

# Memo

To: Seattle Ethics and Elections Commission

From: Wayne Barnett

Date: June 5, 2019

Re: Lobbying Law – Decision memo

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**1. Does the Commission want to impose restrictions on lobbyists also working as political consultants? If not, does the Commission want to impose additional reporting obligations on lobbyists also working as political consultants?**

SF law provides that “[n]o campaign consultant, individual who has an ownership interest in the campaign consultant, or an employee of the campaign consultant shall communicate with any officer of the City and County who is a current or former client of the campaign consultant on behalf of another person or entity (other than the City and County) in exchange for economic consideration for the purpose of influencing local legislative or administrative action.” It exempts “an employee of a campaign consultant who did not personally provide campaign consulting services to the officer of the City and County with whom the employee seeks to communicate” from the prohibition.

LA law provides that “[i]f, during the quarterly reporting period, the lobbyist provided compensated services, including consulting services, to the campaign of any candidate for elective City office, or to a campaign for or against any City ballot measure, the name of the candidate, the elective City office sought by the candidate, the ballot number or letter of the ballot measure, the date of the election, the amount of compensation earned for the compensated services, and a description of the nature of the services provided. Such information shall be reported if the lobbyist personally provided the services, or if the services were provided by a business entity in which the lobbyist owns at least a 10% investment, whether the compensation was provided directly to the lobbyist or to such business entity.”

**2. Does the Commission want to expand the law to cover efforts to influence City decisions other than legislative decisions?**

Los Angeles (LA) proposed defining a “City matter” as “a matter that is proposed to or pending with an agency and in which a non-ministerial action may be taken.”

San Francisco (SF) defines a “local legislative or administrative action” as “the drafting, introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial by any officer of the City and County of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or contract.

**3. If the answer to Q2 is yes, does the Commission want to limit the universe of City employees who can be said to be lobbied on either a matter or administrative action?**

SF restricts the definition of lobbying to high-ranking City officers. Communicating with someone at the permit counter on a building permit is not “lobbying.” Communicating with the head of the building department is.

LA treats all communications intended to influence a City decision as lobbying.

**4. Does the Commission want to establish a registration and annual filing fee for registered lobbyists? Do you want to have a reduced fee for non-profit organizations, if possible?**

LA imposes a \$450 annual registration fee, tacking on another \$75 per additional clients. LA law includes the following language regarding non-profit organizations: “Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, which receives funding from any federal, state or local government agency for the purpose of representing the interests of indigent persons and whose primary purpose is to provide direct services to those persons, if the individual or individuals represented by the organization before any City agency provide no payment to the organization for that representation. This exemption shall not apply to direct contracts with a City official in other than a publicly noticed meeting, for the purpose of attempting to influence a City decision with regard to any City funding which the organization is seeking.”

SF imposes a \$500 annual fee. It waives all registration fees for any full-time employee of a tax-exempt organization presenting proof of the organization's tax-exempt status under 26 U.S.C. Section 501(c)(3) or 501(c)(4).

**5. Does the Commission want to impose registration and reporting obligations on grassroots lobbying?**

Washington state law provides as follows:

RCW 42.17A.640

Grass roots lobbying campaigns.

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17A.615 or by a candidate or political committee under RCW 42.17A.225 or 42.17A.235, exceeding \*one thousand dollars in the aggregate within any three-month period or exceeding

\*five hundred dollars in the aggregate within any one-month period in presenting a program to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report. The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

SF distinguishes between “contact lobbyists” and “expenditure lobbyists,” with the latter engaged in what WA calls “grassroots lobbying.” LA defines lobbying activities to include both “written or oral direct communication” and “engaging in community, public or press relations activities.”

**6. Does the Commission want to retain the threshold for reporting as a lobbyist, or switch to a compensation-based threshold?**

The City mirrored state law in exempting from reporting any lobbyist who limited their activities to no more than four days per quarter.

Most other large cities have compensation-based thresholds. Dollars are objective and verifiable, while contacts are not. If ABC pays lobbying firm XYZ \$5,000 per month to lobby on its behalf, that is a fact that can be established. How many contacts XYZ has with City officials is difficult, if not in practice impossible, to count. LA is the only one of the 10 largest cities to have an *hours*-based filing threshold. Last year, its Ethics Commission recommended adopting an annual \$5,000 threshold.