

Minutes
Indiana Lobby Registration Commission
Public Meeting
October 4, 2012 10:00 a.m.
10 W. Market Street, Conference Room 270
Indianapolis, Indiana 46204

Members Present: Jan Abbs, Sue Scholer, John Whikehart, and Joe Micon

Member Unable to Attend: None

Staff Present: Charles Harris, Executive Director & General Counsel, Amy Nicholson, Assistant Director, and Shannon Moore, Executive Assistant

Others in Attendance: Caryl Auslander, Robin Beck, Christi Heiney, Andrew Hoff, Laura Schenkel Johnson, Bonnie Lewis, Ashley Miller, Jana Noble, and Debbie Rolfsen

Call to Order

On October 4, 2012, the public meeting of the Indiana Lobby Registration Commission was called to order at approximately 10:03 a.m. by the Chairperson of the Commission, Jan Abbs.

Approval of Minutes

Commissioner Scholer moved approval of the minutes of the Commission's Executive Session Public and the minutes of its Public Meeting, both of which were held on May 21, 2012. Her motion was seconded by Commissioner Micon and unanimously approved by a voice vote of the Commissioners.

Late Fee Appeals

Mr. Harris reported that 70 of 71 appeals of late fees were successfully resolved by staff by applying the guidelines approved by the Commission at its March 6, 2012 meeting. He said that late fees of \$35,500 have been collected from the lobbyists who submitted the resolved appeals. Mr. Harris noted that the only appeal still pending was submitted by the American Cancer Society. He stated that the Society had more than two prior late filings during the last four years and that the settlement guidelines call for a fee limit of \$2,500 in such a case, and he indicated that the normal late fee due from the Society for filing its semi-annual activity after the May 31, 2012 due date is only \$1,400. Following a brief discussion, Commissioner Whikehart moved to set the late fee to be charged to the American Cancer Society at \$1,400. His motion

was seconded by Commissioner Scholer and unanimously approved by a voice vote of the Commissioners.

Mr. Harris then reviewed proposed changes to the policies for the administrative resolution of late fees. He said that the only substantive change was to clarify that a late fee should not be charged if a lobbyist corrects an error in a registration statement or activity report within ten business days after the date of the Commission's written notice concerning the error. He noted that a failure to correct such an error within that time period would result in the imposition of a late fee beginning with the day after the date that the statement or report was due. Commissioner Micon moved to approve the revisions to the policies. His motion was seconded by Commissioner Whikehart and unanimously approved by a voice vote of the Commissioners.

Revisions to Fiscal Year 2012-2013 Budget

Mr. Harris reviewed revisions to the Commission's budget for fiscal year 2012-2013. He said that it has been necessary to increase the personnel services line item by \$2,700 or from \$205,100 to \$207,800 to account for an increase in the Public Employees Retirement Fund contribution and a wrong assumption he had made concerning the cost of the state's contribution to employee Health Savings Accounts. To offset the \$2,700, he stated that the budget for furniture and equipment has been reduced by \$2,100 and that the internal reserve has been reduced by \$600.

Rule Making and Formal and Informal Advice

In response to a request made at the Commission's May 21, 2012 meeting, Mr. Harris had prepared a memorandum summarizing the process for adoption administrative rules under IC 4-22-2. He briefly reviewed the memorandum and said that it takes a minimum of 3 to 4 months to adopt a rule. Chairperson Abbs said that the Commission does have rule making authority but choose to utilize the Commission's own procedures for adoption of Final Advisory Opinions in lieu of promulgating rules. A summary of those procedures had been prepared by Mr. Harris for the Commission's May 21, 2012 meeting and also was included in the agenda packet for this meeting. Chairperson Abbs noted that the Commission can schedule meetings in such a manner as to respond to a request for a FAO more quickly if that becomes necessary.

Mr. Harris then discussed a compilation of the informal advice that he has provided to lobbyist. At the Commission's May 21, 2012 meeting, some of the lobbyists in attendance had suggested that it would be helpful if the Commission would post on its website a compilation of more frequently asked questions and the Executive Director and General Counsel's response to those questions. Mr. Harris pointed out that the first page of the compilation includes a disclaimer indicating that informal advice provided by the Executive Director and General Counsel does not represent the official opinion of the Commission and should not be relied upon as such. Commissioner Scholer suggested that the disclaimer should be set forth in bold type. It

was agreed that the Commissioners would review the compilation and discuss at its next meeting whether it should be posted on the Commission's website.

Commission's Database

Amy Nicholson briefly reported on the status of the project to build a new online system for the Commission. She said that the project currently is on hold pending a decision about a potential change in the registration year and filing deadlines related to such a change. She also reported that she has met with a focus group of lobbyist to discuss the project and that several good suggestions came forth from members of the group.

Electronic Filing

In response to a request made at the Commission's May 21, 2012 meeting, Mr. Harris had prepared a legal opinion concerning the question of whether the Commission has the authority to mandate electronic filing of statements and reports. He said that it is his opinion that the Commission does not have the authority to mandate electronic filing and explained the basis for his opinion. In particular, he stated that the broad general authority granted to the Commission under IC 2-7-1.6-5 (b) must be read in conjunction with the more specific mandate in IC 2-7-4-1 that the Commission not only prescribe the forms that lobbyist are required to file with the Commission but also make those forms available to persons required to file. He noted that lobbyists have filed over 44% of the registration statements for 2012 on paper and that it is only logical to assume that some of those lobbyists do not have the resources to file electronically. Mr. Harris concluded by suggesting that the Commission ask the General Assembly to amend IC 2-7 to include an electronic filing mandate if it want to move in that direction.

Consideration of Possible Legislation

Mr. Harris explained that he had prepared a draft of possible amendments to IC 2-7- and IC 5-14-7 for consideration by the Commission. He noted that the draft includes some amendments that merely correct errors, some that clarify existing law, and some that would make substantive changes in the existing law. He said that the substantive changes include:

1. increasing in the annual registration fees;
2. changing the registration year form the calendar year to November 1 through October 31 to coincide with the reporting year;
3. mandating electronic filing of registration statements and activity reports, subject to a hardship exception; and
4. revising the process for transmission of gift and purchase reports.

During a discussion of the draft, some of the lobbyist in attendance suggested that it would be helpful to eliminate the two month gap that currently exists between the registration year and the reporting year. Chairperson Abbs stated that she would rather see this issued resolved even if it means a delay in the database project. Some of the other issues discussed included increasing the

annual registration fee for most lobbyists to \$200 and giving additional time to register a new lobbyist by basing the deadline on 15 business days, rather than calendar days, or by increasing the number of days from 15 to 21. It was agreed that Mr. Harris will prepare a circulate a revised draft to the Commissioners for their review and comment and that the Commission will meet again during November or December to consider the revised draft as well as other matters to come before the commission.

Staff Reports

Because of the time devoted to other agenda items, Amy Nicholson was not able to cover the staff report items listed on the agenda. However, Amy did provide handouts to the Commissioners that included some of the information.

Adjournment

There being no further business to come before the Commission, Commissioner Micon moved to adjourn the meeting. His motion was seconded by Commissioner Scholer and unanimously approved by a voice vote of the Commissioners. The time of adjournment was approximately 11:33 p.m.