What’s (Un)Ethical About Lobbying?

BY NICHOLAS BIRDSONG

How would you rate the honesty and ethical standards of lobbyists? Perhaps not highly.

Only about 8% of those surveyed feel that lobbyists are more honest than average people, according to a Gallup poll conducted annually since 2002. Nearly 60% of Americans consider them to have low or very low ethical standards. The public perception of those in the government affairs business consistently beats out salespeople, members of Congress and lawyers for the honor of being considered the least-trusted professionals.

Ethics laws often extensively regulate lobbying through registration requirements, prohibitions and disclosures. Thirty-nine states prohibit gifts from lobbyists to public officials or require the disclosure of such gifts to a greater degree than those from other sources.

Nineteen states require legislators to disclose personal or professional ties with members of the profession that would not otherwise be required. Post-government-service employment restrictions are relatively uncommon, except for the 42 states that prohibit former legislators or staff from working as lobbyists for a period of time.

The dismal public opinion and stringent oversight rules reflect the potential for impropriety in a job that, by definition, involves attempting to influence government action.

Wealthy individuals, businesses and industries may be able to drown out less-privileged perspectives with highly persuasive campaigns aiming to convince public officials to take positions that benefit private interests, including some that may run contrary to the public good.

In the absence of enforceable ethics rules, unscrupulous actors may be tempted to skip persuasion and instead simply agree to exchange an official action for something of personal benefit, popularly known as a “quid pro quo.” Unchecked influence peddling could diminish the importance of individual voters and undermine an otherwise democratic political system.

Fortunately, that is not the system we have. Ethics rules preserve boundaries between lobbyists and public officials to protect both the public’s confidence and the integrity of governmental institutions.

Just as unrestricted lobbying might cause significant harm, over-regulation deprives the system of valuable perspectives and policymaking expertise.

Individuals who hire lobbyists have legitimate goals that often mirror public interests. An industry might advocate for laws that improve the business climate, resulting in more jobs and widespread economic prosperity. Effective health care and environmental protections help supply an able-bodied workforce, and a quality public education system helps provide intellectually capable employees.

Even when private interests diverge from the public good, lobbyists’ viewpoints range across the political spectrum. Chances are high that most plausible arguments for and against any policy will be voiced before an official action is taken, giving officials sufficient opportunity to determine the course of action that will best serve their constituents.

The profession is not as dishonest as is sometimes assumed, either. Twenty-one states explicitly prohibit lobbyists from materially misleading legislators, and even where the rules don’t require it, a professional advocate generally requires a reputation for integrity to effectively persuade lawmakers.

Lobbyists often have a greater level of technical expertise than legislators and staff. Members of the profession may help lawmakers discover possible unintended consequences of a piece of legislation or otherwise benefit the policymaking process.

States take a wide range of approaches to protecting the integrity of the system from improper influences while enabling interested parties to contribute to the policymaking process. While the “best” approach remains a matter of debate, a thoughtful approach to regulation may serve the interests of the profession and the institutions they attempt to influence.

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