

MEC
OPINION NO.

2007.02.L.002--1

STATE OF MISSOURI

MISSOURI ETHICS COMMISSION
P. O. BOX 1254
JEFFERSON CITY, MISSOURI 65102

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At the February 13, 2007 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's response to your questions:

I am a commercial real estate broker in the State of Missouri. I am paid a commission by my clients to help them purchase, sell, lease or develop real estate. I occasionally appear before a local governmental entity to present plans and answer questions. This process sometimes includes discussions about the proposed project with board/council members with the intent of informing, and some might argue persuading. If using the term "persuading" causes me to have to register as a lobbyist, then I suppose I would need to have that term defined, and then I would need to evaluate if my words to these municipal officials would be considered "informing" or "persuading." I am not being paid to specifically influence anyone, which would be one small part of my job on a particular project.

I am not sure if HB1900 would require me and others in my profession to register as a lobbyist with the Missouri Ethics Commission. I assume that this answer would apply similarly to others who act in this capacity, for example civil engineers, architects and planners who also appear before local governmental entities to present plans, answer questions, etc.

Section 105.470(1) RSMo defines "elected local government official lobbyist" as "any natural person employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars." The Commission notes that the words "for the purpose of attempting to influence any action" is the same as used in the definitions of executive, judicial and legislative lobbyist also defined within Section 105.470 RSMo.

NOTICE

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.

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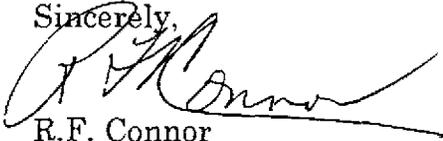
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The Commission also notes that the elected local government official lobbyist must be "specifically employed" for this purpose, whether by self or third party, as opposed to the other categories of lobbyist in which an individual may seek to influence official action without pecuniary gain. In addition, the specific employment must be to attempt to influence the action of an elected official of a county, city, town, or village with an annual operating budget of over ten million dollars.

Any distinction the legislature made between the local government official lobbyist and other statutory lobbyists is not based on the conduct or activity of influence of the individual. The definitions of executive, judicial and legislative lobbyist include statutory examples of conduct which do not include lobbying for what could be considered broader categories of individuals. The definition of what activity constitutes lobbying remains the same for all lobbyists under Section 105.470 RSMo -- any differences in definition are by example, and can be instructive.

Based on the questions presented, the Commission directs you to the specific employment arrangement you have with any principals concerning your contact with local elected officials in qualifying jurisdictions. In your request, you state that you are "not being paid specifically to influence anyone, but rather to obtain the needed zoning or site plan approval for a particular project to go forward -- which would be one small part of my job on a particular project." An individual who is not employed specifically to attempt to influence a local elected official in a qualifying jurisdiction does not fall within the statutory definition.

Sincerely,



R.F. Connor
Executive Director
RFC:ez

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