

Advisory Opinion

IECDB AO 2002-14

April 11, 2002

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 whether or not discussing a gubernatorial appointment is considered lobbying. 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.

OPINION:

We first note that our jurisdiction in interpreting the lobbying statutes is limited to activities before the executive branch. The issue has been raised concerning whether or not a person who discusses a gubernatorial appointment with executive branch officials or employees is required to register as an executive branch "lobbyist".

Iowa Code section 68B.2(13) lists four scenarios that an individual becomes a "lobbyist". Under all four, the triggering factor is that the individual acts directly "to encourage the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by members of the general assembly, a state agency, or any statewide elected official."

Unless the gubernatorial appointment requires legislation, a rule, or an executive order, an individual discussing the appointment with executive branch officials or employees would not be required to register as an executive branch "lobbyist".

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
1st Vice-Chair Geraldine Leinen
2nd Vice-Chair Gwen Boeke
Mark McCormick
Bernie McKinley
Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel