

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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February 28, 2014

Glenn Oppel
Government Relations Director
Montana Chamber of Commerce
PO Box 1730
Helena, MT 59624

COPP-2014-AO-005

Re: Conference Cost Reporting

Dear Mr. Oppel:

I write in response to your inquiry of February 25, 2014 regarding certain reporting and disclosure issues associated with the attendance of legislators at a Chamber sponsored conference. The conference addresses legal issues, including legislative solutions that advance or inhibit the interests of the businesses served by the Chamber. The Chamber assesses a \$50 (non-attorney) to \$100 (attorney) fee to general conference attendees. Legislators can attend without charge.

ADVISORY OPINION

The Chamber's conference, while serving its particular interests, is not campaign directed and its substance does not directly affect or influence an election. It is the opinion of this Office that attendance of a legislator, without charge, at the Chamber's conference does not constitute a campaign contribution to a legislator who attends.

A legislator's attendance at a conference assembled for non-election purposes, such as that sponsored by the Chamber, may gain exposure (along with political support or opposition for the legislator) as others in attendance learn more about a legislator's views and abilities. That indirect political exposure circumstance, however, occurs at every church, social and civic event attended by a legislator. A campaign contribution requires that the value constituting a contribution "influence an election" (§13-1-101(7) MCA). There is no "influence an election" component to the conference cost "value" provided by the Chamber to a legislator and therefore there is no campaign contribution. Because there is no campaign contribution implication there is no obligation of a legislator to report the same.

Second, you asked whether the conference cost waiver to legislators should be reported as a lobbying expense. Without additional facts this Office cannot say whether the attendance of a legislator, without charge, at the Chamber's conference is or is not a reportable lobbying expense that should be reported.


In way of explanation, the conference agenda includes a session entitled "Legal reforms in the 2013 Legislature" and a session entitled "Potential Legal Reforms for the Tax Appeal Process." Legislators are listed as panelists in the first session. Under Montana law lobbying includes "the practice of promoting or opposing the introduction or enactment of legislation before the legislature or legislators...". § 5-7-102(11) MCA. Reporting obligations include "each separate payment of \$25 or more benefit to any public official when the payment was made for the purpose of lobbying". § 5-7-208(5) MCA.

Because legislators are present, under certain facts lobbying could occur. Specifically, should the conference (whether in discussion or in presentation) address future legislative approaches to legal reforms it is this Office's opinion that, depending on specific facts, this may be enough to constitute lobbying. In contrast, should the conference solely address what has occurred in past sessions then it is likely that there would be no promotion or opposition to legislation and therefore no lobbying. Again, however, it would depend on specific facts. You will need to make the determination as to which scenario is most appropriate based on the content of the conference discussion and presentation, as well as the interaction between conference attendees and legislators who are present. If a lobbying determination is made then the cost should be reported by the Chamber as a lobbying expense, with costs attributed separately to each legislator in attendance.

LIMITATIONS ON ADVISORY OPINION

This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

Sincerely,



Jonathan R. Motl

Commissioner of Political Practices