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1. LOBBYIST—GENERAL ASSEMBLY OF OHIO—HAS IN THE PUBLIC INTEREST REGULATED THE CONDUCT OF LOBBYISTS AND DETERMINED WHO SHALL BE REQUIRED TO REGISTER—SECTION 6256-1 ET SEQ., G. C.
2. INDIVIDUAL, REPRESENTING HIMSELF OR HERSELF IN “ANY MATTER PENDING OR THAT MIGHT LEGALLY COME BEFORE THE GENERAL ASSEMBLY, OR EITHER HOUSE THEREOF,” NOT REQUIRED TO REGISTER.
3. INDIVIDUAL, ACTING IN REPRESENTATIVE CAPACITY FOR EITHER AN ASSOCIATION OR NON-PROFIT CORPORATION IN “ANY MATTER PENDING OR THAT MIGHT LEGALLY COME BEFORE THE GENERAL ASSEMBLY, OR EITHER HOUSE THEREOF,” WHETHER HE DOES OR DOES NOT RECEIVE SALARY FOR SERVICES, IS REQUIRED TO REGISTER.

## SYLLABUS:

1. The General Assembly of Ohio, under the provisions of Section 6256-1, et seq. of the General Code, has, in the public interest, regulated the conduct of lobbyists and determined who shall be required to register as lobbyists.

2. An individual, representing himself or herself with reference to “any matter pending or that might legally come before the General Assembly, or either house thereof, or a committee of the General Assembly, or either house thereof,” is not required to register under Section 6256-1 of the General Code.

3. An individual, acting in a representative capacity for either an association or a non-profit corporation, with reference to “any matter pending or that might legally come before the General Assembly, or either house thereof, or a committee of the General Assembly, or either house thereof,” whether he does receive or does not receive any salary for his services, is required to register under Section 6256-1, General Code.

Columbus, Ohio, May 17, 1949

Hon. Charles F. Sweeney, Secretary of State  
Columbus, Ohio

Dear Sir:

Your recent request for my opinion reads as follows:

“A number of inquiries have been presented to the office of Secretary of State as to whether or not an individual representing

himself or herself, or an individual as officer in an association or non-profit corporation, which officer does not receive any salary, is required in any of the above mentioned situations to file an application in which to act as a lobbyist, under provisions of General Code, Section 6256-1 of Ohio.

“As a matter of information it might be well to state that the records of the office of Secretary of State show that a few *individuals* have filed in the office of Secretary of State an application as lobbyist, under provisions of Ohio General Code Section 6256-1, on the theory that they are compelled to do so under provisions of the above mentioned section.

“Due to the differences of opinion concerning this question, I would appreciate it if you would render me an opinion on this question, and further request that this be done at your earliest opportunity, for obvious reasons.”

Section 6256-1 et seq. of the General Code pertains to the practice of lobbying. This chapter of the Ohio Laws has never come squarely before any court for construction. Therefore, in order to properly answer your question I must construe the law according to what I believe was the intention of the legislature in enacting this particular legislation.

Section 6256-1, General Code, so far as pertinent, reads as follows:

“Any \* \* \* corporation, or association or any officer or employe of a corporation or association acting for or on behalf of such corporation or association, who or which directly or indirectly employs any person or persons, firm, corporation or association to promote, advocate, amend or oppose in any manner any matter pending or that might legally come before the general assembly or either house thereof, or a committee of the general assembly or of either house thereof, shall within one week from the date of such employment furnish in a signed statement to the secretary of state the following information, to-wit:

“1. If an individual, his full name, place of residence, and place of business. \* \* \*

“4. The nature and kind of his, their, or its business, occupation or employment.

“5. The full name, place of residence and occupation of each person \* \* \* so *employed*, together with the full period of employment.

“6. The exact subject-matter \* \* \* is so *employed*.

“7. When any change, modification or addition to such *employment* or the subject-matter of the *employment* is made,

the employer shall within one week of such change, modification or addition furnish in writing full information regarding the same to the secretary of state." (Emphasis added.)

For the purposes of this opinion it is well to preface the remarks herein contained by defining the words employed in the opinion.

"Association":

7 Corpus Juris Secundum, page 19, defines "Association" as: "A body of persons acting together, without a charter, but upon the methods and forms used by corporations, for the prosecution of some common enterprise."

"Corporation":

"A corporation is an artificial being created by law, composed of individuals united under a common name, and having succession while it exists." (18 Corpus Juris Secundum, page 366.)

"Employ":

Webster's New International Dictionary (2d Ed.) defines the word "employ" as follows: "To make use of; to make use of services of. Syn. Employ, hire. Employ is used to emphasize the idea of service to be rendered."

"Lobbying":

25 O. Jur. 735 defines "lobbying" as signifying "the addressing or soliciting of members of the legislative body, in the lobby or elsewhere, for the purpose of influencing their vote."

"Lobbyist":

"Lobbyist" is defined in 54 Corpus Juris Secundum at page 660 as: "One who frequents the lobby or the precincts of a legislature or other deliberative assembly with the view of influencing the views of its members. Sometimes the term is defined as a person who hangs around legislators, and solicits them for the purpose of influencing legislation."

I think, before disposing of the question of lobbyists for corporations and associations, that it would be well to state that in our belief it is clear that an individual representing himself or herself is not included within the provisions of this section, and that not only did the legislature not intend to include such persons, but that the language of the statute precludes them.

The real question involved is whether an individual, as an officer or employee in an association or non-profit corporation who does not receive any salary is required to furnish the Secretary of State with the information required in Section 6256-1, the General Code of Ohio.

It should be pointed out that lobbying today has become quite commonplace, and as the Supreme Court of Ohio has said in the Bigelow case, 138 O. S. 593:

“There is nothing immoral or disgraceful in accepting pay to influence in a legitimate manner the deliberations of a legislative body.”

The practice of lobbying has become a necessity today. Professor Jaffe, in his Article, “Law Making by Private Groups,” 51 Harvard Law Review, 201, has this to say:

“The most significant and powerful components of the social structure are economic groups, competing and complementary in varying degrees. In the official political philosophies and in the explicit provisions of our constitution, these groups receive no recognition as political entities. With these philosophies and constitutions the prime political entity is the citizen. The only legitimate group is the organization of citizens territorially. These citizens, all of them equal to each other, if not in interest at least in disinterestedness, are the public. And they are moved by a common desire: to promote the public interest. Together they elect representatives who are assumed to promote this interest and all of whose activities purport to be in furtherance of it. This community is the State. This activity is the law!” \* \* \*

“Congress has from its earliest day responded to group demands, e. g., the tariff, and it is evident to anyone that practically all legislation, excepting some such rudimentary legislation as that dealing for example, with the crime of murder, is an immediate response, in a greater or less degree, to some group pressure. Such legislation is sanctified and endowed with moral authority by the immensely valuable dogma that all governmental activity is in ‘the public interest.’ It must not be thought that such use of the dogma is entirely sophistical or forced. Stability and repose are imperatives of government and without minimum group satisfactions they may not endure. Where yesterday this fact was glossed with rhetoric, today the naked exposure and intensification of group alignment has made this rhetoric tasteless. Congress and the state legislature pass laws for the farmer, laws for labor, laws for business, and in frank recognition of the group character of these laws they have sought to give to the group concerned powers of initiating within the framework of

the general organic and enabling act specific applications of it ; powers exercised by majorities of the group binding on the whole group and indirectly effective against all the rest of the public.”

An interesting discussion on “Control of Lobbying” is contained in 45 Harvard Law Review 1241. This article traces the history of this type of legislation. While the article is rather cynical in its analysis of the various laws, still it is of value not only for the history it offers, but also in its evaluation of this type of legislative enactment.

25 O. Jur. at page 735 has an interesting discussion on lobbying. On page 736 of that article it states :

“\* \* \* True, it is an employment which is, in many cases, peculiarly liable to abuse, and which, therefore, should be closely watched. \* \* \*”

The above discussion is in point to show the definitions of and what constitutes lobbying. While the Supreme Court is correct in its statement that there is nothing immoral or disgraceful in the practice of lobbying, yet, nevertheless, the legislature has seen fit, in enacting General Code Section 6256-1 et seq., to make the motives of the lobbyists known and placed before the public so that the public has knowledge as to what groups are active in promoting their desires before the law making body. Another reason which might be suggested for the legislative action to regulate the practice was that the individual interests being represented were selfishly interfering with the legislative process and that some method of regulation was needed.

It is called to your attention that this act is an emergency act, for Section 9 of House Bill No. 69 of the Eightieth General Assembly (103 v. 6) reads as follows :

“This act is hereby declared to be an emergency act, and that its enactment is necessary for the *immediate preservation of public safety*. The necessity therefor lies in the fact that the public welfare and safety requires that the deliberations of the present general assembly shall be free from intervention and its members, in the performance of their duties, *protected from the solicitations by persons representing interests that are undisclosed and principals who are unknown.*” (Emphasis mine.)

We believe it to be apparent that lobbying can be pernicious and damaging to the public welfare of the state, and that therefore every

precaution should be taken to prevent the privilege accorded from being abused.

I call your attention to the first sentence of Section 6256-1 of the General Code, reading in part as follows:

*“Any person, firm, corporation or association, or any officer or employe of a corporation or association \* \* \*.”*  
(Emphasis mine.)

It will be noted by a perusal of this first sentence that corporations not for profit are not exempt or set aside from the effectiveness of the act. Thus, it must have been the legislative intent to include any person, employee or officer of any corporation, whether for profit or not for profit, or association, who lobby in a representative capacity. Therefore, the act in my opinion must be read that any person, firm, corporation, whether or not for profit, or association, or any officer or employee of a profit or non-profit corporation, or any associatin acting for or on behalf of such corporation or association, who or which employs directly or indirectly (makes use of) any person, firm, corporation, or association to promote, advocate, amend or oppose in any manner any matter pending or that might legally come before the general assembly or either house thereof, or a committee of the general assembly or either house thereof, shall register, pursuant to General Code Section 6256-1, with the Secretary of State.

I do not believe that this is too strict a construction of the law, but rather expresses the legislative intent in making the law. It is therefore my opinion, and in specific answer to your request, that:

1. The General Assembly of Ohio, under the provisions of Section 6256-1, et seq. of the General Code, has, in the public interest, regulated the conduct of lobbyists and determined who shall be required to register as lobbyists.

2. An individual, representing himself or herself with reference to “any matter pending or that might legally come before the General Assembly, or either house thereof, or a committee of the General Assembly, or either house thereof,” is not required to register under Section 6256-1 of the General Code.

3. An individual, acting in a representative capacity for either an association or a non-profit corporation, with reference to “any matter pending or that might legally come before the General Assembly, or either

house thereof, or a committee of the General Assembly, or either house thereof," whether he does receive or does not receive any salary for his services, is required to register under Section 6256-1, General Code.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.