

**NEW YORK
TEMPORARY STATE COMMISSION
ON LOBBYING**

OPINION NO. 44 (00-3)

FACTS

This matter comes before the Commission as a result of a company inquiry about whether it qualifies as a "lobbyist" as defined in the Lobbying Act and thus should register with the Commission. The company in question was responsible for the playing of radio advertisements containing the following phrases: "Let Governor Pataki know" and "Tell Governor Pataki to". The advertisements addressed the issue of an "Indian gambling casino proposed by Governor Pataki without the legal approval of the State Legislature." At the time the advertisement was aired, there existed pending legislation (A.06461 and S.01391) requiring state legislative consent to any compact made by New York State with an Indian tribe authorizing commercialized casino gambling activities, along with other pending legislation addressing casinos, (see A.07543, S.00960, S.01389, S.07907). The company claims the advertisement would not constitute a "direct contact or lobbying within the meaning of the Act."

ISSUE

The question presented is whether an advertisement urging listeners to contact the governor constitutes lobbying even though it never specifically lists or identifies the bill numbers of pending legislation.

OPINION

Advertisements containing language as set forth above are clearly an "attempt to influence the approval or disapproval of any legislation by the governor" and as such if the cost thereof exceeds \$2000 requires registration and reporting under the Act. (See [Opinion #3, \(78-3\)](#) and [Opinion #21, \(79-1\)](#)).

The company's reliance on the omission of a bill number to avoid the requirement of disclosure is misplaced; it is the clear attempt to stimulate a grassroots lobbying effort in regard to pending legislation that controls the question.

Lobbying, under New York law, occurs when the activity in question relates to pending legislation, a position is stated, and the activity is an attempt to influence decision makers. (See [Opinion #38, \(84-1\)](#)). The facts in question clearly meet this test. Direct contact is not required (See [Opinion #21](#) above).

APPROVED BY COMMISSION: AUGUST 21, 2000

CONCURRING: JOSEPH A. DUNN, CHAIR; ALBERT S. CALLAN, VICE CHAIR; BARTLEY F. LIVOLSI, MILTON MOLLEN, AND STEWART C. WAGNER.

/S/

JOSEPH A. DUNN
Chairman