

October 16, 2017

Via Electronic Mail @ carol.quinn@jcope.ny.gov

Ms. Carol Quinn
Deputy Director of Lobbying Disclosure
Joint Commission on Public Ethics
540 Broadway
Albany, NY 12207

Re: Comment on Proposed Comprehensive Lobbying Regulations

Dear. Ms. Quinn:

Scenic Hudson submits the following comment on the proposed Comprehensive Lobbying Regulations.

Scenic Hudson's Interest

Scenic Hudson, Inc. is an environmental organization based in Poughkeepsie, New York. Together with its affiliate, the Scenic Hudson Land Trust, Inc., Scenic Hudson preserves land and farms and creates parks that connect people with the inspirational power of the Hudson River, while fighting threats to the river and natural resources that are the foundation of the Hudson Valley's prosperity. Scenic Hudson is, and conducts activities subject to, the requirements of New York Legislative Law Article 1-A (the "Lobbying Act").

Comment

We appreciate the effort by the Joint Commission on Public Ethics (the "Commission") to provide a consolidated resource to help regulated parties and the public understand and comply with the requirements of the Lobbying Act. Of particular interest to Scenic Hudson are the provisions in the proposed regulations that impose reporting requirements on members of "Coalitions." We are concerned about the potential chilling effect of the new reporting requirements for members of Coalitions, newly defined as "a

group of otherwise-unaffiliated entities or members who pool funds for the primary purpose of engaging in Lobbying Activities on behalf of the members of the Coalition.”¹

It is proposed that when a Coalition spends in excess of \$5,000 on Lobbying Activity annually, it must “file a Lobbying report with the Commission identifying itself as a Lobbyist and/or a Client, provided the Coalition identifies a Responsible Party and it maintains an up-to-date written instrument with the Commission disclosing *all Coalition members who exceed \$5,000 in cumulative annual Lobbying compensation and expenses.*”² Alternatively, “each member who is required to file a Lobbying Report (either through the Coalition Activity engaged in by the member) must disclose in such report their own contribution to such Coalition, including the contribution amount and the name of the Coalition to which it contributed.”³

This first reporting requirement will capture Lobbying Activities by Coalitions made up of members that have never had to register before, and who still do not exceed the \$5,000 reporting threshold individually, but have now come together to pool funds to lobby. Loose coalitions made up of volunteers and that nevertheless meet the definition of a “Coalition” may have difficulty identifying a Responsible Party willing to take on the administrative burden of collecting information from members and filing such reports, resulting in a chilling effect on their formation. Thus, the filing and disclosure requirement will serve to dampen civic engagement by such groups, whose engagement should actually be encouraged in the face of the un-level playing field created by more sophisticated Lobbyists with greater funding sources.

The alternative filing methodology is also concerning. It may make groups less likely to join Coalitions containing members who are already required to file Lobbying reports and would continue to do so individually under that option, as there may be confusion about whether such members are now also required to separately register and file a Lobbying report. Scenic Hudson is particularly concerned about such a situation, as it may

¹ Proposed Comprehensive Lobbying Regulations § 943.9(h)(3)(i)(a).

² Proposed Comprehensive Lobbying Regulations § 943.9(h)(3)(ii)(a) (emphasis added). This phrase is not entirely clear as to whether it requires reporting when the Coalition members each incur in excess of \$5,000 in lobbying compensation and expenses, or when the Coalition does.

³ Proposed Comprehensive Lobbying Regulations § 943.9(h)(3)(ii)(b).

reduce the number of groups willing to join us in our advocacy, which may often be performed through informal, unnamed coalitions in the pursuit of a shared interest.

Finally, we note that the statement and reporting requirements of the Lobbying Act apply to “Lobbyists,” which is defined to include only persons and organizations.⁴ Therefore, the reporting requirements for a “Coalition,” which is neither a “person” nor an “organization,” as that term is defined, appear to be beyond what is authorized by the Lobbying Act.

Thank you for the opportunity to comment on the Proposed Comprehensive Lobbying Regulations. We look forward to the development of final regulations.

Sincerely,

Audrey Friedrichsen, Esq., LL.M.
Land Use and Environmental Advocacy Attorney
Scenic Hudson, Inc.

⁴ Lobbying Act § 1-c(a).