

SUBJECT: Hosting Events by Multiple Lobbyists' Principals

SUMMARY: More than one lobbyist's principal may co-host a single function and share the expense of food, drink, entertainment, lodging, and transportation, so long as the different hosts are clearly identified and the per lobbyist principal per recipient spending caps and group invitations rules (including attendance out-of-state) are met.

DISCUSSION:

Several companies that are regulated by the South Carolina Public Service Commission and which are registered lobbyist's principals intend to co-host or co-sponsor an event for all of the Public Service Commissioners and their staff. This event would be held during a conference out of state and would include food, drink, entertainment, and possibly transportation to the event.

The question posed is whether each lobbyist's principal may contribute a pro-rata share of the expenses incurred for the event as long as none of them exceed the daily and yearly limits as defined in §2-17-90(B). For example, may each of the lobbyist's principals contribute up to \$25 per Commissioner and staff person?

This issue is whether the §2-17-90(B) restriction is a spending cap limitation *per function* or *per lobbyist's principal* and recipient of \$25per day/\$200 per calendar year. Therefore, the issue is whether the §2-17-90(B) spending limit refers to each lobbyist's principal or to the event itself. Section 2-17-90(B) of the Act states:

(B) No lobbyist's principal or person acting on behalf of a lobbyist's principal may provide to a public official or a public employee pursuant to subsections (A)(1), (A)(2), (A)(3), (A)(4), or (A)(5) the value of lodging, transportation, entertainment, food, meals, or beverages exceeding twenty-five dollars in a day and two hundred dollars in a calendar year per public official or public employee.

This statute has been interpreted to mean that there are group invitation rules and spending caps that must be fulfilled by the lobbyist's principal who invites targeted public employees, public officials, and public members to a function. Underlying these restrictions is a two-fold aim: to require targeted public office holders to appear in groups to avoid undue influence in one-on-one situations and to require a strict spending cap. Additionally, other statutes fulfill the public policy of requiring public disclosure when a lobbyist's principal has given value to a public officeholder.

The intent of this section is that no one lobbyist's principal may give food, drink, lodging, transportation, or entertainment that exceeds the daily limit or yearly aggregate. Another interpretation of this statute depends on whether the phrase "[n]o lobbyist's principal or person acting on behalf of a lobbyist's principal" creates a situation in which more than one lobbyist's

principal co-hosting a function are in essence one host and are each a "person acting on behalf" of the others, thus, resulting in "one person" hosting the event.

In Secretary of State's Opinion 92-116 (Aug. 11, 1992), a similar question was posed.

- 1) May a lobbyist's principal allow other groups to sponsor events within a larger event without the cost being charged against the daily limit?

It is the opinion of this office that as long as the separation of the events is not a subterfuge to avoid the daily limit then such a separation would be permissible under the Act.

For example, simply having another group pay for one meal or function within a weekend meeting would not remove the cost of that meal from the limits. For example, a coordinating group should not host a day of events and later inform the guests that the three meals were paid for by three different groups.

On the other hand, if the three different groups clearly advertised their sponsorship of three meals and carried out the normal ministerial functions of setting up and hosting such a meal, the fact that the meal was held at the same time as, or at the same location as, another event would appear irrelevant. To conclude otherwise, would prohibit groups from sponsoring [sic] event in coordination with, for example, political or trade conventions.

Please be clear that this office will look at the facts and circumstances of each event to ascertain that there is a true separation of sponsorship.

It appears that the concern surrounding the question posed in SOS 92-116 was the inability to clearly advertise their sponsorship. The opinion refers to a subterfuge to avoid providing the identity of the inviters/hosts in advance of the function and the ability to identify which lobbyist's principal hosts which part of a single function. Certainly, it cannot be said that the opinion clearly determined that there was a single function spending limit nor that there was support for multi-hosted functions.

For example, if lobbyist's principal XYZ were to host a breakfast on one day and spend no more than \$25 for that meal and then lobbyist's principal ABC hosted a lunch on that same day as part of an overall event (with the group invitation requirements), the question may be whether the purposes of §2-17-90 are defeated by separating out the meals or by allowing lobbyist's principal XYZ and lobbyist's principal ABC to spend the same daily cap so long as there is disclosure.

In the scenario offered, several lobbyist's principals will co-host one event on the same evening with specified beginning and ending times. It will be a multi-host function with food, drink, and entertainment not to exceed \$25 per lobbyist's principal per recipient. Such a scenario appears to meet the intent of §2-17-90, provided that the two or more clearly identified inviters follow the group invitation rules and report the amounts spent. Beyond that scenario, the Commission finds the

facts and circumstances of each event must be ascertained to determine that there is genuine compliance in fact and in spirit with the Act.

SEC AO92-106 suggests that the total cost must be divided by the number of invited persons to arrive at the cost per person. While the language only referenced one lobbyist's principal host, it would suggest that the daily limit is applied to each lobbyist's principal and would allow a public official or public employee to accept no more than \$25 per day from each separate lobbyist's principal, subject to the group invitation rules and the aggregate yearly calendar limit.

Attention is called to §8-13-710 and SEC AO94-005 which apply to non-lobbyist's principals who provide anything of value to public members, public officials, and public employees, covered by that statute. Those public office holders who are required to file Statements of Economic Interests and who are given anything of value by virtue of their position or by donors that are regulated by their agencies must report the value of anything received from the donor, worth \$25 a day or \$200 or more in aggregate in a calendar year. Any regulated entity that provides value separately or in conjunction with a lobbyist's principal would be affected by this provision. Similarly, if the regulated entity is acting on behalf of the lobbyist's principal, there are opinions that advise they would be one and the same.

Therefore, more than one lobbyist's principal may co-host a single function and share the expense of food, drink, entertainment, lodging, and transportation, so long as the different hosts are clearly identified and the per lobbyist's principal per recipient spending caps and group invitations rules (including attendance out-of-state) are met, subject to the facts and circumstances of each event.

KEY WORDS: Lobbyist's Principal Host Function

ANNOTATIONS: §2-17-90(B) §8-13-710 SOS 92-116 SEC AO94-005 SEC AO92-106
