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ADVISORY OPINION NUMBER 78-15

Branch or Subdivision of State Government

Three government-related, non-profit voluntary associations, all of which engage in some lobbying, have asked the State Ethics Commission whether they or their representatives must register as lobbyists under Public Act Number 77-605.

One association includes most of the larger cities and towns in the State. Its officers are elected or appointed municipal officials, municipal employees, and local legislators. Its funds are derived from dues from member towns, from grants, and from incidental income paid by officials and employees to help defray the costs of association activities, such as seminars. The purposes of the association are to conduct research, distribute information, and lobby on behalf of its members, the last carried on through a legislation committee composed of municipal officials and employees and local legislators.

Another association has as members small towns in the State. Its officers are elected or appointed municipal officials. Its funding comes from contributions of municipal funds from member towns. A principal purpose of the association is to influence the passage of legislation which would affect member municipalities.

The third association's membership comprises the vast majority of local school boards in the State. Its officers and directors are all members of local school boards. Almost all its income comes from dues of member boards. The remainder comes from fees paid by members of local school boards to help defray the cost of such association activities as conventions. The services the association provides its members include legislative lobbying.

All three associations were considered exempt from registration under the former law regulating lobbyists, section 2-45, Connecticut General Statutes, which did not apply to "municipal corporations, public boards and institutions, and their duly accredited counsel or agents". The pertinent provision of the current statute, Public Act Number 77-605, is section 1(1)(1), which provides that the term "lobbyist" does not include a "public official or employee of a branch of state government or a subdivision thereof who is acting within the scope of his authority or employment".

A municipality is a "subdivision" of State government. State ex rel. Maisano v. Mitchell, 155 Conn. 256, 263 (1967); Bridgeport v. Agostinelli, 163 Conn. 537, 550 (1972). An association of municipalities, however, does not exercise any of the powers of a sovereign state, and it is the authority to exercise those powers



which determines whether an entity is a political subdivision of a state. (The Internal Revenue Service, in finding one of the above municipal associations tax-exempt, declared it a wholly-owned instrumentality of member municipalities but not a political subdivision of the State under Internal Revenue Service rules.) A municipal association is not only not a subdivision but clearly not a branch of State Government.

Boards of education act as agents for the State for the purpose of providing education in their town or city. State ex rel. Walsh v. Hine, 59 Conn. 50, 60 (1890); Cheney v. Strasburger, 168 Conn. 135, 141, (1975). A board of education is not a branch of State Government, however. Cf. State ex rel. Board of Education v. Quinn, 28 Conn. Sup. 265, 272 (1969). It is not a subdivision of State Government, for it is not composed of a definite geographic area in which the people are politically organized and have the power to exercise a portion of the State's public functions. See Norwalk v. Daniele, 143 Conn. 85, 88 (1955); State ex rel. Maisano v. Mitchell, supra. Since a board of education is neither a subdivision nor a branch of Government, an association of boards of education is even further removed from the words of the statute than are the municipal associations.

All three associations, being engaged in lobbying and having no special status under the lobbying statute, are lobbyists and must register with the Ethics Commission if they meet the \$300 financial threshold. Sections 1(1) and 5, Public Act Number 77-605; cf. State Ethics Commission Advisory Opinion 78-14.

Whether the individuals who represent any of the associations before the legislature must register depends upon their status and whether they meet or exceed the financial threshold so as to be lobbyists. Based on the purposes of the three associations, it would appear to be within the language of section 1(1)(1), supra, to say that a municipal official or employee lobbying on behalf of any of the associations is acting "within the scope of his authority or employment". The legislature did not intend that municipal officials and employees who came to the Capitol to discuss legislative matters affecting their towns should be considered to be lobbyists. In the process of enacting Public Act Number 77-605 the House of Representatives, at one point, amended section 1(1)(1) to exempt only members and staff of the General Assembly. By a substantial margin it voted to require registration of other public officials and employees who lobbied. Connecticut General Assembly, House Proceedings 1977, Vol. 20, Part 16, pages 6738-6741. The amendment was subsequently rejected by the Senate and, thereafter, by the House mainly because it would require municipal officials to register. See Connecticut General Assembly, Senate Proceedings 1977, Vol. 20, Part 10, pages 4160-4166; House Proceedings 1977, Vol. 20, Part 16, pages 6880-6882. (The discussion on the floor indicates that it was intended that municipal officials, elected and appointed, be embraced within the term "employee".)

Members of a board of education are officers of their town. Section 9-185, Connecticut General Statutes; Cheney v. Strasburger,

supra. When, as board members, they lobby on behalf of the school board association, they also fall within the exception of section 1(1)(1), supra, and need not register.

On the other hand, an employee of one of the associations would not be covered by any exception to section 1(1). Therefore, he would have to register if the pro rata value of his compensation incident to lobbying met or exceeded the financial threshold. An independent contractor who lobbied on behalf of the association also would not be exempt, even if he worked for a member municipality. State Ethics Commission Advisory Opinion 78-11, 40 Conn. L.J. No. 1, p. 12. The value of the employee's and the independent contractor's compensation or fee would count as a lobbying expenditure for determining whether the association met or exceeded the threshold for registration. State Ethics Commission Regulations section 1-92-43.

By order of the Commission,

*Thomas J. Lynch*

Rev. Thomas J. Lynch  
Chairman

Dated

August 9, 1978

