

March 28, 2007

The Honorable Lewis R. Vaughn
Member, South Carolina Senate
501 Gressette Senate Office Building
Columbia, South Carolina 29202

Dear Senator Vaughn:

We issue this opinion in response to a request from you for clarification as to “whether a legislative delegation may appoint a registered lobbyist to serve as a member of a county transportation committee.”

Law/Analysis

In your letter, you refer to section 2-17-110 of the South Carolina Code (2005), which states several acts prohibited of lobbyists, and includes:

A lobbyist may not serve as a member of a state board or state commission, except that any lobbyist serving as a member of a state board or a state commission before January 1, 1991, may continue to serve as a member of the same state board or state commission until the end of his current term.

S.C. Code Ann. § 2-17-110(D). Thus, you ask whether a county transportation committee is a “state board or state commission” for purposes of this provision and thereby, prohibits a registered lobbyist from serving as a member of a county transportation committee.

“The cardinal rule of statutory interpretation is to ascertain and effectuate the intention of the legislature.” Howell v. United States Fidelity and Guar. Ins. Co., 370 S.C. 505, 509, 636 S.E.2d 626, 628 (2006). “If a statute’s language is plain, unambiguous, and conveys a clear meaning ‘the rules of statutory interpretation are not needed and the court has no right to impose another meaning.’ The words of the statute must be given their plain and ordinary meaning without resorting to subtle or

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forced construction to limit or expand the statute's operation." Buist v. Huggins, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (quoting Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). Furthermore, our courts recognize that "[s]tatutes which are part of the same legislative scheme should be construed together." State v. Gordon, 356 S.C. 143, 152, 588 S.E.2d 105, 110 (2003).

Section 2-17-110 specifies a lobbyist is prohibited from serving as "a member of a state board or state commission." S.C. Code Ann. § 2-17-110(D) (emphasis added). Thus, based on the plain and ordinary meaning of the language used in this provision, we believe this prohibition only applies to state boards and commissions, not to local boards and commissions.

Furthermore, while chapter 17 of title 2, governing lobbyist and lobbying, does not define the terms state board or state commission, we note that section 8-13-100(13) of the South Carolina Code (Supp. 2006) defines "[s]tate board, commission, or council" to mean "an agency created by legislative action which has statewide jurisdiction and which exercises some of the sovereign power of the State." Both sections 2-17-110 and 8-13-100, while not contained in the same title of the Code, were enacted as part of the Ethics, Government Accountability, and Campaign Reform Act of 1991. 1991 S.C. Acts 1578. Thus, we find section 8-13-100(13) to be instructive in determining the meaning of the terms used in section 2-17-110. In addition, we note that both of these provisions are under the oversight of the State Ethics Commission.

As you point out in your letter, section 12-28-2740 of the South Carolina Code (Supp. 2006) establishes county transportation committees by calling for their appointment by legislative delegations. Furthermore, this provision gives these committees the authority, among other things, to distribute proceeds from gasoline user fees collected by the State. S.C. Code Ann. § 12-28-2740. In prior opinions of this Office, we concluded based on the authority given to county transportation committees by the legislature, these committees exercise some of the sovereign power of the State. Op. S.C. Atty. Gen., July 26, 2002. However, section 12-28-2740 is clear that these committees operate solely within each county. Thus, county transportation committees fail to meet the definition of a state board, commission, or council under section 8-13-100(31) because they lack statewide jurisdiction. Accordingly, our interpretation of the language in section 2-17-110, with the aid of section 8-13-100, further supports our conclusion that the Legislature did not intend to preclude lobbyists from serving on county transportation committees.

Conclusion

Based on the plain and ordinary meaning of the terms used in section 2-17-110 of the South Carolina Code and in reading this provision in conjunction with provisions of the Ethics Reform Act, we are of the opinion that a legislative delegation is not prohibited under section 2-17-110 of the

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South Carolina Code from appointing a registered lobbyist to serve on a county transportation committee.

Very truly yours,

Henry McMaster
Attorney General

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REVIEWED AND APPROVED BY:

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