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## **Consultants offer the latest in lobbying**

*New hybrid profession exposes murky area of Georgia ethics laws regulating the industry*

By Andy Peters, Staff Reporter

**WHILE WORKING** as a media relations manager in Gov. Sonny Perdue's office, Derrick Dickey often read the daily papers and wondered how certain lobbyists allowed their issues to get such negative coverage.

"I would do a little bit of Monday-morning quarterbacking and say to myself, 'I can do better than this,'" Dickey said Monday outside the state Capitol's ground-floor snack bar.

After working for Perdue's re-election last year, Dickey started a media consultancy. He sensed there was an opening in the market for a media-relations expert who could help lobbyists.

Going beyond the "slick, glossy glamour shots" provided by some public relations agencies, Dickey said he advises lobbyists on how to frame their issues in media interviews. He suggests the newspapers and TV stations that would be most receptive to certain story pitches, selects the best person to serve as a media spokesperson on an issue and writes drafts of op-ed articles.

The goal, said the 32-year-old Dickey, is always the same: "I definitely want to influence legislation."

To some, Dickey and others like him have cleverly combined the relationship-building practices of old-school contract lobbying with a keen sense of the 24-hour, Internet-driven news cycle.

"This is the wave of the future," said Billy Linville, a former media adviser to and political strategist for Democratic officials in Georgia who now works in government affairs for AT&T.

"Politics, government and the business community are all interconnected now and you need to be able to operate on all those levels," said Linville, who previously worked for in government relations at McKenna Long & Aldridge.

But traditional lobbyists claim these hybrids of media-relations consultant and Capitol lobbyist are getting to play by easier rules.

State law requires anyone to register as a lobbyist if they're paid to advocate for or against legislation, according to Rick Thompson, executive secretary of the State Ethics Commission.

Dickey isn't registered as a lobbyist. Nor are former state Rep. Matt A. Towery, who with former Lt. Gov. Pierre Howard provides polling, consulting and news services to clients; former U.S. Rep. Bob Barr, who started Liberty Strategies LLC; former Southeastern Legal Foundation director Phil Kent; and former *Atlanta Journal-Constitution* editorial writer Jeff Dickerson.

Dickey, Towery, Kent and Dickerson all said they aren't legally required to register as lobbyists because they don't have direct contact with legislators or with people who work in the governor's office.

“My interaction with legislators amounts to, ‘Hey, how are you doing?’” Dickey said.

“It doesn’t matter if you’re communicating directly with anyone or not,” said Thompson of the Ethics Commission, citing O.C.G.A. § 21-5-70. “If you undertake to promote or oppose legislation, or you spend at least \$250, you have to register.”

Violations of the lobbying statute carry a fine of up to \$2,000 per violation, according to O.C.G.A. § 21-5-72.

However, no one has filed a complaint about media consultants illegally engaging in lobbying, Thompson said.

“No one has ever asked the question,” Thompson added.

### **Secrecy ‘advantage’**

Nonetheless, Jennifer L. Owens, executive director of the League of Women Voters of Georgia, is adamant against hybrid consultants not registering. “Anybody who receives compensation to promote a specific interest needs to register as a lobbyist,” she said.

Neill Herring, a state lobbyist for the Sierra Club, thinks the hybrid media consultant-lobbyists are purposely avoiding registration because they can work under the radar.

“I would find it to be an enormous advantage to operate secretly,” Herring said. “If I don’t know who I’m fighting, it’s a hell of a lot harder to defeat them.”

Herring suspects that some hybrid media consultant-lobbyists don’t register because then they don’t have to report how much money they spend on gifts or meals for legislators.

There is no cost to register as a lobbyist in Georgia. Lobbyists are required to wear a badge with their name, photo and employer while working at the Capitol. Lobbyists also must file reports with the Ethics Commission disclosing meals or gifts they buy for elected officials.

Skadden, Arps, Slate, Meagher & Flom partner Kenneth A. Gross of Washington, who compiles a yearly survey of state lobbying laws in the U.S., said he has consistently been informed by Georgia Ethics Commission officials that, even if someone who is paid to influence legislation isn’t speaking directly with a legislator, he still needs to register as a lobbyist.

“Sometimes there are people who know local lore about what’s covered or not covered [by the state ethics law], but they never bother to check,” said Gross, a member of the Georgia Bar who has practiced at the Georgia Ethics Commission.

“Maybe because it has never been enforced, or it’s never come up in a public way, they assume everyone is happy,” Gross said.

But Holland & Knight partner Robert S. Highsmith Jr., said the Georgia Ethics Commission has consistently interpreted the law to say that lobbyists are people who talk directly to lawmakers. Highsmith, a registered lobbyist, helped write much of Georgia’s ethics laws as a deputy counsel to Perdue.

Towery, head of the InsiderAdvantage.com group, said he isn’t registered as a lobbyist because he doesn’t lobby, even though he occasionally talks to legislators by phone. But he admits state law governing lobbyist registration is murky.

“There are all kinds of shades of gray,” Towery said. “Everything needs to be defined far more specifically.”

Even though Towery isn’t registered as a lobbyist now, he registered a few years ago on behalf of the Georgia Trial Lawyers Association.

However, one of Towery’s current employees, Louie Hunter, is registered as a lobbyist for this year’s legislative session. Hunter is identified as chief operating officer of Internet News Agency LLC on the masthead of James magazine, which is published by Towery’s company. Hunter is registered to lobby for Brock Clay Government and Public Affairs, which is associated with the law firm of former state Sen. Charles C. Clay, who is the president of InsiderAdvantage.com.

Hunter was asked by a lobbying firm to lobby on behalf of issues for DeKalb County, Towery said.

“We decided we’d let Louie represent those folks, but we don’t get any of the money,” Towery said.

### **Lobbying not on the menu**

The Internet News Agency and InsiderAdvantage businesses, which combined have about 50 employees and yearly revenues “in the millions,” according to Towery, provide polling, consulting and other strategic information to a number of corporations that he declined to identify.

Towery said he and his partners decided from the beginning that lobbying wouldn’t be one of the services they would sell.

“Lobbying takes a lot of time,” Towery said. “Those guys have to work really hard and they’re exhausted at the end of the session. If we wanted to lobby, we’d be the most successful lobbyists in the entire Capitol. Pierre Howard could make a fortune as a lobbyist.”

Although Towery, Howard and Clay are attorneys and members of the Georgia Bar, they don’t provide legal advice to InsiderAdvantage.com clients, Towery said.

“There are instances where we’re managing a public affairs situation where the law is involved and we have knowledge of the law,” he said. “But when there is a legal matter involved, we turn it over to [other] lawyers.”

Dickerson, who offers opinions on political issues with other pundits on the WAGA-TV program “The Georgia Gang,” said it’s only necessary to register as a lobbyist if you’re “buttonholing people in the hallways of the Capitol.”

“But if, instead, your job is to fashion messages like talking points, or draft op-ed [columns] and get them placed, you don’t need to be registered,” said Dickerson, who consulted AT&T this year on legislation to change how phone companies obtain cable-television franchises.

“That’s just the way that I’ve worked and it’s not because I haven’t wanted to register,” Dickerson said. “There are a lot of lobbyists over there and I don’t think I can enhance my business by competing with them.”

As for Dickey, he said he may eventually register as a lobbyist. But he wanted to first establish his company, Dickey Strategic Relations LLC, as an authority on relations with the Georgia Capitol press corps.

So far, he’s been successful finding clients. Dickey advised lobbyists and their

corporate clients on some of the biggest issues in this year's legislative session, including a proposal to allow counties to vote on whether stores could sell alcohol on Sundays, the cable TV-franchise rule change for phone companies, and another proposal to let private real-estate developers tax citizens for certain projects.

"At times I've felt handcuffed, because I couldn't go into a legislator's office and deliver my message to him," Dickey said.

As someone who worked closely with Perdue and his Republican allies during his campaign in 2002, Dickey has some valuable friendships in high places at the Gold Dome.

"I do have some excellent relationships with many people in leadership," Dickey said. "I know how they're going to react to things."

McKenna Long & Aldridge senior managing director Eric J. Tanenblatt, who runs one of the biggest state lobbying practice groups in Georgia, said what Dickey's doing is not only legal, but is also a harbinger of where the lobbying industry is headed.

"What they're doing is opening up the process," Tanenblatt said. "There is this good old boy network at the Capitol that likes to have this mystique that they are the only ones who can influence the process. They resent that some people like [Dickey and others] are doing business in a way that hasn't been done before."

Once the domain of former state representatives and senators who leveraged their personal relationships into new careers after they left office, lobbying has recently grown to become a big business in Georgia.

Law firms in particular have targeted lobbying as a growth area. In addition to McKenna Long & Aldridge, Troutman Sanders, Alston & Bird, Nelson Mullins Riley & Scarborough and Holland & Knight are among the Atlanta firms with big state lobbying practice groups. Law firms often cross-sell legal services and lobbying to their clients.

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