

1975 WL 29661 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 4, 1975

*1 Mr. David F. Williams
Director of Legal Services
Municipal Association of South Carolina
Suite 900
The Columbia Building
Columbia, SC 29201

Dear Mr. Williams:

You have inquired as to the effect of an opinion styled Bradley v. Saxby, Civil Action No. 74-1327 (D.D.C. Dec. 18, 1974) upon the applicability to the Municipal Association of South Carolina of Chapter 6, Title 30, Code of Laws of South Carolina of 1962, as amended by Act No. 1140, [1974] S. C. Acts & Jt. Res. 2622. The Municipal Association of South Carolina is funded by the municipalities of South Carolina, and lobbies before the South Carolina General Assembly solely on their behalf. The Bradley Court construed provisions of the Federal Regulation of Lobbying Act, [2 U.S.C. §§ 261 et seq.](#), and determined that municipal employees engaged in lobbying for cities, counties and municipalities are exempt from registration under the Federal Regulation of Lobbying Act. While this opinion may be of interest to judges interpreting South Carolina statutes and may influence their decision, it is certainly not binding upon them.

Under Act No. 1140, [1974] S. C. Acts & Jt. Res. Section 30-155(c) states:

The provisions of 30-152 [registration] are not intended and shall not be construed to apply to the following:

...

(c) Any duly elected or appointed official or employee of the State, the United States, a county, municipality, school district or public service district, when appearing only and solely in matters pertaining to his office and public duties.

Therefore, it is clear that in South Carolina municipal employees are exempt from registering before lobbying in the South Carolina General Assembly when appearing solely on official public matters. While the employees of the Municipal Association of South Carolina are not technically 'appointed official(s) or employees(s) of a municipality', the exemption of Section 30-155(c) would appear to apply to employees of the Municipal Association by virtue of their being paid from municipal funds and serving at the pleasure of a board of directors composed of municipal officials.

It should be pointed out, however, that municipal employees in South Carolina do not appear to be exempt from the provisions of Section 30-154 concerning the filing of an annual report. It is in this regard that the opinion of Judge Gesell in Bradley v. Saxbe could have applicability to the construction of our Lobbyists and Lobbying statutes. Judge Gesell noted that the Federal Regulation of Lobbying Act was construed to apply only to private special interest groups by the Supreme Court in United States v. Harriss, [347 U.S. 612 \(1954\)](#), thereby avoiding serious First Amendment challenges. If this construction is placed upon our Lobbyists and Lobbying statutes employees of the Municipal Association of South Carolina should be exempt from filing an annual report. This office must take the position that inasmuch as the Lobbyists and Lobbying Act has been enacted, it is presumed to be constitutional. We also advise, however, that if an action were brought pursuant to [28 U.S.C. §§ 2201 et seq.](#), or Sections 10-2001 et seq. of the South Carolina Code of

Laws, 1962, as amended (declaratory judgment acts), the reasoning of Judge Gesell in Bradley v. Saxbe might be adopted to avoid First Amendment challenges to our Lobbyists and Lobbying statutes.

Very truly yours,

*2 John L. Choate
Staff Attorney

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