

OPINION NO. 414

We received a request concerning the lobbyist law from the chairperson of a citizens' interest organization. His question was whether lobbyists could be required to report their salaries to this Commission. The question arose as a consequence of changes in the lobbyist law adopted by the Legislature and approved by the Governor in Act 129, Session Laws of Hawaii 1980. In both his letter to the Commission and in his appearance before us, the chairperson suggested that, although the term "salary" was not expressly included among the items which a lobbyist must report, the definition of either "contribution" or "expenditure" could be interpreted to include lobbyists' salaries.

The organization noted that the definition of "contribution" included a "deposit of money" and suggested that a lobbyist who received a salary and deposited it into an account thereby incurred the obligation to report that sum as a "contribution" in his or her expenditure report.

A second argument focused on the definition of "expenditure." Since "expenditure" was defined to include "a payment," and "lobbyist" included any individual who spent \$275 or more of his or any person's money, the organization suggested that an individual who authorized lobbyist payments, such as a company president, was himself a "lobbyist." As such, he would be required to report expenditures exceeding twenty-five dollars per day made for the purpose of lobbying. Such a report would then include any expenditure made by the president of a company to compensate those individuals who actually lobbied for the company.

The Commission had earlier recognized that an ambiguity existed with respect to the treatment of salary in the reporting section of the statute. Therefore, the Commission had sponsored a bill relating to the registration of lobbyists, which, among other things, attempted to clarify the question of whether a lobbyist's salary should be reported as an expenditure. The Commission had favored the inclusion of salary as a reportable item. However, S.B. No. 3012-80, S.D.1, H.D.1, C.D.1, the bill ultimately adopted by the legislature, did not specifically include that term. In fact, the legislative history which accompanied that bill clearly indicated an intent to exclude salary as a reportable item. House Conference Committee Report No. 70-80 stated:

[T]his bill resolves differences in the Senate and House draft by:

- (1) adopting the House version of Subsection 97-1(4), the current law, excluding "salary" from the definition of expenditure;
...
- (6) adopting the House version by deleting Subsection 97-3(c)(6) of the Senate draft which would have required the reporting of the lobbyist's pay, by whom it is paid, and the amount paid for the expenses;
....

While this Commission may have found the arguments presented by the organization to be persuasive, we concluded that we could not consider the merits of those arguments in light of the explicit language in the conference committee report which excluded salaries from expenditure reporting. It was our responsibility to implement the intent of the lobbyist law, and, clearly, the legislative intent was to exclude salaries from the reporting requirement.

We appreciated the active interest the organization had taken with respect to the lobbyist law and commended that organization for bringing this question to us for an early determination.

Dated: Honolulu, Hawaii, September 3, 1980.

STATE ETHICS COMMISSION

Gary B.K.T. Lee, Chairman

Paul C.T. Loo, Vice Chairman

Dorothy K. Ching, Commissioner

Edith K. Kleinjans, Commissioner

Note: Commissioner Robert N. Mitcham was absent from the meeting at which this opinion was considered.