

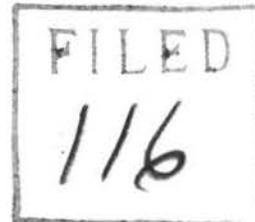
LOBBYIST:
LOBBYING:
LEGISLATION:

The financial reports required by Section 105.470, RSMo Supp 1967, should disclose all expenditures made to, or in behalf of, a member of the General Assembly for the purposes of attempting to influence the passage or defeat of legislation by the General Assembly. It is further the opinion of this office that such financial reports need not include the amounts received by persons to be used by them for the purpose of attempting to influence the passage or defeat of legislation by the General Assembly, but need only list the actual expenditures made by these persons for the stated purpose. The salaries of these persons need not be reported.

OPINION NO. 116

May 29, 1969

Honorable R. J. King, Jr.
Republican Floor Leader
Missouri House of Representatives
State Capitol Building
Jefferson City, Missouri 65101



Dear Representative King:

This is in response to your request for an opinion on certain questions pertaining to the following statute:

"1. Any person who engages himself for pay or for any valuable consideration for the purpose of attempting to influence the passage or defeat of any legislation by the general assembly of Missouri or who expends money for such purposes shall, before doing anything in furtherance of the object, register with the chief clerk of the house of representatives and the secretary of the senate and shall give to those officers in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, and the duration of the employment. Each person so registering shall, within ten days after each regular or special session of the general assembly, file with the chief clerk and secretary a detailed report

Honorable R. J. King, Jr.

under oath of all money expended by him during the session just closed in carrying on his work; to whom paid; for what purposes; and the names of any paper, periodicals, magazines, or other publications in which he has caused to be published any articles, advertisements or editorials; and the proposed legislation he is employed to support or oppose. No state officer, or member of the general assembly shall be required to register under this section because of his lawful attempts to influence the passage or defeat of legislation solely in the course of his official duties. Each person so registering shall, within thirty days after the convening of any regular session, file with the chief clerk of the house and secretary of the senate a detailed report under oath of all money expended by him in carrying on his duties as such registered agent from the day the [previous?] regular session closes until the convening of the next [current?] regular session. This report shall indicate to whom the money was paid; for what purposes; and the names of any papers, periodicals, magazines or other publications in which he has caused to be published any articles, advertisements or editorials; and the proposed legislation he is employed to support or oppose.

"2. All information required to be filed under the provisions of this section with the chief clerk of the house of representatives and the secretary of the senate shall be kept available by them at all times open to public inspection until the convening of the next regular session of the general assembly.

"3. Any person failing to comply with the provisions of this section shall, upon conviction, be adjudged guilty of a misdemeanor and be subject to a fine of not more than five hundred dollars or confinement in the county jail for not more than one year or both."
Section 105.470, RSMo Supp. 1967.

Your questions are:

(1) What kind of expenditure report is required of lobbyists who are employed by business,

Honorable R. J. King, Jr.

professional, labor, or farm organizations or associations and who are employed on a full time basis to perform a multitude of services with actual lobbying varying from a minor to a major part of their activities?

(2) What kind of expenditure report is required of lobbyists who are employed personally to represent one company or group on a temporary basis during the legislative session?

(3) Are lobbyists required to segregate and file only the amounts spent while they are attempting to directly influence a specific bill or bills, or are they required to file a detailed copy of the total expenditures of their organizations when it might be said that anything they do may ultimately influence the passage or defeat of legislation?

(4) Are lobbyists required to prorate their salaries and if so, how?

(5) Are lobbyists required to report only part of their expenditures, and if so, by what standards or rules is this to be done?

In answer to your first question, it is our opinion that a full-time, year round employee of an interest group, who is registered with the Clerk of the House and the Secretary of the Senate, must, at the close of each session, report all of his expenditures made during the session to influence the passage or defeat of legislation. This report should specify the amount of, the purposes of, and the person who receives, each payment, a description of the legislation the employee is interested in (not merely the bill number), and whether he supports or opposes such legislation. We believe the payment so reported should be limited to those made to, or in behalf of, a member of the General Assembly, and not payments which may only indirectly affect the passage or defeat of legislation. Although the word "lobbying" is not used in the statute, we believe it was this practice that was sought to be regulated.

". . .As a matter of English, the phrase 'lobbying activities' readily lends itself to the construction placed upon it below, namely, 'lobbying in its commonly accepted sense,' that is, 'representations made directly to the Congress, its members, or its committees,' . . . and does not reach . . . attempts 'to saturate

Honorable R. J. King, Jr.

the thinking of the community.' . . ." (United States v. Rumely, 345 U.S. 41, 46, 97 L.Ed. 770, 776 (1953))

Your second question asks about the reporting requirement imposed on a part-time lobbyist or one who is hired only during the period that the General Assembly is in session. We cannot see that the statute requires any different report from this lobbyist at the close of a regular or special session but the report required at the inception of a regular session covering the period since the last regular session would necessarily be negative in nature for this lobbyist if he is in fact not engaged as a lobbyist during the interim.

Your third question inquires as to whether a lobbyist must in addition to his own expenditures report the total expenditures of his organization (employer) which may ultimately influence legislation. We answer this in the negative for we believe that our law rather conspicuously ignores the employer or principal while focusing on the employee or agent who engages in direct lobbying.

Your fourth question asks if lobbyists are required to prorate their salaries and this too must be answered in the negative since our law is confined to a lobbyist's expenditures, and not his receipts.

Your fifth question inquires if lobbyists are required to report all, or only a portion, of their expenditures, and if the latter, what standard is to be used. Section 105.470 requires ". . . a detailed report . . . of all money expended . . . in carrying on his work; to whom paid; for what purposes; . . ." and ". . . a detailed report . . . of all money expended . . . in carrying on his duties as such registered agent. . . . This report shall indicate to whom the money was paid; for what purposes; . . ." We perceive no limitation as to the type of expenditure that must be reported other than that the expenditure bear some relationship to the ". . . purpose of attempting to influence the passage or defeat of any legislation by the general assembly. . ." and that the expenditure be made to, or in behalf of, a member of the General Assembly. Other jurisdictions have established a minimum expenditure amount before there is a reporting requirement (e.g. California, \$25 in a calendar year). However, we believe our law as presently written has no such specific qualification of the expenditure reporting requirement, and consequently lobbyists should report all their expenditures that fit the general purposes of the statute as above set out.

CONCLUSION

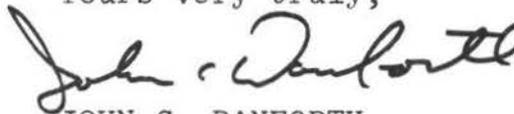
It is the opinion of this office that the financial reports required by Section 105.470, RSMo, Supp. 1967, should disclose all

Honorable R. J. King, Jr.

expenditures made to, or in behalf of, a member of the General Assembly for the purposes of attempting to influence the passage or defeat of legislation by the General Assembly. It is further the opinion of this office that such financial reports need not include the amounts received by persons to be used by them for the purpose of attempting to influence the passage or defeat of legislation by the General Assembly, but need only list the actual expenditures made by these persons for the stated purpose. The salaries of these persons need not be reported.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Louren R. Wood.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General