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The Honorable Seth M. Grove Chairperson
House State Government Committee
7 East Wing
PA House of Representatives
P.O. Box 202196
Harrisburg, PA 17120-2196

The Honorable Scott Conklin
Democratic Chairperson
House State Government Committee
314 Irvis Office Building
P.O. Box 202077
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Chairperson Grove
Chairperson Conklin
Members of the House of Representatives
State Government Committee,

My name is Robert Caruso, and I am the Executive Director of the Pennsylvania State Ethics Commission. Accompanying me today are Brian Jacisin, the Commission's Chief Counsel and in the audience, the Commission's Supervising Investigative Counsel, Jeffrey Frankenburger, who has primary responsibility for lobbying compliance and enforcement. We are here today, pursuant to the invitation of the Committee to provide testimony, offer comments, and answer any questions that members of the Committee may have. The Commission is appreciative of the invitation to participate in today's proceeding and is here to offer whatever assistance the Committee deems appropriate.

In addition to its duties and responsibilities under the Ethics Act, in 2006 the Commission was tasked with primary enforcement of the registration and reporting requirements of the Lobbying Disclosure Act as well as authority to issue advisory opinions concerning the Act.

Presently, the Commission's enforcement of the registration and reporting requirements of Sections 13A04 and 13A05 begin with the Commission's Investigative Division receiving a

listing from the Department of State of registrants which have not filed quarterly expense reports. The Investigative Division compares this list with the Department of State's lobbying database and will also check the Commission's database to determine if there were prior instances of noncompliance. Warning Notice Letters are then sent to those registrants that have been identified and confirmed as having not filed quarterly expense reports. The majority of registrants receiving the Warning Notice Letters comply within thirty (30) days of receiving Notice. If a registrant fails to file any outstanding expense report within the thirty-day established grace period, the Investigative Division then issues a Notice of Alleged Noncompliance via certified mail. Registrants who are issued a Notice of Alleged Noncompliance must file an Answer with the Commission within thirty days. The bulk of registrants receiving the Notice of Alleged Noncompliance usually contact the Investigative Division to negotiate a Consent Agreement/settlement. In the event no Answer is filed, or no effort to settle a matter has been made, the Commission will notify the parties that a default has occurred. Once a default has occurred, the matter is ripe for consideration and the Commission will issue an adjudication with penalties administered in accordance with the Lobbying Disclosure Law.

Since 2014, the Commission has issued over 1,000 Warning Notice Letters resulting in the issuance/filing of approximately 91 Notices of Alleged Noncompliance, culminating in Commission Orders directing payment of over \$750,000.00. The total number of Warning Notice Letters typically tends to decrease during the first two quarters of each two-year reporting period and increases towards the last few quarters of each two-year reporting period. Compliance and enforcement actions initiated by the Commission are highlighted in the attached addendum.

The electronic registration system implemented by the Department of State has resulted in greater efficiency and less uncertainty when initiating compliance proceedings. The Commission staff continues to work closely with the Department of State when responding to questions from registrants and the public concerning filing requirements and technical filing issues.

As requested, Commission staff who are most familiar with the Lobbying Disclosure Law have reviewed the package of bills, HBs 1599 through 1609, and are supportive of the measures outlined. Specific comments are highlighted in addendum number 2. In addition, we have identified some other areas where it is believed improvements can be made to increase transparency and achieve greater compliance, those suggestions are also outlined in addendum 3 to this document.

The members and staff of the State Ethics Commission welcome the opportunity to make additional presentations and assist the Committee as it brings greater openness, transparency, limiting undue influence and improved ethical standards to the lobbying industry and public officials in our Commonwealth.

On behalf of the Commission, I would like to thank the Committee for the opportunity to make this presentation and we would be pleased to answer any questions that the Members of the Committee may have.

Addendum #1

Commission Enforcement /Compliance 2014 to Present				
year	Warning notices	Enforcmnt Actions	Orders	Total Penalties
2014	273	15	15	\$43,945.00
2015	237	31	31	\$82,823.00
2016	121	11	11	\$45,285.00
2017	85	10	10	\$35,548.00
2018	105	9	9	\$52,985.00
2019	80	8	8	\$92,116.50
2020	56	3	3	\$45,770.00
2021*	20	4	4	\$376,600.00
totals	977	91	91	\$775,072.50

* Included are 4 enforcement actions and orders from 2020.

HOUSE BILLS 1599-1609

The State Ethics Commission is supportive of the package of bills amending the Lobbyist Disclosure Law (Act 134 of 2006). The Commission views the proposed legislation as meaningful updates and reforms to promote greater openness and transparency while simultaneously limiting undue influence and establishing rules for ethical conduct.

The Commission offers the following comments regarding selective bills being considered:

HOUSE BILL 1600:

The Commission believes consideration should be given to provide definitions of professional services. Also, is the intent for campaign consultants to be included in the exception to Section 13A06 regarding registration and reporting?

HOUSE BILL 1601:

The contents of 1601 may have already been enacted within the passage of the Administrative Code (Act 70 of 2021).

House Bill 1601 should include a clear definition of what constitutes equity.

HOUSE BILL 1602:

The Commission is supportive of House Bill 1602 to the extent that the bill increases transparency but questions whether this may be deemed “Contingent Compensation” which is prohibited.

HOUSE BILL 1603:

It is suggested that a definition of staff be included, similar to the definitions of public employee in the Ethics Act.

HOUSE BILL 1606:

The Commission believes this bill offers the most sweeping updates to the regulation of the practice of lobbying.

The Commission suggests that Section 13A04 include a mechanism to permit a principal, lobbyist or lobbying firm to file a notice of termination for a principal once the relationship between the parties is concluded.

The remaining provisions of House Bill 1606 are supported by the Commission.

HOUSE BILL 1609:

The Commission asserts training is essential to any effort to promote transparency and integrity. This training could include initial training/instruction on the completion of registrations and quarterly reporting to be provided by the Department of State. Additional, periodic training could be provided by the Commission regarding reporting requirements, restricted activities, etc.

The Commission and its staff appreciate this opportunity to offer comments. The first impressions following this session may warrant an opportunity to provide additional input as the Committee may determine.

SUGGESTED AMENDMENTS TO THE LOBBYING DISCLOSURE LAW TO IMPROVE TRANSPARENCY AND COMPLIANCE

- Eliminate the reporting threshold and require a reporting of all monies spent during the reporting quarter.
- 65 Pa.C.S. §13A05(b)(3)(iv) requires Principal/Lobbyist to provide written notice to each State official or employee who is listed in an expense report at least seven (7) days prior to the report's submission to the department. The Written Notice shall include the information which will enable the State official or employee to comply with section 1105(b)(6) and (7) of the Ethics Act. Each notice shall include both the amount incurred during the quarter and the cumulative amount incurred from January 1 through the end of the applicable quarter. It is recommended that a copy of the Written Notice be submitted to the State Ethics Commission and the Department of State.
 - In the alternative, in addition to the Written Notice, require a Principal/Lobbyist to include within the quarterly expense report the identity of each State official or employee who received Gifts/Travel/Lodging/Hospitality during the quarter regardless of the amount and include both the amount and the cumulative amount incurred from January 1 through the end of the applicable quarter, within the filed quarterly expense report.
- Require registrants (Principal/Lobbyist) to complete an on-line training (less than 30 minutes) prior to or within ten (10) days of registration or renewal or registration.
- Lobbying Regulations, specifically 51 Pa. Code §53.5(a)(b)(c), requires changes to the registration be submitted to the Department of State in writing within 14 days of a change in information.
 - Require a Principal/Lobbyist to reaffirm the accuracy of information contained upon a registration statement each quarter. This can be in conjunction with the filing of the quarterly expense reports.
 - Require a Principal to provide written Notice to the State Ethics Commission/Department of State within 30 days of a Principal dissociating with a Lobbyist/Lobbying Firm.
- Permit the State Ethics Commission and/or Department of State to serve Warning Notices, Notice of Non-Compliance, *etc.* via email to the designated/identified representative for the registered Principal/Lobbyist/Lobbying Firm.
- Require the identification of with whom and for how long direct communication occurred, upon quarterly expense reports. A reporting should also include the identification of which principal(s) interests were represented during the direct communication.

- Require Principal/Lobbyist to clearly state to the target of direct communication (public official/public employee) whom they (Principal/Lobbying) represents and that the communication is in furtherance of compensated lobbying efforts.
- Institute aggravated monetary penalties for registrants who violate registration/reporting requirements on multiple occasions.