

CONNECTICUT STATE ETHICS COMMISSION
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ADVISORY OPINION NUMBER 78-5

"Administrative Action" in Public Act Number 77-605

A corporation has proposed the acquisition of several Connecticut insurance companies. The acquisition requires the approval of the Insurance Commissioner following a public hearing pursuant to section 38-39d, Connecticut General Statutes. The attorneys representing the acquiring corporation have asked the State Ethics Commission whether their representation of the corporation during the acquisition proceedings, including the public hearing, or the participation of the corporation, constitutes "lobbying" within the meaning of Public Act Number 77-605 and requires registration under it.

The Insurance Commission is an executive agency. Section 1(e), Public Act Number 77-605. If the activities of the corporation and its counsel constitute lobbying, it would have to be because the activities have the purpose of influencing administrative action, as that is defined in the Act. Section 1(k), Public Act Number 77-605. For the purposes of the Act, "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), Public Act Number 77-605. These terms denote agency action of broad or general application, action that is quasi-legislative, establishing rules of conduct for the future. See, e.g., section 4-166(7), Connecticut General Statutes.

On the other hand, the determination of the rights, duties and privileges of the parties before the Commission, as required by statute, smacks of adjudication. See section 4-166(2), Connecticut General Statutes; 73 C.J.S. Public Administrative Bodies and Procedure section 92. Thus, the corporation and its counsel are not, while participating in the quasi-judicial proceedings required prior to the acquisition, attempting to influence "administrative action". They are not, therefore, lobbying as defined in section 1 (k) of the Act. In fact, counsel are specifically excepted from the definition of "lobbyist" in that they are "representing...another person before...a state agency other than for the purpose of influencing...administrative action." Section 1 (1) (3), Public Act Number 77-605.

Since the corporation and its counsel are not lobbying and are not lobbyists, they need not register, an act required only of lobbyists. Section 5, Public Act Number 77-605. See also the Commission's Advisory Opinion 78-4, 39 Conn. L.J., No. 38, p.23.

By order of the Commission:

Mar. 22, 1978
Dated

Marilyn P. A. Seichter
Marilyn P. A. Seichter
Chairwoman, State Ethics Commission

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