations on behalf of a member.³³

Result-based Fees. A client of a lobbyist is prohibited from paying a fee or bonus to a lobbyist based on the results attained by the lobbyist.³⁴

Summary

In determining whether the regulations for lobbyists apply to a person, the definition of the term "lobbyist" is the determining factor. In addition, if a person is included under the definition of lobbyist, the client of the lobbyist is also subject to regulatory provisions.

¹ Joint Rules Governing Lobbyists 4. "Lobbying purposes" include but are not limited to the following:

"a. Time spent by the lobbyist at the state capitol building commencing with the first day of a legislative session and ending with the day or final adjournment of each legislative session as indicated by the journals of the house and senate.

b. Time spent by the lobbyist attending meetings or hearings which results in the lobbyist communicating with members of the general assembly or legislative employees about current or proposed legislation.

c. Time spent by the lobbyist researching and drafting proposed legislation with the intent to submit the legislation to a member of the general assembly or a legislative employee.

d. Time spent by the lobbyist actually communicating with members of the general assembly and legislative employees about current or proposed legislation."

² Iowa Code § 68B.2(13).

³ Iowa Code § 68B.2(13)(a)(1).

⁴ Iowa Code § 68B.2(13)(a)(2).

⁵ Iowa Code § 68B.2(13)(a)(3).

⁶ Iowa Code § 68B.2(13)(a)(4).

⁷ Iowa Code § 68B.2(13)(b)(1).

⁸ Iowa Code § 68B.2(13)(b)(2).

⁹ Iowa Code § 68B.2(13)(b)(3).

¹⁰ Iowa Code § 68B.2(13)(b)(4).

¹¹ Iowa Code § 68B.2(13)(b)(5).

¹² Iowa Code § 68B.2(13)(b)(7).

¹³ Iowa Code § 68B.36; Joint Rules Governing Lobbyists 2 and 3.

¹⁴ Joint Rules Governing Lobbyists 2. The rules require a lobbyist to file a statement of general subjects of legislation in

which the lobbyist is or may be interested; the file numbers for bills, study bills, and resolutions which will be lobbied; whether the lobbyist intends to lobby for or against each bill, study bill, or resolution; and on whose behalf the lobbyist is lobbying the bill, study bill, or resolution. If practicable, a declaration must be filed prior to a lobbyist advocating for or against the bill, resolution, or study bill or stating that the lobbyist's client is undecided.

¹⁵ Iowa Code § 68B.22; Joint Rules Governing Lobbyists 16. For an overview of applicable gift law restrictions, see "Legal Background Briefing on Gift, Honoraria, and Loan Prohibitions for Legislators and Legislative Employees," Tim McDermott, Legislative Services Agency, Legal Services Division, December 2010, at

<http://www.legis.iowa.gov/LSAReports/legisGuides.aspx>.

¹⁶ Iowa Code § 68B.24; Joint Rules Governing Lobbyists 7, 17.

¹⁷ Iowa Code § 68B.23; Joint Rules Governing Lobbyists 18.

¹⁸ Iowa Code § 68B.5A. Revolving door restrictions prohibit the registration as a lobbyist for a certain period of time following public employment or service. The period of time varies in relation to the type of employment held or service performed by the person.

¹⁹ Joint Rules Governing Lobbyists 10.

²⁰ Joint Rules Governing Lobbyists 8.

²¹ Joint Rules Governing Lobbyists 15.

²² Joint Rules Governing Lobbyists 9.

²³ Joint Rules Governing Lobbyists 11.

²⁴ Joint Rules Governing Lobbyists 12.

²⁵ Joint Rules Governing Lobbyists 13.

²⁶ Joint Rules Governing Lobbyists 14.

²⁷ Iowa Code § 68B.2(6).

²⁸ Iowa Code § 68B.38; Joint Rules Governing Lobbyists 3 and 4.

²⁹ Iowa Code § 68B.22; Joint Rules Governing Lobbyists 16.

³⁰ Iowa Code § 68B.23; Joint Rules Governing Lobbyists 18.

³¹ Joint Rules Governing Lobbyists 7.

³² Joint Rules Governing Lobbyists 10.

³³ Joint Rules Governing Lobbyists 8.

³⁴ Joint Rules Governing Lobbyists 9.

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