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The Rundown podcast transcript for Performance Audit report titled ***State and Local Governments: Evaluating Association Membership Fees and Dues*** – Released September 2020

Andy Brienzo, Host and Principal Auditor: [00:00]

From the Kansas Legislative Division of Post Audit, this is The Rundown. Your source for news and updates from LPA, including performance audits recently released to the Kansas Legislature. I'm Andy Brienzo. In September 2020, LPA released a performance audit examining how much Kansas state agencies and local governments spend on lobbyists and association membership fees and dues. I'm with Meghan Flanders, senior auditor at Legislative Post Audit, who supervised this audit. Welcome to The Rundown, Meghan.

Meghan Flanders, Senior Auditor and Supervisor: [00:35]

Thank you.

Andy Brienzo, Host and Principal Auditor: [00:37]

So, first let's talk about how lobbying for state agencies and local governments works and how the state keeps track of the public funds that are being spent on these activities.

Meghan Flanders, Senior Auditor and Supervisor: [00:48]

Sure. Well, state agencies and local governments are allowed to employ lobbyists or belong to associations that employ lobbyists. The agencies or local governments can contract with the lobbyists directly or they can use their own staff to advocate for their interests in legislative matters. The state law defines lobbying pretty broadly as promoting or imposing any legislative, executive, or judicial matters or the adoption of any rule or regulation by a state agency. But some people who lobby do not have to register as a lobbyist. So, there are some exceptions. So, state law defines what a lobbyist is and then requires those people who are defined as lobbyists to register with the Secretary of State's office. So, a lobbyist, by the law is someone who is employed in a considerable degree for lobbying, spends a thousand dollars or more in any year for lobbying, is appointed as the primary representative of an organization to lobby, or is hired by or hired as a contractor by an executive agency for the purpose of evaluation management consulting or acting as a liaison for the

agency who engages in lobbying. So, those people that meet that definition are the ones that actually have to register as lobbyists. And in 2019, there were about 550 registered lobbyists, but some people who lobby are exempted from registering as lobbyists. The biggest example is state employees who lobby as a part of carrying out their job duties. So, for example, an accountant from a state agency that is at a legislative hearing that is advocating one way or another on the state agency's budget does not have to register as a lobbyist, even though they are technically lobbying when they're advocating at the legislative hearing. However, if a state agency hired a contractor to lobby at a legislative hearing to have the budget go one way or the other, that person would be required to register as a lobbyist. We should also point out that local government employees are not exempted. So, this is just for state-level employees. So, only registered lobbyists are required to report the public funds that they receive and they report that to the Secretary of State's office every year. All registered lobbyists are supposed to file a report, even if the amount is zero, for the state agencies, local governments or associations of governments that pay them with public funds. Associations of governments isn't defined in Kansas law, but we see lobbyists reporting public funds for groups like the Kansas Association of School Boards and the State Association of Kansas Watersheds. So, those are the types of things we mean by association of governments. So, the Secretary of State collects the reports the public funds reports. There are certain things that are not included in public funds reports that I wanted to know before we talk about how much money we found there. So, the Secretary of State's public funds reports do not include state public money that's spent on federal lobbying. It does not include state agency money spent on their own employees who are lobbying as part of their job duties for the agency. So, that's what we talked about the state employee exemption. So, you won't see public money in that sense in the reports and then the public funds reports don't include payments from association of government entities that come from non-public sources. So, for example, an association of government entities can choose to separate their public money and their non-public money and pay their lobbyists with only their non-public money. So, in that case, the lobbyist's public funds report would be zero in public funds from that association, even though that association does receive public funds, if they choose to pay their lobbyists with non-public funds, then the lobbyist doesn't have to report that. So, those are a few things that are not included in the public funds reports.

Andy Brienzo, Host and Principal Auditor: [05:46]

So, speaking of those public funds reports, it looks like the team discovered some data reliability issues related to lobbyists self-reporting of public funds that they received in 2019. Tell me more about these issues.

Meghan Flanders, Senior Auditor and Supervisor: [06:01]

Yeah, so the main data reliability issue is basically just that the lobbyists are self-reporting the numbers on their forms. So, they file the reports with the Secretary of State's office and then the Ethics Commission is the group that actually takes the

reports from the Secretary of State's office and looks at them and then reports some of that information back out to the public. So, the Ethics Commission doesn't audit the lobbyist's finances when they fill out the report, they just take the report and we also were not able to and did not audit the finances or the timekeeping of the lobbyist who fill out the report to make sure that the amounts were correct. So, it's basically the data reliability issues-it's self-reported. It just wasn't feasible for us to verify the information because it would require a look at all the time keeping and financial records of the lobbyists. Another data reliability issue still kind of under that same umbrella of self-reported is that not all of the lobbyists filed their 2019 report. So, at the end of February 2020, there were about 110 reports missing from the 1,500 reports that we expected to see. So, probably a good time to mention that. So, lobbyists are required to file a separate report for each client. So, the number of reports filed will be more than the number of the registered lobbyists. So, there was about 110 reports that were missing. There's not currently any penalty for failure to file the public funds report. The Ethics Commission tries to increase compliance as much as they can by reminding those who haven't filed to file their report.

Andy Brienzo, Host and Principal Auditor: [08:02]

So, how much in public funds did lobbyists registered in Kansas report receiving in 2019 and what kinds of state agencies and local governments did they report representing?

Meghan Flanders, Senior Auditor and Supervisor: [08:14]

So, we found in total that lobbyists registered in Kansas reported spending almost \$1.3 million in public funds on lobbying in 2019. A small portion of registered lobbyists reported receiving public funds. So, there were 63 lobbyists out of about 550 registered lobbyists that actually reported an amount received and they reported that from 52 state agencies, local governments, or associations of governments. Most registered lobbyists who reported receiving public funds reported receiving less than \$30,000 for each client. So, for example, the city of Stockton paid \$1,380 for lobbying and the Topeka public school district paid \$18,000 for lobbying. If you get a chance to review the report online there will be a figure and data so you can see all the clients and the amount that the lobbyists reported.

Andy Brienzo, Host and Principal Auditor: [09:21]

For the second question, the team relied on a large survey of state agencies and local governments across Kansas. Why did you decide to conduct this survey? What kinds of entities did you include and what was the response rate like?

Meghan Flanders, Senior Auditor and Supervisor: [09:36]

Yeah. So, the second question of our report was how much money did state and local governments spend on association membership fees and dues and to associations that provide lobbying services in 2019. So, it turns out that there's no centralized place for this information about association fees and dues. You can't just

like go to a website and look up what people are spending on association fees and dues. There's no specific reporting requirement for agencies or local governments at this level of detail and so we had to create a survey to gather the information. So, we gathered information about all the state agencies and local governments that exist in Kansas. And it turns out there's a lot-over 4,000. So, we sent a survey out to almost 3,800 of the local governments and state agencies in Kansas. There were about 450 special districts and townships that we just couldn't find contact information for so we were not able to include them. When we sent out the request for information, we sent it by email or mail if we only had a mailing address. And overall, we got a response rate of about 25%. So, that 3,800 local governments and state agencies that we sent the survey to included 97 state agencies, 286 school districts, 105 counties, 623 cities, and almost 2,700 special districts and townships. And, so we asked people in the survey to tell us which associations they belong to, which ones they paid fees and dues to, how much they paid and then whether or not they thought those associations also offered lobbying services.

Andy Brienzo, Host and Principal Auditor: [11:29]

What did you learn from this survey?

Meghan Flanders, Senior Auditor and Supervisor: [11:32]

So, we learned a lot. Before I dive in, so again, the information from the survey was self-reported. Because of the size of the survey, we were not able to verify everyone's answers. There's likely some errors in there. For example, we found that some school districts, didn't report being a member KASB [Kansas Association of School Boards] even though we know from KASB that all, but one school district is a member of their organization. So, it's likely there are some self-reporting errors in there. There may have just been misunderstandings about what we were asking for. So, because of that and the response rate, we can't project these results across the state, but we did get a lot of useful information. So, when we added up all the responses, we found people reported spending about \$11 million on association fees and dues for 2019. So, that's all the state agencies and local governments that responded that they spent money. There was some portion, mostly special districts that responded, but said they, that they didn't actually spend any money on associations, which made sense because a lot of special districts have very small, very small budgets. So, overall there were about 2,000 different associations that were reported. Some were well known like the League of Kansas Municipalities, but others were less well known, like the American Rabbit Breeders Association. We found that generally the spending on fees and dues was less than 1% of the agency or local government's overall expenditures. So, it was a very small portion of the spending that they do. When we grouped the respondents into categories, state agencies, school districts, cities, counties, and special districts, it was the state agencies that reported spending the most with about \$5.6 million of that about \$11 million overall total with state agency spending on fees and dues. Again, if you can go to the website, there will be more figures, with those types of numbers in there, especially on kind of what the top

associations were, how much was spent on them, and what category of government was spending the money. So, we asked for the kind of overall fees and dues that were paid and then we also asked people responding to tell us whether they thought the association offered lobbying services. So, respondents reported that about \$5 million of the association fees and dues were for associations they thought had lobbying services. They reported that about \$2.3 million was for associations they thought did not have lobbying service and about \$4 million was for associations, where they just didn't know if there was lobbying services as part of that association. So, again, because of the size of the survey, we weren't able to verify whether or not each association did or did not in fact have lobbying services. What we're reporting to you all is what respondents thought about whether or not these associations did or didn't have lobbying services. We did talk to a few associations that offer lobbying services to get their perspective. For example, we talked to KASB, the Kansas Association of School Boards, because respondents reported paying them the most in fees and dues. Respondents overall reported paying about \$1.4 million in 2019 to KASB. We compared this number to what KASB had reported spending in public funds on their lobbying services. So, when KASB filled out their public funds report to the Secretary of State, they reported that about \$39,000 of public funds was spent on lobbying. So, there is a small proportion of the membership fees and dues that they receive is reported to go towards lobbying. They told us they offer many other services to their members besides lobbying like legal services so that members can ask an attorney for legal questions or they offer other things like training seminars and workshops, research, and leadership services. So, we have again, more information with details like that and figures in the report online.

Andy Brienzo, Host and Principal Auditor: [16:32]

Finally, what's the main takeaway of this report?

Meghan Flanders, Senior Auditor and Supervisor: [16:35]

So, I think the main takeaway is that it's very difficult to determine overall how much public money makes its way into lobbying either directly or through associations that lobby because it can come from so many different sources and there are so many different groups that receive public money and ways that they do their finances and all these sorts of things, but we were able to at least find some of those public funds by looking at the public funds reports that are filed with the Secretary of State's office. So, that was about \$1.3 million again, reported by lobbyists that they received in public funds for lobbying. And then we were also able to find some public money through our survey in that amount that respondents thought was going towards associations that also offer lobbying services amongst their other benefits of membership.

Andy Brienzo, Host and Principal Auditor: [17:38]

Meghan Flanders is a senior auditor at Legislative Post Audit. She supervised an audit examining how much Kansas state agencies and local governments spend on lobbyists and association fees and dues. Thanks for joining me today, Meghan.

Meghan Flanders, Senior Auditor and Supervisor: [17:52]

Thank you.

Andy Brienzo, Host and Principal Auditor: [17:53]

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