

# LABORERS' MID-ATLANTIC REGION

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TO: Board of Ethics and Government Accountability

RE: Public Comment on Lobbyists Serving on Boards and Commissions

VIA EMAIL

BEGA is currently seeking comment on whether lobbyists should be prohibited from serving on District boards and commissioners.

The viewpoint of the LIUNA Mid-Atlantic Regional Organizing Coalition is that a rule prohibiting lobbyists from serving on boards poses a serious risk of unintended and wholly counterproductive consequences. The rule prohibiting lobbyists from serving on boards will discourage transparency by deterring self-disclosure of lobbying activity.

The reality is that lobbying disclosure is largely a voluntary act. It is very difficult to credibly police against the failure to properly disclose lobbying activity. Erecting a set of disincentives against voluntarily disclosing one's lobbying activity will have the perverse effect of undermining transparency. Fewer lobbyist will self-disclose. Instead, more and more paid representatives who assist with influencing legislative and executive action will claim to provide legal advice or consultation services, not lobbying. These individuals then will not face any barrier to serving on boards, even though they are equally compromised by conflicts of interest as the registered lobbyist. Indeed, the un-registered attorney or consultant arguably constitutes a greater danger of conflicts of interest because they may not fully disclose the existence of current, former, or contemplated relationships with clients. A prohibition on lobbyists serving on boards, therefore, poses the risk of fatally undermining the lobbying disclosure scheme, with the result that conflicts of interest are driven further out of public sight.

By contrast, permitting lobbyists to participate on boards and commissions promotes transparency and openness. Leaving lobbyists free to serve on boards avoids the creation of disincentives against public disclosure. As a result, individuals will self-disclose lobbying activity more freely, with the result that the public will be more informed about these relationships. The better rule is to permit lobbyists to serve on boards and commissions and require them to recuse themselves from board/commission decision making in instances where they, their employer, their client, or a client of their employer will benefit from that decision. Because these relationships are more likely to be disclosed under a system where disclosure is not discouraged, the policing of conflicts of interests is more likely to be successful.