

From: [Geoffrey Long](#)
To: [ethics](#)
Subject: [EXTERNAL] RULE COMMENT: Amendment 2021-02
Date: Thursday, December 10, 2020 12:53:11 PM

Commissioners:

I write today to provide comment on proposed Amendment 2021-02 from feedback and concerns I have received from various clients. Amendment 2021-02 requires lobbyists to report when they provide "informational materials, such as books, written materials, audio and/or video materials, and similar informational materials..."

This language defining "informational materials" is extraordinarily broad to encompass virtually anything given to the legislature from a lobbyist or lobbyist principal that is not verbal communication. The proposal would define a single email or text message from a lobbyist to a legislator as informational materials subject to reporting since informational materials is broadly defined to include "written materials."

With respect to "written materials," lobbyists frequently leave short (often single page) memos or issue briefings with information about a topic or bill with all members of the legislature or even with a single member or committee. In addition, lobbyists and principals will often send an email to individual members of the legislature or the entire legislature with relevant informational material in the body of the email or a simple attachment of a digital document. Under the proposed language of Amendment 2021-02, these written materials would now require reporting to the Ethics Commission.

In general, I would object to requiring the reporting of purely informational materials at all. If the Commission would require reporting of informational materials, the Commission should consider exempting routine communications relating to legislation or issues before the legislature, particularly when the informational materials have no monetary value or nominal value such as short handouts, pamphlets, emails communications, etc. Without an exemption or clarification, there would be a significant reporting burden on lobbyists for informational materials of no monetary value that are currently not required to be reported, which also will cause lobbyist reports to contain a significant amount of information that would not be important or material to someone viewing the report. Also, the rule contains no exemption for a situation where necessary information may be supplied to the legislature, or a member of the legislature, that may be confidential or a trade secret. Furthermore, the rule makes no distinction between information provided proactively by a lobbyist or principal and information provided to the legislature at the request of the legislature, a committee, or a member. The total effect of requiring the reporting of all written informational materials could have a significant chilling effect on advocates being willing to share important and necessary information with the legislature to aid the legislature in performing its function.

In addition, while the rule proposal requires reporting the informational materials, the proposal does not include any changes to the lobbyist reporting rules that describe the required content of the reports (5.21 and 5.22). It is unclear what information is required for reporting. The Commission should consider adding specificity to the required information that must accompany reporting "informational materials." Depending on the information required for reporting, individuals subject to this rule change may wish to provide additional comments on the proposal. Without any specificity to the information that must be reported, the requirement

to report all informational materials is objectionable.

Lobbyists, lobbyist principals, and any other interested party should be free to broadly provide informational materials to the legislature that relate to the legislature's purpose and function. Restrictions and burdensome reporting requirements are inconsistent with the freedom of interested parties to petition their government and advocate for their policy positions. Purely informational materials, even when they are of some monetary value (such as with an informational book like a textbook or treatise), would seem to have no impact on the impartiality of a legislator performing their legislative function. The public is already apprised of who is registered as a lobbyist and which entities are registered as lobbyist principals, so it is unclear what purpose or function reporting informational materials serves.

In summary, the rule proposal is objectionable because it would require reporting of any written communication or other written materials that serves a purely informational purpose, the rule is not sufficiently narrowly tailored to exempt certain communications and written materials, and reporting of all informational materials could have a significant chilling effect on supplying needed information to the legislature to assist in its legislature function.

Thank you for your consideration of these comments.

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