

CONNECTICUT STATE ETHICS COMMISSION  
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ADVISORY OPINION NUMBER 78-27

"Administrative Action" in Public Act Number 77-605

A law firm represents an association, subject to regulation by the Commission on Special Revenue, in proceedings before the Commission which could result in the loss or suspension of the association's license to conduct gaming operations in the State. Among the issues in dispute in the hearings is the interpretation of various State statutes and Commission regulations. To assist in resolving the disputes the association's representatives have requested the Commission on Special Revenue either to issue declaratory rulings or to promulgate regulations which clarify the charges brought against the association and clarify the Commission's rules of procedure. A member of the law firm has asked the State Ethics Commission whether this representation of a client constitutes lobbying, requiring registration and reporting in compliance with Public Act Number 77-605.

The Commission on Special Revenue is an executive agency of the State. Section 148, Public Act Number 77-614. "Lobbying" includes "communicating with any official or his staff in the ... executive branch of government for the purpose of influencing any ... administrative action." Section 1(k), Public Act Number 77-605. "'Administrative action' means any action or non-action of any executive agency of the state with respect to the amendment, adoption or repeal of any rule, regulation, rate hearing or guideline." Section 1(a), id.

A proceeding before an executive agency which could result in suspension or revocation of a license is a "contested case" and commonly does not involve any administrative action. See State Ethics Commission Advisory Opinion 78-4, 39 Conn. L.J. No. 38, p. 23. The Ethics Commission has also determined that a request for a declaratory ruling is not communicating for the purpose of influencing administrative action. State Ethics Commission Advisory Opinion 78-7, 39 Conn. L.J. 45, p. 20.

A petition requesting the Commission on Special Revenue to issue a regulation however, clearly can be lobbying--"... communicating with any official or his staff in the ... executive branch of government for the purpose of influencing... any action or non-action of any executive agency of the state with respect to the ... adoption... of any ... regulation ...." Sections 1(a) and 1(k), supra. Whether it is lobbying or not depends on the specific action taken.

The General Assembly has decided that those who attempt to influence the content or existence of specific legislation, or quasi-legislative matters such as regulations, which have general application and will affect

others, must register, file financial disclosures, and abide by a code of ethics. Public Act Number 77-605. Therefore, one who seeks to influence the terms or substance of a regulation must comply with that Act. On the other hand, one who merely petitions that a regulation be issued, without attempting in any way to shape the thrust or language of the regulation, is not lobbying within the meaning of section 1(k), Public Act Number 77-605. (Such a request that a regulation be issued to clarify a statute or an agency's rules of procedure, leaving entirely to the Commission the content of the regulation, would appear to be acceptable under section 12-562-13 of the Regulations of the Commission on Special Revenue.) However, if the petition for the regulation also attempts to influence the terms or substance of the regulation, or the attorney later in the process makes such an attempt--including any effort to prevent promulgation of a particular proposed regulation--he is lobbying and must comply with all applicable provisions of Public Act Number 77-605.

By order of the Commission,



Rev. Thomas J. Lynch  
Chairman

Dated November 6, 1978