Nonprofit Lobbying & Advocacy:
Legal, Needed, Easy

Prepared by Clifton Government Relations. www.stewartclifton.com

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1.) Nonprofit lobbying is perfectly legal
2.) Nonprofit lobbying is needed now more than ever as an essential activity
3.) Nonprofit lobbying is easy - staff members and volunteers already have the necessary skills to influence public policy and engage in the process.
4) Nonprofit lobbying is not the same as partisan electoral or political work

1. Legal
First Amendment, U.S. Constitution:
“Congress shall make no law respecting … the right of the people peaceably to assemble and to petition the government for a redress of grievances.”

The U.S. Congress says it’s legal for nonprofits to lobby and still keep tax exempt status.

In 1934: Congress enacted a statute allowing nonprofits “organized and operated exclusively for religious, charitable … or educational purposes” to be exempt from federal income taxes, provided that, among other things, “no substantial part of the activities of” the nonprofit organization is for “carrying on propaganda, or otherwise attempting, to influence legislation…..” 26 U.S.C. § 501(c)(3).

By setting a limit (no “substantial part”) rather than imposing an outright ban, Congress recognized the rights of nonprofits to do some lobbying.

2. Needed
Advocacy helps your nonprofit meet its mission and also help others
   Nonprofit advocacy helps your nonprofit survive.
   Nonprofit advocacy helps your community solve problems
   Nonprofit advocacy helps your community avoid problems
   Nonprofit advocacy helps give citizens a voice

Nonprofit advocacy helps strengthen democracy and the common good by providing informed perspectives and information to lawmakers.

Nonprofit advocacy helps public policy makers who need – and often want – citizen input

3. Easy
A popular book by Robert Fulghum has the catchy title, All You Ever Really Needed to Know You Learned in Kindergarten. All you ever really needed to know about influencing elected officials you learned there too. Few people really think through the process of effective advocacy with elected officials. They either think it’s dirty or are intimidated for some reason. You will probably find that it is not much different than influencing anyone personally or professionally.
FAQ’s about nonprofits and lobbying in Tennessee

1. What is a lobbyist in terms of Tennessee law?

A lobbyist is one who communicates directly/indirectly with any official in the legislative branch or executive branch for the purpose of influencing legislative or administrative action. Lobbying implies active influencing, not just passive monitoring and reporting.

2. Do all lobbyists have to register and pay fees?


3. Are you required to register as a lobbyist if you get expense reimbursement?

A person who lobbies without compensation for time and/or effort but who receives reimbursement for actual out of pocket expenses for less than 10 days per year is not required to register as a lobbyist. So most unpaid folks are just volunteers and don’t have to worry about registering and paying fees. You are basically a volunteer lobbyist if you don’t get anything other than a warm feeling in your heart and/or expense reimbursement.

If you lobby and get reimbursement for more than 10 days you must register and pay a $40 fee to take the mandatory ethics training. Your employer pays $150 for your registration. In some instances, you can ask the Ethics Commission on a case by case basis to waive that fee for extreme hardship.

3. What if I am a paid staff member with lots of different tasks but my job description does not specifically include lobbying and I am not paid anything extra to lobby, but I do talk with legislators a couple of times a year about issues my agency and I care about?

There is an exception for such lobbying when the lobbying is “incidental” to your regular duties. Nobody knows what incidental really means, as the law does not define it, but if you lobby very much then it is not incidental. Also, if you only lobby a little but your job title mentions legislative advocacy or lobbying, then you likely will have a problem making the “incidental” argument.

4. Are there restrictions on what nonprofits can do re meeting with or entertaining legislators?

Depends on whether the nonprofit employs or contracts with a lobbyist. If the nonprofit does not employ or contract with a lobbyist there is no restriction. If your nonprofit is “generally associated with” a nonprofit than employs a lobbyist, then it is a trickier question. If the nonprofit is a legal part of an organization that hires a lobbyist, then it is probably subject to the law and must report expenditures.

If you do employ a lobbyist then special and somewhat complicated rules apply to expenditures re meeting with and entertaining legislators.

For more information contact Stewart or see the following state website which goes into more detail.  
http://tn.gov/sos/tec/Lobbyist%20and%20Employers%20of%20Lobbyist/FAQ%20lobbyists%20Employers.html

Stewart Clifton stewartclifton@comcast.net