

From: Mark Turner
To: [SoS Rulemaking](#)
Cc: [Renny Fagan](#)
Subject: Comment on proposed lobbyist rules for 4/16/2018 hearing
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Attachments: [Lobbyist Rules Comment 04.11.2018.docx](#)

April 16, 2018

The Honorable Wayne Williams
Colorado Secretary of State
1700 Broadway Suite 200
Denver, CO 80290

Dear Secretary Williams,

Thank you for the opportunity to comment on proposed revisions to the Colorado's Secretary of State's lobbying rules. I write on behalf of Colorado Nonprofit Association, which represents over 1,300 nonprofit member organizations. Our mission is to lead, serve, and strengthen Colorado's nonprofit community to improve the quality of life throughout our state.

Our comments pertain to the following rules:

Rule 1.3.2 (G) regarding activity that could be otherwise considered lobbying

Typically, nonprofit organizations do not have employees paid solely to lobby. Certain employees, such as executive directors, may occasionally lobby as part of their job responsibilities. Colorado law requires these employees to register as professional lobbyists and report their activities if they engage in any lobbying activity. We ask our members to register and report on any lobbying activity as Colorado law requires.

In our view, however, an organizational employee who engages in a minimal amount of lobbying should not be subject to the same reporting requirements as a person paid solely to lobby. Making a few phone calls, sending a few emails, or posting a few tweets to policymakers should not be sufficient to trigger registration requirements. We have concerns that this standard inhibits nonprofit leaders from educating and building relationships with policymakers even if no lobbying takes place.

We appreciate that this rule creates an exception for employees who lobby once a year or less and are not paid solely to lobby. Also, we appreciate that it includes "grassroots" lobbying by employees of an organization who contact their members regarding a bill or a rule.

However, we are not certain if the rule as written means that a single communication, or activity on a single issue, is excepted. We consider the former insufficient because it takes multiple contacts to affect the multiple votes for a bill to pass the House and the Senate. While the latter interpretation is more helpful, an organization may have to lobby on multiple bills and rules per year unexpectedly.

Regarding grassroots lobbying, we ask our member organizations, or nonprofits eligible for membership, to contact their legislators or rulemaking officials on about 5 to 10 bills or rules per year. Emailing, calling, or tweeting on several of these issues would still trigger registration requirements under the revised rule.

Rather than an exception for one communication or one issue, we would prefer to see a broader exception for organizational employees who engage in a minimal amount of lobbying. We encourage the Secretary to consider whether other *de minimis* exceptions in place in other states would be appropriate for Colorado ([see State Lobbying Registration Thresholds by Bolder Advocacy](#)). For example:

- Maine excepts employees who lobby for fewer than 8 hours per month;
- Ohio excepts employees who spend fewer than 5% of compensated time on lobbying; or
- Montana excepts employees who receive less than \$2,500 in compensation for lobbying

We recognize that a statutory change may be necessary to establish a *de minimis* exception for lobbying and would welcome further dialogue on this issue. Any such change should not create a loophole for organizational employees who lobby with any regularity but except those whose lobbying is minimal and infrequent.

Rule 1.5 regarding the definition of monitoring

Lobbyists may be paid to monitor pertinent bills or rules simply to keep their clients or stakeholders informed. We suggest requiring lobbyists to only report on issues they are monitoring if their activities pertain to determining whether to lobby on the issue.

Rule 1.10 regarding the definition of volunteer lobbyist

The definition of volunteer lobbyist in statute indicates that actual and reasonable personal expenses include, but are not limited to, meals, travel, lodging, and parking. As written, this rule indicates these are the only reasonable expenses permitted. We recommend that the rule mirror the statute.

Rule 2.1.2 (a) Waiver of Registration Fee

We appreciate that the revised rule no longer requires the organization to demonstrate that it is operating under financial hardship conditions and only lobbying on one issue per fiscal year. This change gives the Secretary more flexibility to waive the fee for small and start-up nonprofit organizations.

Thank you for the opportunity to comment on these proposed rule changes and feel free to contact me with any questions.

Sincerely,



Mark Turner,

Senior Director of Public Policy