



State of New Jersey

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CN-185
Trenton, New Jersey 08625-0185
(609) 292-8700

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JAMES P. WYSE
Counsel

March 27, 1997

William G. Dressel, Jr., Executive Director
New Jersey League of Municipalities
407 West State Street
Trenton, NJ 08618

Advisory Opinion No. 01-1997

Dear Mr. Dressel:

The Commission has considered your request for an advisory opinion submitted on behalf of the New Jersey League of Municipalities (hereafter, the League), and has directed me to issue this response. You have asked whether or not the employer contributions for medical insurance, Social Security, Medicare, disability insurance and pension and life insurance must be included in calculating the amount that must be reported by a lobbyist organization as wages and other compensation paid to its employee legislative agents.

Submitted Facts

The League is a lobbyist organization that employs legislative agents and files annual reports (Form LI-L) with the Commission pursuant to the Legislative Activities Disclosure Act, N.J.S.A. 52:13C-19 et seq. Its most recent annual report was filed on February 13, 1997 for the 1996 calendar year, and reported on Schedule B as salary and other compensation paid for its legislative agents the sum of \$234,081.70. You write that in calculating that sum, the League has included the employer's contributions for medical insurance, Social Security, Medicare, disability insurance, and pension and life insurance.

Response

The Act requires a lobbyist organization to include in its annual report costs for "...salary, fees, allowances or other compensation paid to a legislative agent..."; see N.J.S.A. 52:13C-22.1. The Commission believes that the disclosure purposes of the Act to set forth the salary and compensation paid to employee legislative agents can be met without imposing undue accounting burdens on employers. Accordingly, the Commission concludes that in a typical employer-employee

compensation arrangement, the amount reported by the employer as wages for the purposes of the standard Internal Revenue Service (IRS) W-2 Form is acceptable for annual lobbying reporting purposes, with some exceptions as set forth below.

The Commission is aware that an employee may voluntarily defer compensation, or dedicate it to special pre-tax funds, such as child care or medical care. Such employee-selected deferrals from federal income tax must be included in the calculation of the figure reported for salary on annual lobbying reports.

The amount reported as wages for IRS purposes does not include the employer's share of Social Security, or Medicare, or health insurance premiums, and the Commission does not believe there is sufficient public disclosure interest to justify requiring employers to ascertain those figures for each employee legislative agent. In regard to employer payments for life or disability insurance premiums, or pension benefits, the Commission is advised that these costs are generally subject to inclusion on the W-2 Form. However, to the extent they are not included on the W-2 Form, those employer costs should be included in the calculation of salary for annual lobbying reporting purposes if any such cost exceeds \$1,000 in a calendar year for an employee legislative agent. Nothing contained in this letter is intended to express any opinion as to fees or other compensation paid to a legislative agent working on a consulting rather than employee basis because the Commission understands this inquiry to be limited to employer-paid wages and benefits.

Thank you for submitting this inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT
COMMISSION

By: _____
GREGORY E. NAGY