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ADVISORY OPINION 2019 - 8

The House Legislative Ethics Committee (HEC) received a request for an advisory opinion from a Member regarding an anonymous comment the House Legislative Oversight Committee (HLOC) received pertaining to an email the Member sent to potential stakeholders encouraging their public input about an agency under study. The Member explained that the HLOC initiated a study of the South Carolina Housing and Development Authority (Housing Authority) and that public input is a cornerstone of the HLOC's process. Specifically, the Member sent an email on May 28, 2019 to potential stakeholders, which stated as follows:

The House Legislative Oversight committee has started a study of the SC Housing and Finance Development Authority. Stakeholders are invited to provide comment about the organization's strength's weaknesses, threats and opportunities. I want to strongly encourage you to participate in this process: You can submit anonymous comments online or you can testify in person to the sub-committee. We all know this agency has done some things, but we also know they are "wanting" in several areas. With their new leadership and this process, I believe we can help shape their future...

Email from a HLOC Member (May 28, 2019, 11:21 EST) (on file with author).

On or about June 26, 2019, the HLOC received an anonymous comment pertaining to the Member's efforts to encourage public input about the agency under study. The comment is as follows:

June 26, 2019	Why is [Member], a member of the House Oversight Committee, calling and sending official memos to groups [Group] and individuals, soliciting them to manufacture (positive only) comments and testimony about this agency? How is this ethical?
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Letter from Anonymous, to H. Legis. Oversight Comm. (June 26, 2019) (on file with House Legis. Oversight Comm.).

Pursuant to House Rule 4.16C.(5), the Committee renders the following advisory opinion.

DISCUSSION

As background, S.C. Code Ann. § 2-2-20 provides for the establishment of HLOC as follows:

(A) Beginning January 1, 2015, each standing committee shall conduct oversight studies and investigations on all agencies within the standing committee's subject matter jurisdiction at least once every seven years in accordance with a schedule adopted as provided in this chapter.

(B) The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee:

(1) are being implemented and carried out in accordance with the intent of the General Assembly; and

(2) should be continued, curtailed, or eliminated.

(C) The oversight studies and investigations must consider:

(1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee's subject matter jurisdiction;

(2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; and

(3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee's subject matter jurisdiction.

S.C. Code Ann. § 2-2-20. Thus, HLOC serves as an investigative committee which issues a report on the agency studied rather than as a policy-making committee which votes on proposed legislation. Any House Member may file legislation to implement HLOC's recommendations.

See <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/HouseLegislativeOversightCommitteeBrochure.pdf>.

As part of HLOC's study, the Committee solicits written comments, which are posted online, from the public regarding the Agency under review.

The anonymous comment herein discussed alleges that the Member solicited individuals to "manufacture (positive only) comments." Letter from Anonymous, to H. Legis. Oversight Comm. (June 26, 2019) (on file with H. Legis. Oversight Comm.). Yet, a plain examination of the email sent by the Member invited individuals to comment about the "strength's weaknesses, threats and opportunities." Email from a HLOC Member (May 28, 2019, 11:21 EST) (on file with author). As such, there exists no violation of the South

Carolina Ethics Act or the Rules of the South Carolina House of Representatives for a Member to encourage public comment about an agency under study by the HLOC.

CONCLUSION

In summary, a Member of the HLOC may encourage or solicit public comment about an agency under study by the HLOC, and such action is not an ethical violation.

Adopted September 12, 2019.