

MEMORANDUM

TO: George Angelone
Executive Director
Legislative Services Agency

FROM: Edward E. Ferguson
Executive Director and General Counsel
Indiana Lobby Registration Commission

RE: LRC Response to Legislative Council Resolution

DATE: September 10, 2020

This Memorandum is in response to the request for information made by the Legislative Council in section 7 of Resolution 20-02.

LRC OVERVIEW

The Indiana Lobby Registration Commission (LRC), a separate and independent agency within the legislative branch of state government, was established in 1992, and operates under the provisions of IC 2-7. Its offices are located in Market Tower, Suite 2070, 10 West Market Street, Indianapolis, Indiana. The LRC consists of four members, one each appointed by the President Pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the House of Representatives, and the Minority Floor Leader of the House of Representatives. Commissioners serve four-year terms (IC 2-7-1.6-1-3). The current Commissioners are Beverly Gard (Chair, Greenfield), Sue Scholer (West Lafayette), Terry White (Evansville) and Joe Micon (West Lafayette). Under IC 2-7-1.6-5 (7), the LRC employs two full-time staff persons and one half-time Executive Director and General Counsel. The LRC staff and Commissioners administer the statutory requirements of IC 2-7 as they pertain to the registrations and activities of lobbyists in Indiana.

The LRC's offices are typically open to the public Monday through Friday (except for state holidays) from 8:30 a.m. until 4:30 p.m. However, because of the COVID-19 pandemic, its offices were closed in late March, 2020, and the staff began working from home. They continue to do so. Authority for the closure ultimately rested with the LRC under IC 2-7-1.6-1 (c) and IC 2-7-1.6-5 (b)(10)(A). Even though the LRC is part of the legislative branch, the Commission also relied on guidance provided in Executive Orders issued by Governor Eric J. Holcomb. Since the March office closure, all activities and business of the LRC have been successfully conducted remotely from the homes of the staff and the Commissioners through emails, telephone calls, and online filings.

PRIMARY LRC RESPONSIBILITIES AND LRC'S PERFORMANCE OF THEM DURING THE COVID-19 PANDEMIC

The LRC's primary statutory responsibilities include:

- accepting and processing lobbyist registration statements (done annually for existing lobbyists and as required for new lobbyists);
- accepting and processing Memoranda of Understanding between lobbyists and their clients (done as statutorily required);
- accepting and processing lobbyist activity reports (done twice each year for all registered lobbyists);
- accepting and processing lobbyist gift and purchase reports (required when gifts or purchases are made that fall within statutory reporting requirements for those transactions);
- accepting and processing activity reports for state educational institutions (done once each year by the nine state colleges and universities);
- responding to requests for information and assistance from lobbyists and the public; and
- conducting audits of a select number of lobbyists each year (done per statute on an annual basis).

Accepting and Processing Lobbyist Registrations and Memoranda of Understanding

Under IC 2-7-2, a registration statement is required of each lobbyist for each reporting year. Registration statements are done online, and the LRC accepts and processes registration statements as they are received. No changes in that process were necessitated by the COVID-19 pandemic. Prior to the COVID-19 pandemic, Memoranda of Understanding were accepted and processed only by faxed, emailed or hand-delivered submissions. The reason for this was a reluctance, for security reasons, to receive materials with social security numbers by email or online. Following the closure of the LRC offices, staff has modified the process to require MOUs to be sent via email without social security numbers. When an emailed MOU is received, staff follows up with a phone call to obtain the social security number. Alternatively, the filer can send a follow-up email with no identifier other than a nine-number "string" in the body of the email, with no indication that it is a social security number. These modifications were done at staff's own initiative (statutory authority was not required) and have been very well-received by lobbyists.

Lobbyist Activity Reports

Under IC 2-7-3, activity reports are required to be filed by lobbyists twice each reporting year. First period reports must be made by May 31, covering the period from November 1 of the immediately preceding calendar year through April 30. Second period reports must be made by November 30, covering the period from May 1 through October 31. Because of concerns expressed by some lobbyists that because of COVID-19 pandemic office closures (either their own or their clients'), the LRC extended the first period filing deadline to July 15, 2020. Authority for this extension was based on the LRC's statutory authority under IC 2-7-1.6-5 (10)(A) ("do other things necessary and proper to implement this article"), and to conform with

the Governor's Executive Order(s) that extended the filing deadline for filing state income tax returns to the same date. Email notice was given to each lobbyist that the first period activity reporting deadline had been extended, and notice was also posted on the LRC website. There are no plans to extend the deadline for filing second period activity reports.

Lobbyist Gift Reports and Activity Reports

No modifications were necessary for this responsibility, as these reports are currently made online. (Gift reports are made pursuant to IC 2-7-3-3.3; purchase reports are made pursuant to IC 2-7-3-7.) After the report(s) have been reviewed by staff, they are emailed either to the Secretary of the Senate or to the Clerk of the House of Representatives.

Activity Reports of State Educational Institutions

Under IC 2-7-3.5, one activity report is required to be filed each year that reports expenditures made by a state educational institution, affiliated entity of a state educational institution, or employee of such an institution for lobbying activities of a kind reportable by a lobbyist under IC 2-7-3-3 (a)(3). The report must be made no later than November 30 of each reporting year. There are no plans to extend the deadline or to make any modifications to this requirement.

Responding to Requests for Information or Assistance from Lobbyists and the General Public

The LRC staff routinely responds to requests for information from lobbyists and the general public. Such requests are usually made via telephone or email. Because all LRC staff members, working from home, have access to state telephone and email, no changes have been made regarding this responsibility. As a side note, we have received compliments from lobbyists about the timeliness and quality of our responses.

Audits

Under IC 2-7-4-6, the LRC is required to inspect and audit at least five percent (5%) of all registration statements and reports filed with the commission under this article by requiring the lobbyist to produce verifying documents. Lobbyists are selected for audit via a computer-generated random selection program. Audits for reporting year 2018 have been completed. However, the process has not yet begun for reporting year 2019, although notice of audit and request for verifying documents ordinarily would have been made by this time. The reason for this is the inability of lobbyists to obtain the necessary verifying documents, either because their offices are closed, their clients' offices are closed, or the key personnel who ordinarily would compile such documents are working from home without document access. Additionally, since the LRC offices are currently closed, there is no central place for verifying documents to be submitted. The statute does not require audits to be conducted on an annual basis, although the commission and staff has routinely done so in years past. The commission has not yet determined the process for auditing for reporting year 2019; however, several options could be considered:

- waive or delay audits for reporting year 2019 (this could be accomplished statutorily via authorizing language as part of the LRC’s budget for FY 2021 and FY 2022 that gives the Commission’s Executive Director the authority to forego or delay audits for reporting year 2019);
- conduct reporting year 2019 audits when the LRC office reopens; or
- conduct reporting year 2019 and reporting year 2020 audits in the same calendar year.

Note that since there is no statutory requirement that audits be conducted on an annual basis, only the “waive” option above would require statutory authority.

Preparations to Address Future Emergencies and Recovery From Emergencies Based on LRC Experience With the COVID-19 Pandemic.

Staff has already begun to prepare for the eventual reopening of the LRC offices. We have measured for and ordered safety shields for the reception area to protect the public and our staff from inadvertent transmission of the coronavirus. We will require social distancing and will have sufficient sanitation and cleaning supplies available to keep hands and surfaces clean. Protocols will be in place to make sure that areas of possible contamination are continually kept clean and sanitized. We are also considering a requirement that lobbyists and members of the public who wish to conduct business at the office do so on an appointment basis.

Recommendations for Legislation

Section 7 of Legislative Council Resolution 20-02 asks for recommendations, if any, for legislation that may be needed to help ensure the agency is prepared to address future emergencies; and recommendations, if any, for legislation to permanently repeal or modify any regulations or laws that were or are partially or fully suspended due to the COVID-19 pandemic. At this time the LRC has no such recommendations regarding future emergencies. As mentioned above, the audits of registrations and reports could be waived for reporting year 2019 by statutory language in the budget that gives the Commission’s Executive Director the authority to do so on a one-time basis.