

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2605 Session of
1990

INTRODUCED BY MICHLOVIC, HECKLER, FOX, WOGAN, KUKOVICH,
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MORRIS, MELIO, TRELLO AND McNALLY, MAY 29, 1990

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 29, 1990

AN ACT

1 Regulating lobbying; providing for further duties of the State
2 Ethics Commission; requiring the registration of lobbyists
3 and principals and the submission of certain reports;
4 providing penalties; making repeals; and providing an
5 appropriation.

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 Lobbyist
10 Registration and Ethics Act.

11 Section 2. Definitions.

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

15 "Commission." The State Ethics Commission.

16 "Communication." Any effort, whether personal, written, oral
17 or by electronic apparatus, made to influence, or to cause
18 others to take such actions to influence legislators or State

1 officials to act on legislation or regulatory action or to take
2 a decisive administrative action.

3 "Compensation." Any salary (including entire benefits
4 package) received or to be received from a person by one acting
5 as a lobbyist, whether in the form of a fee, salary,
6 forbearance, forgiveness or any other form of recompense, and
7 any combination thereof. Where compensation is to be reported by
8 or for a person whose lobbying is incidental to his regular
9 employment, it shall be sufficient to report a prorated amount
10 based on the value of the time devoted to lobbying or lobbying-
11 related activities.

12 "Constituent service." A request made by a person for
13 assistance in receiving public services mandated by law, or for
14 assistance with resolving individual or community problems which
15 do not require changes in public policy.

16 "Contract lobbyist." A person receiving compensation for
17 lobbying for a principal and who is not a salaried employee of
18 the principal.

19 "Economic consideration." A payment, distribution, transfer,
20 loan, advance, deposit, gift or other rendering of money,
21 property, services, or anything else of pecuniary value, whether
22 tangible or intangible, received as part of one's professional
23 endeavors.

24 "Expenditure." Any advance, conveyance, deposit,
25 distribution, transfer of funds, loan, payment, pledge or
26 subscriptions of money or anything of value, and any contract,
27 agreement, promise or other obligation, whether or not legally
28 enforceable, to make expenditures.

29 "Expenses." The term shall include the salaries paid or
30 received by a lobbyist, the cost of a lobbyist maintaining

1 office facilities, professional research and support staffs
2 employed to monitor and affect legislation or regulatory
3 activities, and all communication costs of the lobbyist.
4 Incidental expenses associated with lobbying shall not be
5 included.

6 "Formal action." Promulgation, amendment or repeal of any
7 regulation.

8 "Gift." A payment, subscription, advance, forbearance,
9 rendering or deposit of money, services or anything of value,
10 unless consideration of equal or greater value is received. The
11 term shall not include a political contribution otherwise
12 reported as required by law, a commercially reasonable loan made
13 in the ordinary course of business, or a gift received from a
14 member of the person's immediate family.

15 "Immediate family." A person's spouse residing in the
16 person's household, a person's children, or a person's parent,
17 brother, sister or like relative-in-law.

18 "Legislation." Bills, resolutions, amendments and
19 nominations pending or proposed in either the House of
20 Representatives or the Senate, including any other matter which
21 may become the subject of action by either house.

22 "Lobbying." Any effort to influence legislative,
23 administrative or regulatory action or to practice any activity
24 that attempts to generate good will for the purpose of advancing
25 future legislative or regulatory initiatives, or any other
26 formal action by a public official. Lobbying does not include
27 requests for constituent service, representing a person at an
28 administrative hearing, or testifying before a State agency or
29 legislative committee when the person's testimony is delivered
30 pursuant to a specific request by the agency or committee.

1 "Lobbyist." Any person who engages in lobbying for economic
2 consideration, or who receives no economic consideration but
3 expends \$500 or more in any one month of a reporting period in
4 lobbying. No minimum threshold on expenditures shall be applied
5 to those persons who lobby for economic consideration.

6 "Payments" or "contributions to lobbyist." Payments or
7 contributions to a lobbyist or contract lobbyist that shall be
8 reported biennially when the amount received by the lobbyist
9 during any calendar year totals more than \$1,000. Such report
10 shall indicate the payor and/or contributor.

11 "Pecuniary benefit." Money, goods, services or anything else
12 having monetary value.

13 "Person." Any individual, firm, association, corporation,
14 union, partnership, business trust, business entity or any other
15 legal entity.

16 "Principal." Any person who employs another person for the
17 purpose of lobbying.

18 "Public official." Any elected or appointed official or
19 employee of the Commonwealth and their staffs involved in the
20 creation or enforcement of legislation or regulatory guidelines
21 in the executive or legislative branch of State government.

22 "Registrant." A principal or a lobbyist.

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

30 Section 3. Registration.

1 (a) General rule.--Registration shall be required of every
2 lobbyist and principal. Every registrant, before advocating the
3 passage or defeat of any legislation or acting in any capacity
4 as a lobbyist, before engaging in any such activity, must
5 register with the commission. Registration shall be annual.

6 (b) Persons required.--The following persons shall register
7 with the commission:

8 (1) A lobbyist.

9 (2) A principal.

10 (c) Information required.--

11 (1) Each principal required to register shall file with
12 the commission his name, permanent address, daytime telephone
13 number, the nature of his business and his primary lobbying
14 interests. Principals shall also file with their registration
15 statements which provide the name, registration number and
16 acronyms of any political action committees affiliated with
17 their organization. The principal shall also disclose the
18 name and permanent address of each individual who will, for
19 economic consideration, lobby on his behalf.

20 (2) Each lobbyist who is required to register with the
21 commission shall file his name, permanent address and daytime
22 telephone number, as well as the name, permanent address and
23 daytime telephone number of each client or employer.

24 (3) Each registrant shall identify the matters on which
25 he expects to lobby. Each lobbyist shall register and file
26 separate reports for each client or employer he represents.
27 When any information in the original registration statement
28 changes, an amended registration form must be filed with the
29 commission within 14 calendar days after the change occurs.

30 Section 4. Expense reports.

1 (a) General rule.--Each registrant shall, under oath, file
2 biannual expense reports with the commission, at such times as
3 the commission shall by regulation direct.

4 (b) Content of report.--

5 (1) Principals shall disclose the total amount of
6 lobbying-related expenses, including salaries, compensation
7 and reimbursed expenses for the lobbyist and for technical
8 staffs and clerical staffs engaged in lobbying efforts. They
9 must describe the subject matter or issue being lobbied.

10 (2) Reports shall specify expenses assigned to
11 particular issues and fixed expenses assigned pro rata.
12 Expenses shall include salaries, benefits, commissions,
13 bonuses and wages, as well as expenditures for the following:

14 (i) Good will, gifts, entertainment and receptions.

15 (ii) Travel, lodging and food and beverages.

16 (iii) Fixed costs of office operation, such as rent,
17 utilities, furniture and equipment.

18 (iv) Consulting fees and retainers paid.

19 (v) Communications, public relations, research,
20 telephone, telegraph postage, mailing and advertising.

21 (3) If it is not possible to identify a specific issue
22 for a given expense, it shall be allocated to the "primary
23 lobbying interest" shown on the registration statement.

24 (4) In addition to stating expenses incurred, the
25 expense report completed by all registrants shall identify by
26 name and position any public official or any other employee
27 of the Commonwealth who receives any pecuniary benefit or
28 benefits in connection with lobbying with an aggregate value
29 in excess of \$150 in any reporting period. This includes
30 expenses paid and obligations incurred.

(5) Expense reports submitted by contract lobbyists shall separately for each principal represented set forth all fees received and all expenses incurred during the reporting period.

(c) Records retention.--Each registrant shall preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this section for a period of three years from the date of filing the report containing such items. Upon request, these materials shall be made available for inspection within a period of 48 hours.

(d) Thresholds for reporting.--

(1) Persons who receive no economic consideration for their lobbying activities but expend more than \$500 during any one month on lobbying efforts shall complete the same report required for principals in subsection (b).

(2) Payments or contributions when the amount received during any calendar year totals more than \$1,000. The names and addresses of the payor or donor shall be included.

Section 5. Contingent compensation prohibited.

No person shall compensate, or incur an obligation to compensate, any person to engage in lobbying, and no person shall engage or agree to engage in lobbying for compensation contingent in whole or in part upon:

(1) the passage or defeat, or approval or veto, of any legislation; or

(2) the occurrence or nonoccurrence of any formal action by an agency.

Section 6. Administration and enforcement.

(a) General rule.--This act shall be administered by the

1 commission. The commission shall make available to the public
2 full and complete information revealing the identities,
3 activities and expenditures of registrants. Should the
4 commission suspect anyone to be in violation of this act, it
5 shall immediately commence an investigation. If probable cause
6 is found, the commission shall submit a complaint to the
7 Attorney General for prosecution.

8 (b) Rules and regulations.--The commission shall, in the
9 manner provided by law, promulgate the rules and regulations
10 necessary to carry out this act.

11 (c) Information and opinions.--The commission shall prepare
12 and publish a manual setting forth recommended uniform methods
13 or guidelines for accounting and reporting. The commission shall
14 freely provide advice and opinions to those who have questions
15 regarding compliance with this act. Any lobbyist or principal
16 whose acts are based on the written advice or opinion of the
17 commission shall not be held liable for a violation of this act.

18 (d) Public inspection and copying.--The commission shall
19 make completed registration statements and disclosure reports
20 available for public inspection and provide copies of such
21 documents at a price which shall not exceed the actual cost of
22 copying.

23 (e) Annual reporting.--The commission shall prepare and
24 publish an annual report on lobbying activities in this
25 Commonwealth.

26 (f) Retention of records.--All statements shall remain on
27 file with the commission for a five-year period.

28 (g) Random audits.--The commission shall initiate periodic
29 random audits of 20% of the registration statements and
30 disclosure reports.

1 Section 7. Penalties.

2 (a) Failure to register.--Failure to register with the
3 commission as required by this act constitutes a misdemeanor
4 punishable by a fine of \$50 for each late day. This fine shall
5 be unlimited.

6 (b) Failure to report.--Failure to file any report or
7 statement required under this act, or filing a report containing
8 false or misleading information, constitutes a misdemeanor of
9 the third degree and may also result in a prohibition from
10 acting as a registered lobbyist for up to five years.

11 (c) Other violation.--Any other violations of this act
12 constitutes a misdemeanor of the third degree and may also
13 result in a prohibition from acting as a registered lobbyist for
14 up to five years.

15 Section 8. Repeals.

16 The act of September 30, 1961 (P.L.1778, No.712), known as
17 the Lobbying Registration and Regulation Act, is repealed.

18 Section 9. Appropriation.

19 The General Assembly hereby appropriates the sum of \$165,000,
20 or as much thereof that is necessary, for the fiscal year
21 beginning July 1, 1990, for use by the State Ethics Commission
22 for start-up costs and additional operating expenses related to
23 the duties imposed under this act.

24 Section 10. Effective date.

25 This act shall take effect as follows:

26 (1) Sections 6(b) and 9 of this act shall take effect
27 immediately.

28 (2) The remainder of this act shall take effect in one
29 year.