

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

SENATE BILL

No. 1

Session of  
2005

---

INTRODUCED BY JUBELIRER, MELLOW, PIPPY, RHOADES, WONDERLING,  
ERICKSON, MADIGAN, KITCHEN, ROBBINS, TOMLINSON, TARTAGLIONE,  
STACK, THOMPSON, VANCE, RAFFERTY, MUSTO, LAVALLE, ARMSTRONG,  
COSTA, SCARNATI, D. WHITE, C. WILLIAMS, PILEGGI, EARLL,  
BRIGHTBILL, GORDNER, REGOLA, M. WHITE, BOSCOLA, PUNT, STOUT,  
WENGER, O'PAKE, PICCOLA, CONTI, LEMMOND, WOZNIAK, ORIE,  
LOGAN, WAUGH, KASUNIC AND A. WILLIAMS, MARCH 28, 2005

---

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 22, 2005

---

AN ACT

1 Providing for lobbying registration, regulation and disclosure;  
2 conferring powers and imposing duties on the Department of  
3 State, the Office of Attorney General and the State Ethics  
4 Commission; imposing penalties; establishing the Lobbying  
5 Accountability Fund; and making a related repeal.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Lobbying  
10 Accountability Act.

11 Section 2. Statement of intent.

12 The Constitution of Pennsylvania recognizes that all free  
13 governments are founded upon the authority of the people. It  
14 further provides that the power to make law in this Commonwealth  
15 is vested in the General Assembly, and the power to enforce law  
16 is vested in the Executive Department. The Constitution also

1 guarantees the people the right to petition those invested with  
2 the powers of government for redress of grievances. The ability  
3 of the people to exercise their fundamental authority and to  
4 have confidence in the integrity of the processes by which laws  
5 are made and enforced in this Commonwealth demands that the  
6 identity and scope of activity of those who are paid to  
7 influence the actions of the General Assembly and the Executive  
8 Department be publicly and regularly disclosed.

9 Section 3. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Administrative action." Any of the following:

14 (1) An agency's:

15 (i) proposal, consideration, promulgation or  
16 rescission of a regulation;

17 (ii) development or modification of a guideline or a  
18 statement of policy; or

19 (iii) approval or rejection of a regulation.

20 (2) The review, revision, approval or disapproval of a  
21 regulation under the act of June 25, 1982 (P.L.633, No.181),  
22 known as the Regulatory Review Act.

23 (3) The Governor's approval or veto of legislation.

24 (4) The nomination or appointment of an individual as an  
25 officer or employee of the Commonwealth.

26 (5) The proposal, consideration, promulgation or  
27 rescission of an executive order.

28 "Affiliated political action committee." A "political action  
29 committee" as defined in section 1621(1) of the act of June 3,  
30 1937 (P.L.1333, No.320), known as the Pennsylvania Election

1 Code, which has a chairman, a treasurer or other officer who is  
2 a principal, an officer or employee of a principal, a lobbyist  
3 or an employee of a lobbyist, provided if an employee of a  
4 registrant serves as the officer of a political action committee  
5 in what is clearly a personal capacity and the goals and mission  
6 of that political action committee clearly have no relationship  
7 to the goals and mission of the registrant, such political  
8 action committee shall not be considered an affiliated political  
9 action committee for the purposes of this definition.

10 "Agency." An agency, board, commission, authority or  
11 department of the executive department of the Commonwealth.

12 "Board." The Disciplinary Board of the Supreme Court of  
13 Pennsylvania.

14 "Commission." The State Ethics Commission.

15 "Compensation." Anything of value, including benefits,  
16 received or to be received from a principal by one acting as a  
17 lobbyist.

18 "Department." The Department of State of the Commonwealth.

19 ~~"Direct communication." An effort, whether written, oral or~~ <—  
20 ~~by any other medium, made by a lobbyist or principal, directed~~  
21 ~~to a State official or employee, the purpose or foreseeable~~  
22 ~~effect of which is to influence legislative action or~~  
23 ~~administrative action.~~

24 "DIRECT INFLUENCE." ANY EFFORT TO LOBBY OR COMMUNICATE TO A <—  
25 STATE OFFICIAL OR STATE EMPLOYEE, WHICH IS INTENDED TO AFFECT  
26 LEGISLATIVE OR ADMINISTRATIVE ACTION.

27 "DIRECT INFLUENCE EXPENSE." ANY EXPENDITURE FOR DIRECT  
28 INFLUENCE, INCLUDING ANY EXPENDITURE FOR RESEARCH, MONITORING,  
29 TECHNICAL, CLERICAL OR ADMINISTRATIVE SERVICES PROVIDED BY A  
30 LOBBYIST, OR THE STAFF OF A LOBBYIST, IN SUPPORT OF DIRECT

1 INFLUENCE. THE TERM DOES NOT INCLUDE ANY OFFICE EXPENSES.

2 "Economic consideration." Anything of value offered or  
3 received.

4 "Fund." The Lobbying Accountability Fund established in  
5 section 10(b) (relating to registration fees; fund established;  
6 system; regulations).

7 "Gift." As defined in 65 Pa.C.S. § 1102 (relating to  
8 definitions).

9 "Immediate family." An individual's spouse, child, parent,  
10 brother, sister and like relative-in-law.

11 ~~"Indirect communication." An effort, whether written, oral~~ <—  
12 ~~or by any other medium, to encourage others, including the~~  
13 ~~general public, to take action, the purpose or foreseeable~~  
14 ~~effect of which is to directly influence legislative action or~~  
15 ~~administrative action. The term includes letter writing~~  
16 ~~campaigns, mailings, telephone banks, print and electronic media~~  
17 ~~advertising, billboards, publications and educational campaigns~~  
18 ~~on public issues. The term does not include regularly published~~  
19 ~~periodic newsletters primarily designed for and distributed to~~  
20 ~~members of a bona fide association or charitable or fraternal~~  
21 ~~nonprofit corporation.~~

22 "INDIRECT INFLUENCE." ANY EFFORT TO ENCOURAGE OTHERS, <—  
23 INCLUDING THE GENERAL PUBLIC, TO COMMUNICATE TO A STATE OFFICIAL  
24 OR EMPLOYEE TO AFFECT LEGISLATIVE OR ADMINISTRATIVE ACTION. THE  
25 TERM INCLUDES ACTIVITIES SUCH AS LETTER-WRITING CAMPAIGNS,  
26 MAILINGS, TELEPHONE BANKS, PRINT AND ELECTRONIC MEDIA  
27 ADVERTISING, BILLBOARDS, PUBLICATIONS AND EDUCATIONAL CAMPAIGNS.  
28 THE TERM DOES NOT INCLUDE REGULARLY PUBLISHED PERIODIC  
29 NEWSLETTERS PRIMARILY DESIGNED FOR AND DISTRIBUTED TO MEMBERS OF  
30 A BONA FIDE ASSOCIATION OR CHARITABLE OR FRATERNAL NONPROFIT

1 CORPORATION.

2 "INDIRECT INFLUENCE EXPENSE." ANY EXPENDITURE FOR INDIRECT  
3 INFLUENCE, INCLUDING ANY EXPENDITURE FOR RESEARCH, MONITORING,  
4 TECHNICAL, CLERICAL OR ADMINISTRATIVE SERVICES PROVIDED BY A  
5 LOBBYIST, OR THE STAFF OF A LOBBYIST, IN SUPPORT OF INDIRECT  
6 INFLUENCE. THE TERM DOES NOT INCLUDE ANY OFFICE EXPENSES.

7 "Legislation." Bills, resolutions, amendments and  
8 nominations pending or proposed in either the Senate or the  
9 House of Representatives. The term includes any other matter  
10 which may become the subject of action by either chamber of the  
11 General Assembly.

12 "Legislative action." An action taken by a State official or  
13 employee involving the preparation, research, drafting,  
14 introduction, consideration, modification, amendment, approval,  
15 passage, enactment, tabling, postponement, defeat or rejection  
16 of legislation; legislative motions; overriding or sustaining a  
17 veto by the Governor; or confirmation of appointments by the  
18 Governor or appointments to public boards or commissions by a  
19 member of the General Assembly.

20 "Lobbying." An effort to influence legislative action or  
21 administrative action. The term includes:

22 ~~(1) direct or indirect communication;~~ <—  
23 ~~(2) personnel and office expenses in accordance with~~  
24 ~~section 5(b)(2)(i)(A) (relating to reporting); and~~  
25 ~~(3) providing any gift, entertainment, meal,~~  
26 ~~transportation or lodging to a State official or employee for~~  
27 ~~the purpose of advancing the interest of the lobbyist or~~  
28 ~~principal.~~

29 (1) COMMUNICATING IN WRITING, ORALLY OR BY ANY OTHER <—  
30 MEDIUM TO A STATE OFFICIAL OR EMPLOYEE FOR THE PURPOSE OF

1 INFLUENCING LEGISLATIVE OR ADMINISTRATIVE ACTION.

2 (2) PROVIDING ANY GIFT, HOSPITALITY, TRANSPORTATION OR  
3 LODGING TO A STATE OFFICIAL OR EMPLOYEE FOR THE PURPOSE OF  
4 ADVANCING THE INTEREST OF THE LOBBYIST OR PRINCIPAL.

5 "Lobbyist." Any individual, association, corporation,  
6 partnership, business trust or other business entity that  
7 engages in lobbying on behalf of a principal for economic  
8 consideration. The term includes an attorney at law while  
9 engaged in lobbying.

10 "OFFICE EXPENSE." ANY EXPENDITURE FOR OFFICES, EQUIPMENT OR <—  
11 SUPPLIES OTHER THAN PERSONNEL EXPENSES.

12 "Principal." Any individual, association, corporation,  
13 partnership, business trust or other business entity:

14 (1) on whose behalf a lobbyist influences or attempts to  
15 influence an administrative action or a legislative action;  
16 or

17 (2) that engages in lobbying on the principal's own  
18 behalf.

19 "Registrant." A registered lobbyist or a registered  
20 principal.

21 "Regulation." Any rule, regulation or order in the nature of  
22 a rule or regulation, including formal and informal opinions of  
23 the Attorney General, of general application and future effect,  
24 promulgated by an agency under statutory authority in the  
25 administration of a statute administered by or relating to the  
26 agency, or prescribing the practice or procedure before the  
27 agency.

28 "State official or employee." An individual elected or  
29 appointed to a position in State government or employed by State  
30 government, whether compensated or uncompensated, who is

1 involved in legislative action or administrative action.

2 Section 4. Registration.

3 (a) General rule.--Unless excluded under section 6 (relating  
4 to exemption from registration and reporting), a lobbyist or a  
5 principal must register with the department ~~within ten days of~~ <—  
6 ~~acting in any capacity as a lobbyist or principal. Registration~~  
7 ~~shall be biennial and be coincident with the terms of the~~  
8 ~~members of the House of Representatives.~~ BIENNIALY. EACH <—  
9 BIENNIAL REGISTRATION CYCLE SHALL BEGIN ON JANUARY 1 OF EACH  
10 ODD-NUMBERED YEAR AND SHALL CONCLUDE ON DECEMBER 31 OF THE  
11 IMMEDIATELY FOLLOWING EVEN-NUMBERED YEAR. THE FOLLOWING SHALL  
12 APPLY:

13 (1) A LOBBYIST MUST REGISTER WITHIN TEN DAYS OF:

14 (I) RECEIVING COMPENSATION FOR LOBBYING FROM ALL  
15 PRINCIPALS REPRESENTED IN EXCESS OF \$2,500 IN THE  
16 AGGREGATE DURING ANY REPORTING PERIOD; OR

17 (II) ENGAGING IN LOBBYING ON BEHALF OF HIS EMPLOYER  
18 WHERE LOBBYING ACTIVITY ACCOUNTS FOR OVER \$2,500 OF THE  
19 EMPLOYEE'S TIME DURING ANY REPORTING PERIOD BASED ON AN  
20 HOURLY PRORATION OF THE EMPLOYEE'S COMPENSATION.

21 (2) A PRINCIPAL MUST REGISTER WITHIN TEN DAYS OF  
22 EXPENDING IN EXCESS OF \$2,500 FOR LOBBYING PURPOSES DURING  
23 ANY REPORTING PERIOD.

24 (b) Principals.--

25 (1) A principal required to register shall file a  
26 registration statement setting forth the following  
27 information with the department:

28 (i) Name.

29 (ii) Permanent address.

30 (iii) Daytime telephone number.

1 (iv) Name and nature of business.

2 (v) Name, registration number and acronym of any  
3 affiliated political action committees.

4 (vi) Name and permanent business address of each  
5 individual who will for economic consideration engage in  
6 lobbying on the principal's behalf.

7 (2) If a principal is an association or organization,  
8 the number of dues-paying members of the association or  
9 organization in the most recently completed calendar year  
10 shall also be disclosed.

11 (c) Lobbyist.--A lobbyist who is required to register shall  
12 file a registration statement setting forth the following  
13 information with the department:

14 (1) Name.

15 (2) Permanent business address.

16 (3) Daytime telephone number.

17 (4) A recent photograph of the lobbyist.

18 (5) Name, permanent business address and daytime  
19 telephone number of each principal for whom the lobbyist will  
20 engage in lobbying.

21 (6) Name, registration number and acronym of any  
22 affiliated political action committees.

23 (d) Amendments.--

24 (1) When there is a change of information required for  
25 the registration statement under subsection (b)(1) or (c), an  
26 amended statement shall be filed with the department within  
27 14 days after the change occurs.

28 (2) When there is a change in information required for  
29 the registration statement under subsection (b)(2), an  
30 amended statement shall be filed with the department within

1 14 days of the end of the year in which the change occurs.

2 (e) Termination.--A lobbyist or a principal may terminate  
3 registration by filing notice of termination with the  
4 department. Within 30 days of filing the notice, the lobbyist or  
5 principal shall file a termination report, which shall include  
6 all information required by section 5 (relating to reporting)  
7 through the final day of lobbying activity. After a review of  
8 the termination report but not later than 90 days after receipt  
9 of the report, the department shall issue to the lobbyist or  
10 principal a letter stating that the registrant has terminated  
11 registration. The filing of notice or a termination report shall  
12 not affect the commission's authority to conduct investigations  
13 and hearings pursuant to section 8(i) (relating to  
14 administration and enforcement). No lobbying may occur after the  
15 filing of notice of termination unless the lobbying is pursuant  
16 to a separate registration statement which is filed with the  
17 department and which, at the time of the lobbying, has not been  
18 terminated.

19 Section 5. Reporting.

20 (a) General rule.--A registered principal shall, under oath  
21 or affirmation, file quarterly expense reports with the  
22 department.

23 (b) Content.--

24 (1) Reports must list the names of all lobbyists by whom  
25 lobbying is conducted and the general subject matter or issue  
26 being lobbied.

27 (2) (i) Expense reports must contain the following  
28 categories:

29 ~~(A) A single aggregate good faith estimate of~~ <—  
30 ~~the total amount spent for personnel and office~~

1 ~~expenses related to lobbying. This subparagraph~~  
2 ~~includes salaries and other forms of compensation,~~  
3 ~~benefits, vehicle allowances, bonuses and~~  
4 ~~reimbursable expenses for those involved in lobbying.~~  
5 ~~If compensation is to be reported by or for an~~  
6 ~~individual or entity whose lobbying is incidental to~~  
7 ~~regular employment, it shall be sufficient to report~~  
8 ~~a good faith prorated estimate based on the value of~~  
9 ~~the time devoted to lobbying. Reportable personnel~~  
10 ~~costs include costs for lobbying staff, research and~~  
11 ~~monitoring staff, consultants, attorneys at law,~~  
12 ~~lobbyists, publications and public relations staff,~~  
13 ~~technical staff and clerical and administrative~~  
14 ~~support staff who engage in lobbying but are exempt~~  
15 ~~from reporting under section 6(12) (relating to~~  
16 ~~exemption from registration and reporting). This~~  
17 ~~subparagraph includes costs for offices, equipment~~  
18 ~~and supplies utilized for lobbying.~~

19 ~~(B) A single aggregate good faith estimate of~~  
20 ~~the total amount spent for direct communication.~~

21 ~~(C) A single aggregate good faith estimate of~~  
22 ~~the total amount spent for indirect communication.~~

23 ~~(D) The total costs for gifts, entertainment,~~  
24 ~~meals, transportation, lodging and receptions given~~  
25 ~~to or provided to State officials or employees or~~  
26 ~~their immediate families.~~

27 (A) THE TOTAL COSTS FOR DIRECT INFLUENCE  
28 EXPENSES.

29 (B) THE TOTAL COSTS FOR INDIRECT INFLUENCE  
30 EXPENSES.

<—

1 (C) THE TOTAL COSTS FOR GIFTS, HOSPITALITY,  
2 TRANSPORTATION, LODGING AND RECEPTIONS GIVEN TO OR  
3 PROVIDED TO STATE OFFICIALS OR EMPLOYEES OR THEIR  
4 IMMEDIATE FAMILIES.

5 (ii) Expenses required to be reported pursuant to  
6 subparagraph (i) shall be assigned to one of the ~~four~~ <—  
7 THREE categories listed under subparagraph (i) and shall <—  
8 not be included in more than one category.

9 (3) In addition to reporting the totals required under  
10 this subsection, the expense report must identify, by name,  
11 position and each occurrence, a State official or employee  
12 who receives from a principal or lobbyist anything of value  
13 which must be included in the statement under 65 Pa.C.S. §  
14 1105(b)(6) or (7) (relating to statement of financial  
15 interests) as implemented by section 65 Pa.C.S. § 1105(d).

16 (i) For purposes of this act, the amount referred to  
17 in 65 Pa.C.S. § 1105(b)(7) shall be considered an  
18 aggregate amount per year.

19 (ii) Written notice must be given to each State  
20 official or employee who is listed in the expense report  
21 pursuant to this paragraph within seven days of the  
22 report's submission to the department. Notice under this  
23 subparagraph shall include the information which will  
24 enable the State official or employee to comply with 65  
25 Pa.C.S. § 1105(b)(6) and (7). For purposes of this act  
26 and 65 Pa.C.S. Ch. 11 (relating to ethics standards and  
27 financial disclosure), 65 Pa.C.S. § 1105(b)(6) and (7)  
28 shall constitute mutually exclusive categories.

29 (iii) Regulations shall be promulgated under section  
30 10(d) (relating to registration fees; fund established;

1 system; regulations) to define mutually exclusive  
2 categories under 65 Pa.C.S. § 1105(b)(6) and (7) and to  
3 determine whether a thing of value is subject to  
4 disclosure under 65 Pa.C.S. § 1105(b)(6) or (7).

5 (4) A lobbyist shall sign the reports submitted by each  
6 principal for whom the lobbyist is registered to attest to  
7 the validity and accuracy to the best of the lobbyist's  
8 knowledge. A lobbyist may attach a statement to the report of  
9 any principal, describing the limits of the lobbyist's  
10 knowledge concerning the information contained in the report.

11 (5) The expense report shall also include the name,  
12 permanent business address and daytime telephone number of  
13 any individual, association, corporation, partnership,  
14 business trust or other business entity which contributed  
15 more than 10% of the total resources received by the  
16 principal during the reporting period.

17 (6) A registered principal or registered lobbyist that  
18 attempts to influence an agency's preparing, bidding,  
19 entering into or approving a contract shall ensure that the  
20 related expenses are included under paragraph (2).

21 (c) Separate report.--A lobbyist shall submit a separate  
22 report from the report of a registered principal for whom the  
23 lobbyist is registered if, during the reporting period, the  
24 lobbyist engaged in lobbying which was not reflected in the  
25 reports filed by the principal or principals represented by the  
26 lobbyist. A separate lobbyist report shall contain the identity  
27 of the principal for whom such lobbying was performed, the  
28 general subject matter or issue being lobbied and all  
29 information required under subsection (b)(2) and (3).

30 (d) Records retention.--A registrant shall retain all

1 documents reasonably necessary to substantiate the reports to be  
2 made under this section for four years from the date of filing  
3 the subject report. Upon request by the Office of Attorney  
4 General, the board, the commission or the department, these  
5 materials shall be made available for inspection within a  
6 reasonable period of time.

7 (e) Thresholds for reporting.--An expense report shall be  
8 filed when total expenses for lobbying exceed \$2,500 for a  
9 registered principal or a registered lobbyist in a reporting  
10 period. In a reporting period in which total expenses are \$2,500  
11 or less, a statement to that effect shall be filed.

12 (f) Voluntary disclosure.--Nothing in this section shall  
13 prevent a principal or lobbyist from disclosing expenses in  
14 greater detail than required.

15 Section 6. Exemption from registration and reporting.

16 The following individuals and activities shall be exempt from  
17 registration under section 4 (relating to registration) and  
18 reporting under section 5 (relating to reporting):

19 (1) An individual who limits lobbying activities to  
20 preparing testimony and testifying before a committee of the  
21 General Assembly or participating in an administrative  
22 proceeding of an agency.

23 (2) An individual who is an employee of an entity  
24 engaged in the business of publishing or broadcasting while  
25 engaged in the gathering and dissemination of news and  
26 comment thereon to the general public in the ordinary course  
27 of business.

28 (3) An individual who does not receive compensation,  
29 other than traveling expenses, for lobbying.

30 ~~(4) An individual whose compensation for lobbying, from~~ <—

1 all principals represented, does not exceed \$2,500 in the  
2 aggregate during any reporting period.

3 ~~(5) An individual who engages in lobbying on behalf of~~  
4 ~~the individual's employer and where lobbying activity~~  
5 ~~represents less than the equivalent of \$2,500 of the~~  
6 ~~employee's time during any reporting period, based on an~~  
7 ~~hourly proration of the employee's compensation.~~

8 ~~(6) A principal whose total expenses for lobbying~~  
9 ~~purposes do not exceed \$2,500 during any reporting period.~~

10 ~~(7)~~ (4) An elected State official acting in an official <—  
11 capacity.

12 ~~(8)~~ (5) A State official who is appointed by the <—  
13 Governor acting in an official capacity.

14 ~~(9)~~ (6) An elected or appointed official or employee of <—  
15 a political subdivision acting in an official capacity. This  
16 exception shall not be construed to exempt lobbyists or  
17 principals from registration under section 4 and reporting  
18 under section 5 who are engaged in lobbying.

19 ~~(10)~~ (7) An employee of the Commonwealth or independent <—  
20 agency of the Commonwealth acting in an official capacity.

21 ~~(11) An individual representing a bona fide church or~~ <—  
22 ~~bona fide religious body of which the individual is a member~~  
23 ~~where the lobbying is solely for the purpose of protecting~~  
24 ~~the constitutional right to the free exercise of religion.~~

25 (8) AN INDIVIDUAL WHO APPEARS ON BEHALF OF ANY RELIGIOUS <—  
26 ORGANIZATION WITH RESPECT TO SUBJECTS OF LEGISLATION OR  
27 REGULATION THAT DIRECTLY RELATE TO THE RELIGIOUS BELIEFS AND  
28 PRACTICES OF THAT ORGANIZATION AND WHO DOES NOT OTHERWISE ACT  
29 AS A LOBBYIST.

30 ~~(12)~~ (9) An individual, who is not a registered <—

1 lobbyist, who serves:

2 (i) on an advisory board, working group or task  
3 force; and

4 (ii) at the request of an agency or the General  
5 Assembly.

6 ~~(13)~~ (10) Participating as a party or as an attorney at <—  
7 law or representative of a party in any administrative  
8 adjudication pursuant to 2 Pa.C.S. (relating to  
9 administrative law and procedure).

10 ~~(14)~~ (11) An employee, who is not a registered lobbyist, <—  
11 of a corporation which:

12 (i) is registered as a principal under section 4;

13 (ii) has one or more registered lobbyists; and

14 (iii) includes in its reports under section 5 all of  
15 the employee's expenses related to lobbying.

16 Section 7. Prohibited activities.

17 (a) Political committees.--A lobbyist may not serve as a  
18 treasurer or other officer for a candidate's political committee  
19 or a candidate's political action committee.

20 (b) Fee restrictions.--A lobbyist may not charge a fee or  
21 receive compensation or economic consideration based upon an  
22 understanding, either written or oral, that any part of the fee,  
23 compensation or economic consideration will be converted into a  
24 contribution to a candidate for public office or a political  
25 committee.

26 (c) Falsification.--No lobbyist or principal may, for the  
27 purpose of influencing legislative action or administrative  
28 action, transmit, utter or publish to any State official or  
29 employee any communication, knowing that such communication or  
30 any signature on the communication is false, forged, counterfeit

1 or fictitious.

2 (d) Conflicts of interest.--

3 (1) Except as permitted by paragraph (2), a registrant  
4 may not lobby on behalf of a principal:

5 (i) on any subject matter in which the principal's  
6 interests are directly adverse to the interests of  
7 another principal currently represented by the lobbyist  
8 ~~or previously represented by the lobbyist during the~~ <—  
9 ~~current session of the General Assembly~~; or

10 (ii) if the lobbyist's representation of the  
11 principal appears to be adversely limited by the  
12 lobbyist's responsibilities to:

13 (A) another current principal;

14 (B) a principal previously represented by the  
15 lobbyist during the current session of the General  
16 Assembly; or

17 (C) the lobbyist's own interests.

18 (2) A lobbyist may represent a principal in  
19 circumstances described in paragraph (1) if:

20 (i) the lobbyist reasonably believes that the  
21 lobbyist will be able to provide competent and diligent  
22 representation to each affected principal;

23 (ii) the lobbyist provides written notice to each  
24 affected principal upon becoming aware of the conflict;  
25 and

26 (iii) each affected principal provides informed  
27 consent waiving the conflict of interest.

28 (3) If a lobbyist represents a principal in violation of  
29 this section or, if multiple representation properly accepted  
30 becomes improper under this section and the conflict is not

1 waived, the lobbyist shall promptly withdraw from one or more  
2 representations to the extent necessary for any remaining  
3 representation to not be in violation of this section.

4 (4) If a lobbyist is prohibited by this section from  
5 engaging in particular conduct, an employer of the lobbyist  
6 or a partner or other person associated with the lobbyist may  
7 not engage in the particular conduct.

8 (5) A principal or lobbyist required to report under  
9 section 5 (relating to reporting) shall include in the report  
10 a statement affirming that to the best of the principal's or  
11 lobbyist's knowledge the principal or lobbyist has complied  
12 with this section.

13 (6) ~~Except as provided in paragraph (8), the~~ THE <—  
14 commission may receive complaints regarding violations of  
15 this subsection. ~~If the commission determines a violation of~~ <—  
16 ~~this subsection has occurred, the commission, after~~  
17 ~~investigation, notice and hearing.~~

18 (7) IF THE SUBJECT OF A COMPLAINT IS AN ATTORNEY AT LAW, <—  
19 THE COMMISSION SHALL REFER AN ALLEGED VIOLATION OF THIS  
20 SUBSECTION TO THE BOARD TO BE INVESTIGATED, CONSIDERED AND  
21 RESOLVED IN A MANNER CONSISTENT WITH THE PENNSYLVANIA RULES  
22 OF PROFESSIONAL CONDUCT.

23 (8) EXCEPT FOR ANY ALLEGED VIOLATION REFERRED TO THE  
24 BOARD UNDER PARAGRAPH (7), IF THE COMMISSION DETERMINES THAT  
25 A VIOLATION OF THIS SUBSECTION HAS OCCURRED, THE COMMISSION,  
26 AFTER INVESTIGATION, NOTICE AND HEARING:

27 (i) shall impose a civil penalty in an amount not to  
28 exceed \$2,000; and

29 (ii) may prohibit a lobbyist or principal from  
30 lobbying for up to five years.

1           ~~(7)~~ (9) A lobbyist and principal shall maintain the           <—  
2 records relating to the conflict of interest set forth in  
3 paragraph (2) for a four-year period beginning on the date  
4 the conflict is discovered and, in the case of an  
5 investigation conducted under paragraph ~~(6)~~ (8), provide           <—  
6 copies of the records to the commission upon request.

7           ~~(8) Complaints regarding violations of this subsection           <—~~  
8 ~~involving a lobbyist or principal who is an attorney at law~~  
9 ~~shall be referred to the board to be investigated, considered~~  
10 ~~and resolved in a manner consistent with the Pennsylvania~~  
11 ~~Rules of Professional Conduct.~~

12 (e) Unlawful acts.--

13 (1) A lobbyist or principal may not:

14 (i) Instigate the introduction of any legislation  
15 for the purpose of obtaining employment to lobby in  
16 opposition thereto.

17 (ii) Knowingly counsel any person to violate any  
18 provisions of this act or any other Federal or State law.

19 (iii) Engage in or counsel any person to engage in  
20 fraudulent conduct.

21 (iv) Attempt to influence a State official or  
22 employee on any legislative or administrative action by  
23 making or facilitating the making of a loan to the State  
24 official or employee.

25 (v) While engaging in lobbying on behalf of the  
26 principal, refuse to disclose to a State official or  
27 employee, upon request, the identity of the principal.

28 (vi) Commit a criminal offense arising from  
29 lobbying.

30 (vii) Influence or attempt to influence, by

1 coercion, bribery or threat of economic sanction, any  
2 State official or employee in the discharge of the duties  
3 of his or her office.

4 (viii) Extort or otherwise unlawfully retaliate  
5 against a State official or employee by reason of the  
6 State official's or employee's position with respect to,  
7 or vote on, any administrative or legislative action.

8 (ix) Attempt to influence a State official or  
9 employee on any legislative or administrative action by  
10 the promise of financial support or the financing of  
11 opposition to his candidacy at any future election.

12 (x) Engage in conduct which brings the practice of  
13 lobbying or the legislative or executive branches of  
14 government into disrepute.

15 (2) The commission may receive complaints regarding  
16 violations of this subsection. ~~If the commission determines a~~ <—  
17 ~~violation of this subsection has occurred, the commission,~~  
18 ~~after investigation, notice and hearing.~~

19 (3) IF THE SUBJECT OF A COMPLAINT IS AN ATTORNEY AT LAW, <—  
20 THE COMMISSION SHALL REFER AN ALLEGED VIOLATION OF THIS  
21 SUBSECTION TO THE BOARD.

22 (4) EXCEPT FOR ANY ALLEGED VIOLATION REFERRED TO THE  
23 BOARD UNDER PARAGRAPH (3), IF THE COMMISSION DETERMINES THAT  
24 A VIOLATION OF THIS SUBSECTION HAS OCCURRED, THE COMMISSION,  
25 AFTER INVESTIGATION, NOTICE AND HEARING:

26 (i) shall impose a civil penalty in an amount not to  
27 exceed \$2,000; and

28 (ii) may prohibit a lobbyist or principal from  
29 lobbying for up to five years.

30 ~~(3) The commission.~~ <—

~~(i) may, as it deems appropriate, refer an alleged violation of this subsection to the Attorney General for investigation and prosecution; and~~

~~(ii) shall, if the subject of the complaint is an attorney at law, refer an alleged violation of this subsection to the board.~~

(5) EXCEPT FOR ANY ALLEGED VIOLATION REFERRED TO THE BOARD UNDER PARAGRAPH (3), THE COMMISSION MAY, AS IT DEEMS APPROPRIATE, REFER AN ALLEGED VIOLATION OF THIS SUBSECTION TO THE ATTORNEY GENERAL FOR INVESTIGATION AND PROSECUTION. <—

Section 8. Administration and enforcement.

(a) Criminal enforcement.--If the department or commission has reason to believe an intentional violation of this act has been committed, it shall refer all relevant documents and other information to the Office of Attorney General and, if the lobbyist or principal is an attorney at law, to the board.

(b) Forms.--The department shall prescribe registration and reporting forms to be used pursuant to this act. The forms shall be available on a publicly accessible World Wide Web page. All information requested on the forms shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.

(c) Attorney General.--In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General has the authority to investigate and prosecute a violation of this act.

(d) Advice and opinions.--The commission shall provide advice and opinions in accordance with the procedures as set

1 forth in 65 Pa.C.S. § 1107 (relating to powers and duties of  
2 commission) to a lobbyist, principal, the department, the board  
3 or a State official or employee who seeks advice regarding  
4 compliance with this act. A principal, lobbyist or other  
5 individual who acts in good faith based on the written advice or  
6 opinion shall not be held liable for a violation of this act,  
7 provided that the material facts are as stated in the request.

8 (e) Public inspection and copying.--The department shall  
9 make registration statements, expense reports, termination  
10 notices and termination reports which have been filed with the  
11 department available for public inspection and provide copies of  
12 these documents at a price which shall not exceed the actual  
13 cost of copying. Documents that are maintained and reproducible  
14 in an electronic format shall be provided in that format upon  
15 request.

16 (f) Annual reporting.--The department shall prepare and  
17 publish an annual report on lobbying activities in this  
18 Commonwealth. The department shall also annually publish a  
19 listing of registered principals, identifying affiliated  
20 political action committees and lobbyists who are registered to  
21 lobby for the principal, and a listing of lobbyists, identifying  
22 affiliated political action committees and the principals for  
23 whom the lobbyist is registered to lobby.

24 (g) Retention of records.--Registration statements, expense  
25 reports, termination notices and termination reports shall be  
26 available for public inspection with the department for a four-  
27 year period which commences on the date of filing.

28 (h) Audits.--Annually, the commission shall conduct audits  
29 of the registration statements and expense reports filed by  
30 registrants. The registrants to be audited shall be selected by

1 lottery. The number of registrants selected for audits shall be  
2 sufficient to ensure compliance with this act. An audit report  
3 and related findings shall be confidential; however, the  
4 commission may include the relevant portion of an audit as part  
5 of its findings of fact in an order which results from an  
6 investigation arising out of an audit.

7 (i) Investigation and hearings.--The commission, through its  
8 executive director, may initiate an investigation and hold a  
9 hearing, concerning negligent conduct by a lobbyist or  
10 principal, in accordance with 65 Pa.C.S. §§ 1107 (relating to  
11 powers and duties of commission) and 1108 (relating to  
12 investigations by commission).

13 (j) Directory.--On or before May 1 of each odd-numbered  
14 year, the department shall produce and distribute a directory of  
15 all registered lobbyists, including photographs. Copies of this  
16 directory shall be made available to the public at a price not  
17 to exceed the actual cost of production. All revenue received by  
18 the department from the sales of this directory shall be  
19 deposited into the fund.

20 (k) Computer file.--The department shall provide the  
21 Legislative Data Processing Committee all data relating to  
22 registration statements and amendments to such statements,  
23 expense reports, termination notices and termination reports,  
24 and the committee shall make all such information available on a  
25 publicly accessible World Wide Web page IN A FULLY SEARCHABLE <—  
26 FORMAT.

27 (l) Cost-of-living adjustment.--On a biennial basis  
28 commencing in January 2008, the commission shall review the  
29 threshold for reporting under section 5(e) (relating to  
30 reporting) and the threshold for exemption under section 6

(relating to exemption from registration and reporting) and may increase these amounts to levels deemed reasonable for assuring appropriate disclosure. The commission shall publish any such adjusted threshold amounts in the Pennsylvania Bulletin by June 1, 2008, and every two years thereafter as necessary.

Section 9. Penalties.

(a) Notice of noncompliance.--The commission shall issue a notice of noncompliance to any lobbyist or principal that has failed to register or report as required by this act. The notice shall state the nature of the alleged noncompliance and the civil and criminal penalties for failure to register, failure to file or filing a report containing a false statement or which is incomplete. The notice shall also advise that if the lobbyist or principal disagrees with the alleged noncompliance, the lobbyist or principal may appeal such before the commission. The notice shall set forth the deadline and manner in which to request a hearing.

(b) Hearing.--

(1) If a hearing is requested, the commission shall determine at the hearing:

(i) whether the recipient of the notice is required to register or report under this act; and

(ii) whether the failure to register or report was negligent or intentional.

(2) If the commission finds that the failure to register or report was intentional, it shall refer the matter to the Attorney General and, if the lobbyist or principal is an attorney at law, to the board.

(3) If the commission finds that failure to register or report was negligent, it shall determine the amount of the

1 civil penalty to be imposed.

2 (4) Hearings under this subsection shall be conducted by  
3 the commission in accordance with 65 Pa.C.S. §§ 1107(14)  
4 (relating to powers and duties of commission) and 1108(e)  
5 (relating to investigations by commission).

6 (c) Negligent failure to register or report.--Negligent  
7 failure to register or report as required by this act is  
8 punishable by a civil penalty not exceeding \$50 for each late  
9 day. After a hearing under subsection (b), in the case of  
10 negligent failure to register or report, the commission may,  
11 upon the majority vote of all of its members, levy a civil  
12 penalty as provided for in this subsection. The total amount of  
13 the civil penalty levied shall not be limited by any other  
14 provision of law. The commission shall notify the board of any  
15 lobbyist or principal who is an attorney at law against whom a  
16 civil penalty is imposed. The commission shall have standing to  
17 apply to the Commonwealth Court to seek enforcement of an order  
18 imposing a civil penalty under this section.

19 (d) Failure to comply after notice.--A lobbyist or principal  
20 who fails to comply with the requirements of this act, after  
21 notice of noncompliance and after a hearing, if one is  
22 requested, may be prohibited from lobbying for up to five years.  
23 The prohibition shall be imposed as provided by subsection  
24 (e)(4).

25 (e) Intentional violations.--

26 (1) Any lobbyist or principal who intentionally fails to  
27 register or report as required by this act commits a  
28 misdemeanor of the second degree.

29 (2) A registrant who files a report under this act with  
30 knowledge that the report contains a false statement or is

1 incomplete commits a misdemeanor of the second degree.

2 (3) Except as set forth in paragraph (1) or (2), any  
3 lobbyist or principal who intentionally violates this act  
4 commits a misdemeanor of the third degree.

5 (4) In addition to any criminal penalties imposed  
6 pursuant to this act, the commission may prohibit a lobbyist  
7 or principal from lobbying for up to five years for conduct  
8 which constitutes an offense under this subsection. No  
9 criminal prosecution or conviction shall be required for the  
10 imposition of the prohibition authorized by this paragraph.  
11 The commission shall not impose the prohibition under this  
12 paragraph unless the lobbyist or principal has been afforded  
13 the opportunity for a hearing which shall be conducted by the  
14 commission in accordance with 65 Pa.C.S. §§ 1107(14) and  
15 1108(e).

16 (f) Attorneys.--Nothing in this act shall be construed as  
17 restricting the board's authority to discipline an attorney at  
18 law who is acting as a lobbyist or principal.

19 Section 10. Registration fees; fund established; system;  
20 regulations.

21 (a) Registration fees.--At the time of registration, a  
22 principal or lobbyist required to be registered under this act  
23 shall pay a biennial registration fee of \$100 to the department.

24 (b) Fund established.--All money received from registration  
25 fees under subsection (a) shall be deposited in a restricted  
26 receipts account to be known as the Lobbying Accountability  
27 Fund, which is hereby established as a separate fund in the  
28 State Treasury. All moneys deposited in the fund are hereby  
29 appropriated to the department as a continuing appropriation for  
30 the exclusive purpose of carrying out this act.

1 (c) Computerized filing system.--The department shall  
2 implement a fully accessible system to accommodate the use of  
3 computerized filing. Each registered lobbyist and principal  
4 shall elect on an annual basis whether he or she will file all  
5 of the documents required by this act either electronically or  
6 on paper with the department.

7 (d) Regulations.--A committee comprised of the Secretary of  
8 the Senate, the Chief Clerk of the House of Representatives, the  
9 Attorney General, the Secretary of the Commonwealth, the  
10 executive director of the commission, the chief counsel of the  
11 board and the General Counsel, or their designees, shall have  
12 authority to promulgate regulations necessary to carry out this  
13 act. The executive director of the commission shall be chairman  
14 of this committee. The initial proposed regulations shall be  
15 submitted within 180 days of the effective date of this section  
16 to the Independent Regulatory Review Commission under section 5  
17 of the act of June 25, 1982 (P.L.633, No.181), known as the  
18 Regulatory Review Act. Any meeting at which the committee plans  
19 to approve proposed regulations or other official actions shall  
20 be held in accordance with 65 Pa.C.S. Ch. 7 (relating to open  
21 meetings). The department shall provide sufficient staff and  
22 other administrative support to assist the committee. The  
23 committee shall also prepare and publish a manual setting forth  
24 guidelines for accounting and reporting. The regulations and  
25 manual shall be drafted to accommodate the use of computerized  
26 recordkeeping, electronic filing of all required registrations  
27 and reports provided for under this act and retention of  
28 registration statements and reports provided for under this act  
29 by electronic means.

30 Section 11. Nonapplicability.

1       Nothing in this act shall be construed to effect the  
2 provisions of 18 Pa.C.S. § 7515.

3 Section 12. Repeal.

4       The provisions of 65 Pa.C.S. Ch. 13 are repealed.

5 Section 13. Notice.

6       The Secretary of the Commonwealth shall transmit to the  
7 Legislative Reference Bureau, for publication in the  
8 Pennsylvania Bulletin, notice of full implementation of the  
9 computerized filing system required under section 10(c)  
10 (relating to registration fees; fund established; system;  
11 regulations).

12 Section 14. Effective date.

13       This act shall take effect as follows:

14           (1) The following provisions shall take effect  
15 immediately:

16               (i) Sections 5(b)(3)(iii) and 10(d).

17               (ii) This section.

18           (2) The remainder of this act shall take effect on the  
19 latter of either of the following:

20               (i) Publication of the notice required under section  
21 13.

22               (ii) The effective date of the regulations  
23 promulgated under section 10(d).