

# Advisory Opinion

IECDB AO 2000-42

November 16, 2000

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11), the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on the issue of certain executive branch lobbyists qualifying to file exemptions from filing quarterly reports. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351. Whether some other statutory system, common law theory or agency rule applies to this issue is not covered by this opinion.

OPINION:

We first note that our jurisdiction in interpreting the lobbying laws is limited to activities before executive branch agencies.

In IECDB Advisory Opinion 2000-30, the Board issued its opinion that executive branch lobbyists' clients could no longer file exemptions from filing semi-annual reports under Iowa Code section 68B.38 disclosing compensation paid to lobbyists. This determination was made based on the statutory amendment that took effect on July 1, 2000, deleting the phrase "unless no payments are made" from the statute. Thus, even when no salaries or other compensation is paid to the lobbyist, the client must still file the two reports under that section. If no payments were made to the lobbyist, the client files a report disclosing \$0.00 in compensation.

Although it was stated in that opinion that the exemption provision set out for lobbyists in Iowa Code section 68B.37(3) was unaffected by the statutory amendment or the opinion, the issue has been raised if executive branch lobbyists may still file exemptions from the quarterly reports.

Iowa Code section 68B.37(3) permits an executive branch lobbyist to seek an exemption from filing reports. An exemption is granted when the lobbyist is not paid compensation for his or her lobbying services and does not spend more than \$1,000.00 for lobbying purposes. The lobbyist must file the exemption form at the time he or she registers to be an executive branch lobbyist. The effect of a granted exemption is that the lobbyist must file only the exemption form and does not have to file the quarterly lobbyist disclosure reports.

As the statutory amendment only affected the ability of lobbyists' clients to file exemptions under Iowa Code section 68B.38, the ability of an executive branch lobbyist to file an exemption under Iowa Code section 68B.37(3) is unaffected. Therefore, executive branch lobbyists who do not receive compensation for lobbying services or spend more than \$1,000.00 for lobbying purposes are still permitted to an exemption from the quarterly filing requirement.

We do note that under rule 351 IAC 13.10, a lobbyist is "deemed to receive 'compensation' for the lobbying representation and would be ineligible for the exemption if the lobbying is included as any part of the duties of the job for which the person registered as a lobbyist receives payment." Therefore, any individual who has executive branch "lobbying" included as part of his or her job duties is presumed to be receiving compensation and cannot claim an exemption.

In closing, the Board suggests that all executive branch lobbyists review the requirements of Iowa Code sections 68B.35 through 68B.38 and the Board's rules in 351 IAC chapter 13.

**BY DIRECTION AND VOTE OF THE BOARD**

Bernard McKinley, Board Chair  
1st Vice-Chair Geraldine Leinen  
2nd Vice-Chair James Albert  
Gwen Boeke  
Mark McCormick  
Phyllis Peters  
-Submitted by: W. Charles Smithson, Board Legal Counsel