

INTRODUCTION

AUDIT AUTHORITY

Audits of lobbyist registration statements are initiated pursuant to T.C.A. § 3-6-308(a)(7) which requires the Commission to randomly audit no more than four percent of all lobbyists each registration year.

AUDIT SCOPE

As directed by statute, 2010 lobbyist registration statements and applicable amendments were selected for audit on September 29, 2011, under the supervision of the Attorney General's Office. The audit covers lobbying activities for the 2010 calendar year.

AUDIT OBJECTIVE

The objectives of these audits were to determine lobbyist compliance with certain provisions of lobbying disclosure laws and regulations; accuracy and completeness of their 2010 registration statements and applicable amendments; accuracy and completeness of in-state event reporting by lobbyist or employer, as applicable; and to recommend appropriate actions to correct any deficiencies.

AUDIT METHODOLOGIES

REGISTRATIONS

T.C.A. § 3-6-302(a)(2) requires a lobbyist to register within seven days of becoming a lobbyist and each year thereafter. Tennessee Ethics Advisory Opinion No. 06-01 has interpreted the statute so that the act of lobbying is not the trigger for registration, but the act of being employed or retained as a lobbyist that starts the seven-day requirement. In addition, the advisory opinion states that a lobbyist is employed or retained whether the engagement is formal or informal, written or unwritten. The statute also requires the registration be performed electronically. The lobbyist registration system created for the Tennessee Ethics Commission requires each registration year be initiated by the Bureau of Ethics and Campaign Finance staff before a lobbyist can register. The system was set for registration for 2010 in mid-December to reduce the volume of registration at the start of the year. The mid-December availability of the system allowed lobbyists with continuing agreements to register for the new lobbyist year prior to the commencement of the year. As a lobbyist must register annually and the mid-December availability is for early registration, any continuing lobbyists who registered before January 8, 2010 were determined to have timely registered.

The audit reviewed lobbyist registration statements, contracts, payroll documents, and statements from lobbyists and employers of lobbyists. The auditor then determined the earliest date that it appeared a lobbying agreement occurred. Any registrations filed within 7 days of the earliest date determined by audit were considered timely filed. The audit report also includes notation for when a lobbyist did not file within 7 days of the employer of lobbyist registrations.

COMPENSATION

T.C.A. § 3-6-304(k) restricts a lobbyist from soliciting or accepting compensation that is contingent upon successfulness of the lobbying activity. The audit reviewed compensation documentation, including contract, payroll records, and statements from lobbyists and employers of lobbyists, to determine that contracts and compensation did not include contingency payments based on lobbying success.

FAMILY OR BUSINESS ARRANGEMENTS WITH PUBLIC OFFICIALS

The lobbyist registration statements require disclosure of business or familial relationships with persons who are officials in the legislative branch or officials in the executive branch. The audit obtained additional statements from each lobbyist to ensure that all arrangements have been disclosed.

TRAINING & FEES

Each lobbyist is required to pay a registration fee for each employer for whom he provides lobbying services. In addition, the lobbyist is required to complete a lobbyist training session during the registration year and to pay a related training fee. The audit reviewed the Bureau of Ethics and Campaign Finances lobbyist records to determine that the lobbyist completed the required lobbyist training for the 2010 registration year and paid the associated registration and training fees.