



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division - Lobbyist Section

Alan N. Cote
Director

Marie D. Marra
Supervisor, Lobbyist Section

May 18, 2010
LAO/10-15

[REDACTED]

Dear [REDACTED]

I have received your March 10, 2010 correspondence requesting an advisory opinion. See G.L. c. 3, § 41 (2008 ed.). Specifically, you inquired whether, as a [REDACTED] chamber of commerce, you must register as a lobbyist in light of the new lobbying legislation effective January 1, 2010.

Legislative lobbying is defined as:

[a]ny act to promote, oppose, influence or attempt to influence legislation, or to promote, oppose or influence the governor's approval or veto thereof including, without limitation, any action to influence the introduction, sponsorship, consideration, action or non-action with respect to any legislation; provided further, that *legislative lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with legislative lobbying at the state level*; and provided further, that legislative lobbying shall include strategizing, planning and research if performed in connection with or for use in an actual communication with a government employee...

G.L. c. 3, § 39 (2008 ed.) (Emphasis added).

The definition of executive lobbying likewise includes a provision for activity on the municipal level. Id. Thus, to the extent that acts or attempts to influence at the municipal level relate to a common purpose on the state level, your municipal activities

are to be considered lobbying. If you engage in lobbying, you must then determine whether you meet the criteria of being a legislative agent, an executive agent, or both.

The amended definition of legislative agent is:

a person who for compensation or reward engages in legislative lobbying, which includes at least 1 lobbying communication with a government employee made by said person. The term "legislative agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in legislative lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For purposes of this definition a person shall be presumed to be engaged legislative lobbying that is simply incidental to his regular and usual business or professional activities if he: (i) engages in legislative lobbying for not more than 25 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period for legislative lobbying.

G.L. c. 3, § 39 (2008 ed.).

The definitions of both executive and legislative agent, as amended, exempt incidental lobbying, or lobbying that is incidental to ones usual business activities if he or she engages in lobbying for twenty-five hours or less and if he or she receives less than \$2,500 during any reporting period. Both criteria must be satisfied in order for lobbying activity to qualify as "incidental."

If you receive less than \$2,500 for your lobbying efforts during a reporting period, you would meet the first criteria of the incidental lobbying exception. If you also spend less than twenty-five hours lobbying in a reporting period, you would meet the second criteria of the incidental lobbying exception, and therefore, would not need to register with the Lobbyist Section. You are strongly encouraged, however, to register as a lobbyist as a precautionary measure, and then if you qualify for the exception at the end of the reporting period, your appropriate disclosure reporting forms contain the necessary exception language for you to bypass the required reporting information and claim an exception. With respect to your inquiry concerning registration fees, please refer to G.L. c. 3, § 41.

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Please note that if at anytime during the registration year you overcome the incidental lobbying threshold and you had not previously registered, you should register for that year immediately with the Lobbyist Section.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan N. Cote". The signature is stylized and cursive.

Alan N. Cote
Director