

**NOTICE OF INTENT TO ADOPT AN ADVISORY OPINION OF THE
GEORGIA GOVERNMENT TRANSPARENCY AND
CAMPAIGN FINANCE COMMISSION**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Government Transparency and Campaign Finance Commission (hereinafter "Commission") proposes to adopt:

Advisory Opinion No. 2016-03

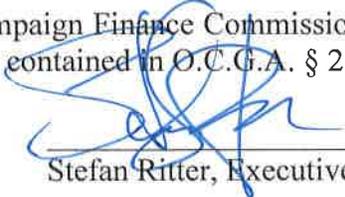
This notice, together with an exact copy of the proposed advisory opinion is being mailed to all persons who have requested, in writing, that they be placed on a mailing list. A copy of this notice, an exact copy of the advisory opinion may be reviewed during normal business hours of 8:30 a.m. to 4:30 p.m. Monday through Friday, except official State holidays, at the Georgia Government Transparency and Campaign Finance Commission, 200 Piedmont Avenue SE, Suite 1402 - West Tower, Atlanta, Georgia 30334. These documents will be available for review on the Georgia Government Transparency and Campaign Finance Commission website (www.ethics.ga.gov). Copies may be requested by contacting the Commission at 404-463-1980.

A public hearing is scheduled to begin at 10:00 AM on June 23, 2016 in Room 606 at the Coverdell Legislative Office Building, 18 Capitol Square SW, Atlanta, GA 30334 to provide the public an opportunity to comment upon and provide input into the proposed advisory opinion. At the public hearing anyone may present data, make a statement, comment, or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five (5) minutes per person. Written comments are welcome. Such written comments must be legible and signed, and should contain contact information from the maker (address, telephone and/or facsimile number, etc.). To ensure their consideration, written comments must be received on or before June 22, 2016. Written Comments should be addressed to Nancy Sandberg, Legal Administrative Assistant, Georgia Government Transparency and Campaign Finance Commission, 200 Piedmont Avenue SE, Suite 1402 – West Tower, Atlanta, Georgia 30334. Fax: 404-463-1988.

The proposed advisory opinion will be considered for adoption by the Commission at its meeting scheduled to begin at 10:00 a.m. on June 23, 2016, at the Coverdell Legislative Office Building, Room 606, 18 Capitol Square SW, Atlanta, GA 30334.

The Georgia Government Transparency and Campaign Finance Commission has the authority to adopt this advisory opinion pursuant to authority contained in O.C.G.A. § 21-5-6(b)(13).

This 24th day of May, 2016.



Stefan Ritter, Executive Secretary



GEORGIA GOVERNMENT TRANSPARENCY & CAMPAIGN FINANCE COMMISSION

Advisory Opinion 2016-03

In response to a request on May 2, 2016, from Rep. Virgil Fludd, the Georgia Government Transparency and Campaign Finance Commission (hereinafter "Commission") advises that the Campaign Finance Act prohibits members of the General Assembly from registering as a lobbyist and engaging in any act which would constitute lobbying, pursuant to O.C.G.A. § 21-5-70(4), for a period of one year from the date said member leaves said office. *See* O.C.G.A. § 21-5-75(a).

Question Presented

Does the state prohibition on former legislators not being able to lobby state entities (legislature, governor's office, etc.) apply to local government as well?

Background

Prior to January 8, 2007, members of the Georgia General Assembly were, upon leaving office, allowed to immediately register as lobbyists and engage in lobbying activities. However, the Georgia General Assembly amended the Campaign Finance Act during its 2005 session to include a general prohibition which prevents all members of the General Assembly, along with other elected state level public officers, from registering as a lobbyist or engaging in lobbying activities for a period of one year from the date said public officer leaves office. *See* Ga. L. 2005, p. 859 § 23/HB 48.¹ On May 2, 2016, Representative Virgil Fludd asked for a formal opinion from the Commission whether "the state prohibition on former legislators not being able to lobby state entities (legislature, governor's office, etc.) appl[ies] to local government as well."

Discussion

The Campaign Finance Act requires all persons who engage in lobbying activities to register with the Commission prior to engaging in said lobbying activities, as well as, file various

¹ "Except as provided in subsection (b) of this Code Section, on and after January 8, 2007, persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 and the executive director of each state board, commission, or authority shall be prohibited from registering as a lobbyist or engaging in lobbying under this article for a period of one year after terminating such employment or leaving such office."

financial disclosures regarding said activities. *See* O.C.G.A. § 21-5-70, *et seq.* In drafting the one year prohibition, the General Assembly was very clear that "...persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 [elected state public officers and members of the General Assembly]... shall be prohibited from registering as a lobbyist or engaging in lobbying under this article for a period of one year after ... leaving such office." O.C.G.A. § 21-5-75(a) (emphasis added).

The General Assembly has defined "lobbying" as "the activity of a lobbyist while acting in that capacity." O.C.G.A. § 21-5-70(4). Thus, "lobbying" is any action taken by a registered lobbyist while said person is engaged in an attempt to support or oppose a particular act by a public officer (*e.g.*, a public officer's vote, selection or other official act). *See generally* O.C.G.A. § 21-5-70(6) (The General Assembly expanded the definition of "public officer" for purposes of who could be lobbied by "...includ[ing] any public officer [including municipal and county officials as defined in paragraph (22) of Code Section 21-5-3] or employee who has any discretionary authority over, or is a member of a public body which has any discretionary authority over, the selection of a vendor to supply any goods or services to any state agency").

Thus, as the General Assembly did not create an exception to or limit the scope of the prohibition contained in O.C.G.A. 21-5-75 to only State or local governmental lobbying, the Commission concludes that it was the intent of the General Assembly that the prohibition against lobbying by former members of the General Assembly applies to all lobbying activities irrespective of the level of government that is being lobbied. *See Opensided MRI of Atlanta v. Chandler*, 287 Ga. 406, 407 (2010) ("When a statute contains clear and unambiguous language, such language will be given its plain meaning and will be applied accordingly.").

Conclusion

For the forgoing reasons, the Commission advises that the Campaign Finance Act prohibits members of the General Assembly from registering as a lobbyist and engaging in any act which would constitute lobbying, pursuant to O.C.G.A. § 21-5-70(4), for a period of one year from the date a legislator leaves said office.

Advisory Opinion 2016-03 is hereby adopted by the Commission in conformity with O.C.G.A. § 21-5-6(13) on _____, 2016.

R. Lawton Jordan III
Chair of the Commission

AO 2016-03 prepared by Stefan Ritter and Robert S. Lane.
May 17, 2016.