

1975 WL 29337 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 22, 1975

***1 Re: Section 26, Act 191 of 1975 (Ethics Act)**

The Honorable John Drummond
Chairman
Senate Legislative Ethics Committee
State House
Columbia, SC 29211

Dear Senator Drummond:

Attorney General McLeod asked that I respond to your request for clarification of the word 'entity' as used in § 26 of the Ethics Act. Section 26 provides as follows:

In addition to the statement of economic interests required pursuant to Section 24, all persons required to file such statements shall further report to the State Ethics Commission or appropriate legislative committee the name of any person he knows to be a lobbyist as defined in Section 30-152 of the 1962 Code and knows that such lobbyist or the entity he represents has in the previous calendar year purchased from him, any member of his household, or from his business, goods or services in an amount in excess of two hundred dollars. Gifts from a lobbyist or the entity he represents in a value of more than one hundred dollars shall also be reported at the same time. (emphasis added)

The question arises as to whether the word 'entity' refers to an individual business or organization or to an association formed by several such businesses or organizations in order to advance their common interests.

Under § 9(4) of the Act, the Senate Legislative Ethics Committee is directed, among other duties, to:
Act as an advisory body to the General Assembly and to individual members of the appropriate house on questions relating to possible conflicts of interest.

In advising members pursuant to § 9(4) as to the meaning of § 26, I recommend that your committee proceed initially on a case-by-case basis. In the case of the situation that we discussed, i.e. the situation of a lawyer-legislator who in the ordinary course of his legal practice represents a local firm which happens to be a member of a state-wide trade association which is represented by a lobbyist, and where the legal services rendered by the lawyer-legislator have no connection with the representational efforts of the lobbyist, the Committee could conclude that the legal fees need not be reported pursuant to § 26.

The rationale is that § 26 requires only that the name of the lobbyist be reported when the 'lobbyist or the entity he represents' has purchased goods or services in excess of \$200 from the public official or employee. In the situation you described, there appears to be no connection whatsoever between a lobbyist or lobbying activities and the legal services purchased.

It must be noted, however, that even if legal fees here in question are not required to be reported pursuant to § 26, the legislator's conduct remains subject to the Act's Rules of Conduct, of which §§ 12-17 are especially relevant to the legal fees referred to herein.

The entire § 26 has caused difficulties of interpretation, and the question here raised is certainly not free from doubt. It is for this reason that the Committee may wish initially to interpret § 26 on a case-by-case basis. Under separate cover I shall as you requested provide you with recommended changes in the present Act, including changes in § 26.

Sincerely,

*2 Edward E. Poliakoff
Assistant Attorney General

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