

**Minutes
Indiana Lobby Registration Commission
Public Meeting
February 1, 2017 11:00 a.m.
Market Tower Conference Room
10 W. Market Street
Indianapolis, Indiana 46204**

Members Present: Sue Scholer, Beverly Gard, Joe Micon, and Terry White.

Member Unable to Participate: None

Staff Present: Charles Harris, Executive Director & General Counsel, Amy Nicholson, Assistant Director, and Kaytie Barrett, Office Manager.

Signed-In Attendees: Robin Beck, Brad Boswell, Christi Heiney, Elizabeth Hodge, Bill Keown, Brenda Kirch, and Mindy Westrick.

Call to Order

On February 1, 2017, the public meeting of the Indiana Lobby Registration Commission was called to order at approximately 11:05 a.m. by the Chairperson of the Commission, Sue Scholer. Before preceding to the first item on the agenda, Chairperson Scholer made the following statement:

“The Indiana Lobby Registration Commission met in executive session immediately before this public meeting. The sole purpose of the executive session was to discuss the job performance evaluation of an individual employee as permitted under IC 5-14-1.5-6.1 (b) (9). No other subject matter was discussed during the executive session, and the Commission took no action during the executive session.”

Approval of Minutes

Commissioner Gard moved for approval of the minutes of the Commission’s executive session held on November 7, 2016. Her motion was seconded by Commissioner White and unanimously approved by a voice vote of the Commissioners. Commissioner Gard then moved for approval of the minutes of the Commission’s public meeting also held on November 7, 2016. Her motion was seconded by Commissioner Micon and unanimously approved by a voice vote of the Commissioners.

Late Fee Appeals

Mr. Harris said that the Commission recorded 119 late fee appeals on its log of appeals between November 6, 2016 and January 26, 2017. He stated that 112 of those appeals have been resolved administratively with \$52,900 in late fees collected from the lobbyists who filed those 112 appeals. With respect to six of the remaining appeals, Mr. Harris indicated that the final date for the lobbyist to accept the Commission’s settlement offer has not passed yet. He said that it is staff’s recommendation that the Commission approve a late fee for each of those lobbyists equal to the amount included in the

Commission's settlement offer should the lobbyist not accept the offer on or before the date that the offer expires. Commissioner Gard moved for approval of staff recommendation with respect to those six pending appeals. Her motion was seconded by Commissioner White and unanimously approved by a voice vote of the Commissioners.

The Commission then heard an appeal of a late fee from KWK Management Group, LLC with respect to its filing of an employer lobbyist registration statement for the 2016-2017 registration year at least 45 days after the November 1, 2016 due date. KWK was represented by Mr. William Keown, who is a partner of KWK. Mr. Keown argued that KWK should not be assessed a late fee because it filed a timely compensated lobbyist registration statement. In response, Mr. Harris emphasized the following facts:

- (1) IC 2-7-2-3 requires one who is paid to lobby to register as a compensated lobbyist and to include on the registration statement specific information about each person who is paying the registrant to lobby.
- (2) IC 2-7-2-4 requires one who pays others to lobby to register as an employer lobbyist and to include on the registration statement specific information about the persons that the registrant is paying to lobby.
- (3) It has been the long-standing administrative practice of the Commission to require a lobbyist to register as both an employer lobbyist and as a compensated lobbyist if the lobbyist is paid by clients to lobby and also pays others to lobby.
- (4) KWK consistently filed separate compensated lobbyist and employer lobbyist registration statements for the eleven years preceding the 2016-2017 registration year.
- (5) KWK rejected the Commission's offer to settle KWK's late fee appeal for \$500, which is consistent with the settlement amount for a lobbyist with just one other late filing during the last four years as provided for under the late fee settlement guidelines previously approved by the Commission.
- (6) Under IC 2-7-2-2, the Commission has the authority to entirely waive KWK's late fee or to impose a late fee in a specific amount not to exceed \$4,500. However, the Commission has only waived late fees in a very limited number of cases where there have been extraordinary circumstances, such as a death or significant illness during the normal filing period.
- (7) Because of the manner in which similar appeals have been settled with other lobbyists under similar circumstances, staff cannot recommend a late fee of less than \$500 for KWK's filing of its employer lobbyist registration statement after the due date.

The Commissioners then engaged in a discussion of KWK's appeal. During that discussion, Commissioner White pointed out the following language from page 5 of the Lobbyist Handbook, "Indiana requires separate registration statements from employer lobbyists and compensated lobbyists." Commissioner's Micon expressed his opinion that the Commission's interpretation of the registration requirements under IC 2-7 is reasonable. He also stated that one who disagrees with the Commission's interpretation could always ask the General Assembly to

provide further clarification through an amendment to the statute. Following a thorough discussion of the appeal, Commissioner Micon moved for approval of a late fee in the amount of \$500 with respect to KWK's late filing of its employer lobbyist registration statement for the 2016-2017 registration year. His motion was seconded by Commissioner Gard and unanimously approved by a voice vote of the Commissioners.

Fiscal Year 2016-2017 Budget Report

Mr. Harris reported on the status of the Commission's budget for fiscal year 2016-2017. He stated that the remaining balance of the Commission's budget for fiscal year 2016-2017 as of January 6, 2017 was \$180,625 or 54.27% of its \$332,881 appropriation for the fiscal year. He noted that \$1,000 previously had been transferred from the Commission's internal reserve to the personal services line item of the budget to address increases in the Commission's share of the cost of medical insurance coverage for its employees, which increases took effect January 1, 2017. He said it is possible to restore the \$1,000 to the Commission's internal reserve now that the expenses related to participation in COGEL's annual meeting are known. To do so, the Commission merely needs to transfer \$500 from its out-of-state travel line item and \$500 from its COGEL line item to its internal reserve line item.

Commissioner Micon moved for approval of the two proposed \$500 transfers. His motion was seconded by Commissioner White and unanimously approved by a voice vote of the Commissioners.

Report on 2017 Session Legislation

Mr. Harris reported on the status of two bills that have been filed for the 2017 session of the General Assembly. He said that Senate Bill 289 had been filed by Senator Delph and has been referred to the Senate Committee on Rules and Legislative Procedures. He stated that the bill would significantly limit the ability of a registered lobbyist or a state college or university to entertain or make gifts to a member or employee of the General Assembly. He noted that the bill also would require each lobbyist to keep a log of communications with members and staff of the General Assembly and to file with the Commission on a weekly basis either the log or a statement that no reportable communication took place. The Commission would then be required to post the logs on its website. Mr. Harris said that the Commission would need to acquire funding for additional resources if SB 289 were to become law. He indicated that he would continue to track the bill.

Mr. Harris then reported on House Bill 1001, the budget bill for the 2017-2019 biennium. He noted that Representative Tim Brown is the author of the bill and that Representatives Porter, Cherry, and Goodin are its co-authors. Mr. Harris indicated that the bill has been assigned to the House Ways and Means Committee. He stated that SECTION 2 of the bill includes appropriations to the Commission of \$337,153 for fiscal year 2017-2018 and \$347,150 for fiscal year 2018-2019, which are the same amounts that the Commission included in its budget request for the biennium.

Staff Reports

Ms. Nicholson distributed a summary of the entertainment and gift expenses reported by the seven state colleges and universities for the 2015-2016 reporting year. She also handed out a compilation of the expenditures reported by compensated lobbyists and employer lobbyists for both semi-annual periods of the 2014-2015 and 2015-2016 reporting years. Ms. Nicholson also provided the Commissioners with a breakdown of the number of lobbyist registered as employer lobbyists, compensated lobbyists, or both compensated and employer lobbyists for the 2015-2016 and 2016-2017 registration years. She concluded her remarks with a brief report on the 2016 COGEL annual meeting which she attended as the Commission's representative.

Comments

Chairperson Scholer called for comments from Commissioners or others in attendance.

Adjournment

There being no further business to come before the Commission, Commissioner White moved to adjourn the meeting. His motion was seconded by Commissioner Micon and unanimously approved by a voice vote of the Commissioners. The time of adjournment was approximately 12:15 p.m.