

State of Minnesota
Campaign Finance & Public Disclosure Board
Suite 190, Centennial Building. 658 Cedar Street. St. Paul, MN 55155-1603

**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON-PUBLIC DATA
under Minn. Stat. § 10A.02, subd. 12(b)**

**RE: Reporting the Cost of Producing and Disseminating Information Related to
Legislative Action as a Lobbying Disbursement.**

ADVISORY OPINION 347

SUMMARY

The cost of producing and distributing a video that provides information about an issue before the legislature is a lobbying disbursement that must be disclosed on the Annual Report of Lobbyist Principal and on a periodic Lobbyist Disbursement Report.

FACTS

As the legal representative for an association, you ask the Campaign Finance and Public Disclosure Board (the Board), for an advisory opinion based on the following facts:

1. The association is a nonprofit advocacy organization. The organization is involved in the legislative process, is a lobbyist principal, and has lobbyists registered with the Board.
2. In 1995 the association produced a video for use in urging association membership to contact their legislators.
3. In its current modified form the video does not specifically urge viewers to contact members of the state legislature. The video does provide screen text asking viewers to take actions that, in the context of the video, are related to

potential legislative action. The body of the video relates a state program to issues that are of concern to members of the association.

4. Members of the association view the video in its current form as educational in nature.
5. Members of the association plan to air the modified version of the video at meetings. Local cable television stations may also use the video.

ISSUE ONE

Does the video constitute a lobbying expenditure based on its content and purpose?

OPINION

Yes. Minnesota Statutes §10A.04, subd. 6 (c) (2), provides in part that a lobbyist principal must report “all expenditures for advertising, mailing, research, analysis, compilation and dissemination of information, and public relations campaigns related to legislative action ...”. Specific words or phrases are not required to classify material as a reportable lobbying disbursement. The need to report material as a lobbying disbursement depends on whether the purpose of the material is tied to some action of the legislature. The association may view the video as educational, however it is also intended to alert viewers of the possible consequences of pending legislative action. As such, the video is “dissemination of information...related to legislative action” under the statute.

ISSUE TWO

If the video is a reportable lobbying expenditure must the association report expenses associated with producing the spot in 1995 or only the costs associated with its modification and distribution in 2003?

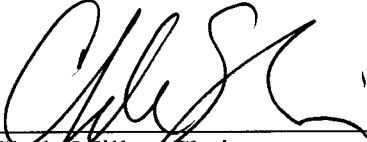
OPINION

If the association included the cost of producing and distributing the video in 1995 in its annual report of lobbying disbursements, then only the additional cost to modify and distribute the video in its current form is reportable in 2003. If the initial production cost was not reported in 1995, then the total cost of initial production, modification, and distribution is reportable in 2003.

The designated lobbyist of the association must report the cost of producing and distributing the video on the lobbyist’s Lobbying Disbursement Report (Minn. Rules

4511.0500, Subp. 2, (A)). The designated lobbyist would include the video production and video costs under the "lobbying materials" disbursement category (Minn. Rules 411.0600, Subp. 5, (A)).

Issued February 24, 2003



Clyde Miller, Chair
Campaign Finance and Public Disclosure Board

Cited Statutes

10A.04 Lobbyist reports.

Subd. 6. **Principal reports.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year.

(b) The principal must report the total amount, rounded to the nearest \$20,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units.

(c) The principal must report under this subdivision a total amount that includes:

(1) all direct payments by the principal to lobbyists in this state;

(2) all expenditures for advertising, mailing, research, analysis, compilation and dissemination of information, and public relations campaigns related to legislative action, administrative action, or the official action of metropolitan governmental units in this state; and

(3) all salaries and administrative expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state.

4511.0500 REPORTING REQUIREMENTS.

Subpart 1. **Separate reporting required for each entity.** A lobbyist must report separately for each entity for which the lobbyist is registered, unless the disbursements are reported in the manner provided in subpart 2.

Subp. 2. **Reporting by multiple lobbyists representing the same entity.** Items A to F apply if a single individual, association, political subdivision, or public higher education system is represented by more than one lobbyist.

A. The entity must appoint one designated lobbyist to report lobbyist disbursements made by the entity. The designated lobbyist must indicate that status on the periodic reports of lobbyist disbursements.

4511.0600 REPORTING DISBURSEMENTS.

Subp. 5. **Specific disbursement categories.** Disbursements must be reported based on the categories in items A to I.

A. "Lobbying materials" includes the cost of production, purchase, or other acquisition of materials that directly support lobbying.