

FILE 2827 — December 5, 2025

## **LOBBYING RESTRICTIONS**

### **APPLICATION OF THE IN-OFFICE LOBBYING BAN TO NEWLY-APPOINTED SCHOOL BOARD MEMBER**

*To: Annie "Kate" Wallace, School Board Member (Polk County)*

#### **SUMMARY:**

Pursuant to Article II, Section 8(f)(2), Florida Constitution, a school board member may not lobby for compensation before local government entities on behalf of an employer by whom she is principally employed for governmental affairs. Guidance is offered whether work performed in another position for the same employer would be compliant with Article II, Section 8(f)(2), Florida Constitution. Referenced are CEO 19-12 and CEO 25-3.

#### **QUESTION 1:**

Would a newly appointed school board member be in violation of Article II, Section 8(f)(2), Florida Constitution, were she to continue working as the Director of State Government Affairs for a private company?

This question is answered as follows.

In your inquiry, you indicate the Governor recently appointed you to fill a vacancy on the Polk County School Board. You note you were sworn into office on November 18, 2025. In your inquiry, which preceded taking your oath of office, you ask whether you may retain your position

as Director of State Government Affairs for Charter Communications ("Charter") while also serving as a member of the Polk County School Board.

You state Charter is a cable, internet, video, and phone company serving approximately 3 million customers in the state of Florida. In your role with Charter, you explain that you serve as its liaison to Florida county and municipal governments within an assigned territory. You state you do not lobby state agencies, you are not a registered lobbyist, and you have never needed to register as a lobbyist for local-level work. You describe your job responsibilities as follows:

- 50% Public liaison to local governments: handle equipment repair requests; coordinate disaster restoration with Emergency Operations Centers; answer constituent inquiries; inform officials of Charter initiatives (ex: affordable internet for low income families, free WiFi hotspots during natural disasters, Spectrum's nonprofit grant initiatives); represent company at community events, conferences, civic boards, and speaking engagements.
- 25% Internal coordination across departments to advance Charter priorities.
- 10% Help plan and manage the production and planning of In Focus Florida, a weekly Sunday public affairs show featuring elected officials and thought leaders
- 10% Monitor city/county agendas for Charter interests; other administrative and non-lobbying duties as assigned.
- 5% total (2.5% each) Provide feedback to local governments on ordinances affecting Charter; discuss Right-of-Way permitting questions or concerns with local government staff.

In subsequent communications with Commission staff, you confirmed the final 5 percent you listed in your description of your duties for Charter involves attempting to influence local governments, including attempts to change their policies and ordinances concerning right-of-way permitting to conform with Charter's interpretation of related state statutes. According to you, these communications about the local policies and ordinances do not arise from any contractual obligation that Charter has with the local governments.

On these facts, you ask whether the performance of your assigned duties with Charter would violate the In-Office Lobbying Ban found in Article II, Section 8(f)(2), Florida Constitution. To analyze this specific question, we first note that any penal statute or constitutional provision must be strictly construed and any doubts as to the meaning of its terms must be construed must be construed favorably toward a potential respondent. CEO 19-12 (citing City of Miami Beach v. Galbut, 626 So. 2d 192, 194 (Fla. 1993)). With this principle in mind, turning to the language of the In-Office Lobbying Ban, Article II, Section 8(f)(2), Florida Constitution, the prohibition states:

A public officer shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office.

To properly analyze this prohibition's applicability to you, we must determine whether you are a "public officer" subject to the ban and whether the duties you have described in your inquiry qualify under the prohibition as "lobbying for compensation."

The term "public officer" for purposes of the In-Office Lobbying Ban is defined in Article II, Section 8(f)(1), Florida Constitution. This provision states:

For purposes of this subsection, the term "public officer" means a statewide elected officer, a member of the legislature, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, an elected special district officer in a special district with ad valorem taxing authority, or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government.

Given that you were recently appointed to serve on the Polk County School Board, you are a "school board member," which is included in the definition of "public officer." Therefore, now

that you are sworn in as a school board member, it appears the In-Office Lobbying Ban is applicable to you.

The question then becomes whether your current job duties for Charter amount to "lobbying for compensation." Several of the definitions in Article II, Section 8(f)(2), Florida Constitution, are defined in Section 112.3121, Florida Statutes, which is its implementing legislation. As it pertains to conduct directed at political subdivisions, the definition of "lobby" is:

to influence or attempt to influence an action or decision through oral, written, or electronic communication and, with respect to...[a] political subdivision, is limited to influencing legislative actions or other discretionary decisions, but does not include administrative actions.

§ 112.3121(11)(a)3., Fla. Stat. And the phrase "lobby for compensation," is defined Section 112.3121(12)(a), Florida Statutes, as follows:

"Lobby for compensation" means being employed or contracting for compensation, for the purpose of lobbying, and includes being principally employed for governmental affairs to lobby on behalf of a person or governmental entity.

However, crucially, besides defining what will constitute "lobbying for compensation"—which will implicate the Constitutional prohibition—the implementing legislation also enumerates what is excluded from the definition of "lobby for compensation." Among the conduct that does not constitute "lobbying for compensation" is:

2. A public or private employee, including an officer of a private business, nonprofit entity, or governmental entity, acting in the normal course of his or her duties, *unless he or she is principally employed for governmental affairs.*
3. Advice or services to a governmental entity pursuant to a contractual obligation with the governmental entity.

§ 112.3121(12)(b)2.-3., Fla. Stat. (emphasis added). It bears repeating that, considering these definitions, even if one qualifies as a "public officer" for purposes of in Article II, Section 8(f)(2),

and even if they engage in "lobbying," an analysis under the Constitutional prohibition will not be complete without examining whether any exclusions to the definition of "lobby for compensation" are available, such as the exclusion for privately acting in the normal course of one's duties when not principally employed for governmental affairs.

The term "principally employed for governmental affairs" is defined in Section 112.3121(15), Florida Statutes, as follows:

"Principally employed for governmental affairs" means that the principal or most significant responsibility of the employee is to oversee the employer's various relationships with governmental entities or representing the employer in its contacts with governmental entities.

Applying these definitions to your job responsibilities at Charter, it is clear that your current role requires some "lobbying for compensation." You describe the category of responsibilities that accounts for 5 percent of your time as making contact with local governments to influence their policies and ordinances in the hopes that they might conform with Charter's interpretation of state statutes.<sup>1</sup> It appears that the other job duties (the remaining 95 percent), as you describe them, are

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<sup>1</sup> Your description of that category of your responsibilities seems to consist mostly of tasks that would constitute lobbying, though not all of them are. We distinguish providing feedback generally to a local government on an ordinance from raising arguments about how a local government has treated Charter on a specific permit or permit application. Providing general, policy-based feedback designed to influence or change an ordinance will constitute prohibited "lobbying for compensation" under the Constitutional prohibition. However, engaging in conduct regarding the treatment of a specific application or permit appears exempt from the definition of "lobby for compensation." This is because, exempted from the definition of "lobby," as it pertains to political subdivisions, are "administrative actions," the definition of which includes "any action or decision on a . . . permit . . . [and] any decision subject to judicial review by petition for writ of certiorari or as otherwise prescribed by general law . . . ." § 112.3121(1), Fla. Stat. In telephonic conversations with Commission staff, you indicated that one of your responsibilities, which you would put in the 5 percent category, involves informing local government entities when their treatment of a specific Charter permit or application is not compliant with state law. This appears to fall within the definition of "administrative actions" as it involves a local government's action or decision on a particular permit, and may even be subject to judicial review. Such conduct, when

not lobbying. But the fact remains that five percent of your responsibilities pertain to lobbying for compensation, and this is sufficient to implicate the prohibition in Article II, Section 8(h)(2) unless an exemption applies.

Regarding those exemptions, according to Section 112.3121(12)(b), an employee may lobby when acting in the normal course of his or her duties so long as that employee is not also principally employed for governmental affairs. We applied this exception in CEO 25-3, where the mayor of a municipality was lobbying the federal government on behalf of his employer, but his lobbying responsibilities were not the primary focus of his employment and occurred sparingly, requiring only a few days of work per year. The principal focus of his employment was not lobbying, but fundraising, as his job primarily involved soliciting donations from private donors. We found, under those circumstances, that the mayor's activities fell within the exemption in Section 112.3121(12)(b) and did not constitute "lobbying for compensation" for purposes of the Constitutional prohibition, given that any lobbying was done in the normal course of his duties and was not the task for which he was principally employed.

In your current role at Charter, however, it appears that you are principally employed for governmental affairs. Consistent with your job title—Director of State Government Affairs—you indicate your most significant responsibility (50 percent) is being a public liaison to local governments and managing Charter's relationship with those local governments. You have noted that this involves handling equipment repair requests, coordinating disaster restoration with emergency operations centers, and informing officials of Charter initiatives such as affordable internet for low-income families and free Wi-Fi hotspots during natural disasters. While these

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it is specifically aligned with a particular permit or application, will not constitute lobbying that is subject to the In-Office Lobbying Ban.

activities appear not to involve lobbying, they demonstrate you are principally employed for governmental affairs, which makes you ineligible for the exemption in Section 112.3121(12)(b).

As noted earlier, another exemption to the definition of "lobbying for compensation," found in Section 112.3121(12)(c), relates to rendering advice or services due to some contractual obligation to the local governments. As you informed Commission staff, however, your communications with the local governments do not arise from any contractual obligation with those local governments.

Therefore, because 5 percent of your job responsibilities consists of lobbying for compensation, and because you are also principally employed for governmental affairs, performing those lobbying duties (or any other act that would meet the definition of lobbying for compensation) is prohibited by the In-Office Lobbying Ban. If you are able to obtain a change in your job duties with Charter such that the 5 percent of your responsibilities involving lobbying are shifted to another employee while you are a Member of the Polk County School Board, then you would be in compliance with the requirement. To be clear, you may still perform the other job responsibilities you listed, which do not constitute "lobbying for compensation."<sup>2</sup>

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<sup>2</sup> You asked Commission staff in a telephonic conversation whether you can be present in a meeting where other employees from Charter may be actively lobbying local government officials. You explain that being present would provide you with knowledge of what was being said in the meeting and the concerns or questions that the local government officials may have, which would then would help you perform better in your government affairs-related duties. As previously discussed, we must strictly construe penal statutes and constitutional provisions. Applying that principle here, since the definition of lobby in Section 112.3121(11) includes only influencing or attempting to influence the local government legislative action or decision "through oral, written, or electronic communication," it does not seem that merely being present at a meeting meets this definition, as the influence you would exert with your silent presence would not be making use of any "oral, written, or electronic communication." The Legislature could have written the definition of "lobby" in Section 112.3121(11) to include one's mere presence at a meeting, as it did for the post-office representation bans found in Section 112.313(9), Florida Statutes. See § 112.312(22) (*defining* "represent" to include "actual physical attendance on behalf of a client in an agency proceeding.") We must assume the Legislature's decision not to include such conduct in the

Your question is answered accordingly.<sup>3</sup>

**QUESTION 2:**

Would the prohibition in Article II, Section 8(f)(2), Florida Constitution, apply were a newly-appointed school board member to accept a new role with her employer that does not involve lobbying local governments?

Under the facts presented in the inquiry, this question is answered in the negative.

You have informed Commission staff that Charter has indicated it may be able to move you to a different role, and you have asked if working in this specific role would violate the In-Office Lobbying Ban. In this role, you state you would serve as Charter's Senior Manager for Government & Community. Regarding this position, you have provided a job description stating the responsibilities involve developing and coordinating government focused community activities, coordinating and developing communication materials, enhancing the company's public image, and promoting company visibility.

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definition of "lobby" was intentional, and we therefore cannot interpret the "lobby" in Section 112.3121 to include silent attendance in a meeting. We caution you, however, that anything you might say may very well be construed as advancing the lobbying messages of others in the meeting, potentially putting you in jeopardy of violating the In-Office Lobbying Ban.

<sup>3</sup> We note that the In-Office Lobbying Ban is the subject of ongoing litigation, during the pendency of which the Ban will continue to apply to who are subject to its enforcement except the named plaintiff who had standing to challenge the Ban. See Garcia et al. v. Stillman et al. USCA Case No. 23-12663 (11th Circuit Court of Appeals). We advise that the applicability of this opinion may depend on the outcome of that case, which is, as of this date, not decided.



Upon a review of the job description that you have provided, it does not appear that serving as Senior Manager for Government & Community would be prohibited by Article II, Section 8(f)2., Florida Constitution. This is because none of your job responsibilities in this role would fall under the definition of "lobbying for compensation" as the position does not require you to contact government entities to "lobby." Specifically, there is nothing in the job description indicating you would have any duties involving influencing local government legislative actions or other discretionary decisions. As such, were you to simultaneously serve on the Polk County School Board while performing this specific role at Charter, it does not appear you will violate Article II, Section 8(f)2., Florida Constitution.

Your question is answered accordingly.

cc: Annie "Kate" Wallace

LMF/sjz/ks