

WRITTEN TESTIMONY
THE OHIO LOBBYING ASSOCIATION
HB 49 - PROPOSED TAX ON LOBBYING SERVICES
March 1, 2017

The Ohio Lobbying Association respectfully opposes the proposed tax on lobbying services in House Bill 49. The reasons for our opposition are as follows:

The definition of “lobbying service” in the bill is defined as, “...any activity engaged in by a registered lobbyist that serves to influence the behavior or opinion of an elected official, an industry, or an organization.”

Lobbying and government affairs consulting is a form of organized free speech. Historically states have treaded very carefully on imposing any type of tax that could be seen as having a chilling effect on speech because of constitutional concerns. We believe that this tax is an attempt to chill the free speech of our clients.

Lobbying is a necessary service for many businesses, particularly in those industries that are highly regulated by the state. Like other proposed taxes on services, such as management consulting, the tax on lobbying would increase the cost of doing business in Ohio. Furthermore, the burden of the tax would fall unequally on Ohio businesses: it would fall more heavily on those that need full-time lobbying services as opposed to those that only occasionally or perhaps never need a lobbyist. Further, government affairs consultancies are generally small businesses unless encompassed within a law firm, therefore, the major burden would be on the backs of small businesses.

Taxing services is an exception to the general rule that sales taxes apply to the sale of tangible personal property. As a general rule we oppose the expansion of sales taxes to services.

Lobbyists provide professional consulting services in the same manner as lawyers, accountants, engineers, architects and financial advisers. Such services have never been subject to sales tax.

Legal services are not included in the services proposed to be taxed by the bill. Lawyers provide lobbying services through their law practices. If those services are not taxed, while those of other non-lawyer lobbyists are, there is another inherent unfairness in the imposition of the tax. In addition, applying and auditing sales taxes to those lawyers providing lobbying services without infringing on the confidentiality of the attorney-client relationship would be next to impossible.

While lobbyists are required to register their clients, they are not required to disclose their fee arrangements. Imposing a sales tax would require disclosure of such fee arrangements in order for the tax to be administered and audited.

Many lobbying contracts are for a year or more in duration. Applying a tax during the pendency of those contracts would make it awkward and no doubt in some cases impossible to renegotiate the contract. Sales taxes are normally passed on to the customer, but in this case, would probably have to be absorbed by the business. Again, another hardship for small businesses.

Many businesses or industries that are regulated by the state are represented by non-profit trade associations. The passed-through sales tax on lobbying services would necessarily decrease the resources available to those associations to provide other member benefits.

Many of the Association's members lobby on behalf of state and local governments, universities and other organizations that are exempt from sales tax. Thus, if the organizations which employ lobbyists are exempt from the sales tax, those lobbyists that are not employed by sales tax exempt organization receive unfair tax treatment.

We appreciate your consideration of our position. If you would like further information or have questions please contact any member of our board:

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