
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1498 Session of
1997

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BENNINGHOFF, STETLER, SATHER, ARGALL AND VAN HORNE,
MAY 14, 1997

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 14, 1997

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; establishing a restricted receipts fund;
5 making an appropriation; and making a repeal.

6 TABLE OF CONTENTS

- 7 Section 1. Short title.
8 Section 2. Statement of intent.
9 Section 3. Definitions.
10 Section 4. Registration.
11 Section 5. Reporting.
12 Section 6. Exemption from registration and reporting.
13 Section 7. Prohibited activities.
14 Section 8. Administration and enforcement.
15 Section 9. Penalties.

1 Section 10. Filing fees, fund established.

2 Section 11. Appropriation.

3 Section 12. Nonseverability.

4 Section 13. Repeal.

5 Section 14. Effective date.

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 Disclosure Act.

11 Section 2. Statement of intent.

12 The identity and expenditures of certain individuals and
13 entities who attempt to influence administrative and legislative
14 actions should be publicly identified to preserve and maintain
15 the integrity of government.

16 Section 3. Definitions.

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

20 "Administrative action." Any of the following:

21 (1) An agency's:

22 (i) proposal, consideration, promulgation or
23 rescission of a regulation;

24 (ii) development or modification of a statement of
25 policy;

26 (iii) nonenforcement or postponement of a
27 regulation;

28 (iv) approval or rejection of a regulation;

29 (v) issuance of an order or adjudication; or

30 (vi) preparing, bidding, entering into or approving

1 a contract.

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

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

5 "Affiliated political action committee." A "political action
6 committee" as defined in section 1621(1) of the act of June 3,
7 1937 (P.L.1333, No.320), known as the Pennsylvania Election
8 Code, which has a chairman, a treasurer or another officer who
9 is a principal, an employee of a principal, a lobbyist or an
10 employee of a lobbyist.

11 "Agency." A State agency, board, commission or department.

12 "Commission." The State Ethics Commission.

13 "Communication." An effort, whether written, printed, oral,
14 by electronic apparatus or by any other medium, made by a
15 lobbyist or principal to influence or to encourage others to
16 take action to influence legislators or State officials to act
17 on legislative or administrative action.

18 "Compensation." Anything of value, including benefits,
19 received or to be received from a person by one acting as a
20 lobbyist.

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

22 "Economic consideration." Anything of value offered or
23 received.

24 "Fund." The Lobbying Disclosure Fund established in section
25 10(b).

26 "Immediate family." An individual's spouse; and individual's
27 child; and an individual's parent, brother, sister or like
28 relative-in-law.

29 "Legislation." Bills, resolutions, amendments and
30 nominations pending or proposed in either the Senate or the

1 House of Representatives. The term includes a matter which may
2 become the subject of action by the Governor or either chamber
3 of the General Assembly.

4 "Legislative action." The preparation, research, drafting,
5 introduction, consideration, modification, amendment, approval,
6 passage, enactment, tabling, postponement, defeat or rejection
7 of legislation; legislative motions; or overriding or sustaining
8 a veto by the Governor.

9 "Lobbying." An effort to influence legislative or
10 administrative action. The term includes giving anything of
11 value to a public official or staff member of a public official
12 for the purposes of influencing future legislative or
13 administrative action.

14 "Lobbyist." Any individual, firm, association, corporation,
15 partnership, business trust or business entity that engages in
16 lobbying on behalf of a principal for economic consideration.
17 The term includes an attorney who engages in lobbying.

18 "Principal." Any individual, firm, association, corporation,
19 partnership, business trust or business entity:

20 (1) on whose behalf a lobbyist influences or attempts to
21 influence an administrative action or a legislative action;

22 or

23 (2) that engages in lobbying on the principal's own
24 behalf.

25 "Public official." An individual elected or appointed to a
26 position in the State Government, whether compensated or
27 uncompensated, who is involved in legislative or administrative
28 action.

29 "Registrant." A registered lobbyist or a registered
30 principal.

1 "Regulation." Any rule, regulation or order in the nature of
2 a rule or regulation, including formal and informal opinions of
3 the Attorney General, of general application and future effect,
4 promulgated by an agency under statutory authority in the
5 administration of a statute administered by or relating to the
6 agency, or prescribing the practice or procedure before the
7 agency.

8 Section 4. Registration.

9 (a) General rule.--A lobbyist and a principal who is not
10 clearly excluded under section 6 must register with the
11 commission within five days of acting in any capacity as a
12 lobbyist or principal. Registration shall be biennial, and be
13 coincident with the terms of the members of the House of
14 Representatives.

15 (b) Principals.--

16 (1) A principal required to register shall file the
17 following information with the commission:

18 (i) Name.

19 (ii) Permanent address.

20 (iii) Daytime telephone number.

21 (iv) Name and nature of business.

22 (v) Name, registration number and acronyms of
23 affiliated political action committees.

24 The principal shall also attach the most recent campaign
25 expense report of any affiliated political action
26 committee.

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

30 (2) If an organization or association is a principal,

1 the number of dues-paying members in the past calendar year
2 shall also be disclosed.

3 (c) Lobbyist.--

4 (1) A lobbyist who is required to register shall file
5 the following information with the commission:

6 (i) Name.

7 (ii) Permanent business address.

8 (iii) Daytime telephone number.

9 (iv) A recent picture of the lobbyist.

10 (v) Name, permanent business address and daytime
11 telephone number of the principal the lobbyist
12 represents.

13 (vi) Name, registration number and acronyms of
14 affiliated political action committees. The lobbyist
15 shall also attach the most recent campaign expense report
16 of any affiliated political action committee.

17 (2) Each lobbyist shall file a separate registration
18 statement for each principal he or she represents.

19 (d) Amendments.--When there is a change in information
20 required for the original registration statement under
21 subsection (b) or (c), an amended statement shall be filed with
22 the commission within 14 days after the change occurs.

23 (e) Termination.--A lobbyist or a principal may seek to
24 terminate registration by filing a termination report with the
25 commission. A termination report shall include all information
26 required by section 5 through the final day of lobbying
27 activity. After a reasonable review of the termination report,
28 the commission shall issue to the lobbyist or principal a letter
29 stating that the registrant has terminated registration with the
30 commission.

1 Section 5. Reporting.

2 (a) General rule.--A registered principal shall, under oath
3 or affirmation, file quarterly expense reports with the
4 department.

5 (b) Content.--

6 (1) Reports must describe for whom the lobbying is
7 conducted and the subject matter or issue being lobbied.

8 (2) Expense reports must contain the following
9 categories:

10 (i) A single aggregate good faith estimate of the
11 total amount spent for personnel and office expenses
12 related to lobbying. This subparagraph includes salaries
13 and other forms of compensation, benefits, vehicle
14 allowances, bonuses and reimbursable expenses for those
15 involved in lobbying. If compensation is to be reported
16 by or for an individual or entity whose lobbying is
17 incidental to regular employment, it shall be sufficient
18 to report a good faith prorated estimate based on the
19 value of the time devoted to lobbying. Reportable
20 personnel costs include costs for lobbying staff,
21 research and monitoring staff, consultants, lawyers,
22 lobbyists, publications and public relations staff,
23 technical staff and clerical and administrative support
24 staff who engage in lobbying but are exempt from
25 reporting under section 6. This subparagraph includes
26 costs for offices, equipment and supplies utilized for
27 lobbying.

28 (ii) A single aggregate good faith estimate of the
29 total amount spent for communication to public officials
30 or their staff. This includes letter writing campaigns,

1 postage, mailing, telephone banks, print and electronic
2 media advertising, publications and educational campaigns
3 on public issues.

4 (iii) The total costs for gifts, entertainment,
5 meals, transportation, lodging and receptions, given to
6 or provided to public officials, members of public
7 officials' immediate families or staff.

8 (3) In addition to reporting the totals required under
9 this subsection, the expense report must identify by name and
10 position a public official or other employee of the
11 Commonwealth who receives anything of value that equals \$100
12 or more in a single day or that totals more than \$500 during
13 the calendar year, from the principal, the principal's
14 lobbyist or the principal's employees.

15 (4) A lobbyist must sign the reports submitted by each
16 principal represented to attest to the validity and accuracy
17 to the best of the lobbyist's knowledge. A lobbyist shall
18 submit a separate report only if the lobbyist gave anything
19 of value to a public official or staff member on the
20 principal's behalf during the reporting period which was not
21 reported by the principal. A separate lobbyist report shall
22 be identical to that required under paragraphs (2) and (3).

23 (5) A principal and a lobbyist shall attach to a report
24 the most recent campaign expense report of any affiliated
25 political action committee.

26 (c) Records retention.--A registrant shall retain all
27 accounts and documents reasonably necessary to substantiate the
28 reports to be made under this section three years from the date
29 of filing the subject report. Upon request by the Office of the
30 Attorney General or the commission, these materials shall be

1 made available for inspection within a reasonable period of
2 time.

3 (d) Thresholds for reporting.--An expense report shall be
4 filed when total expenses for lobbying exceed \$500 for a
5 principal in a reporting period. In a reporting period in which
6 total expenses are \$500 or less, a statement to that effect
7 shall be filed.

8 (e) Voluntary disclosure.--Nothing in this section shall
9 prevent a principal or lobbyist from disclosing expenses in
10 greater detail than required.

11 Section 6. Exemption from registration and reporting.

12 The following individuals and activities shall be exempt from
13 registration under section 4 and reporting under section 5:

14 (1) An individual who limits lobbying activities to
15 testifying before a committee of the legislature or
16 participating in an administrative proceeding of an agency.

17 (2) An individual who is an employee of an entity
18 engaged in the business of publishing, broadcasting or
19 televising while engaged in the gathering and dissemination
20 of news and comment thereon to the general public in the
21 ordinary course of business.

22 (3) Any of the following:

23 (i) An individual who does not receive compensation,
24 other than traveling expenses, for lobbying.

25 (ii) An individual whose compensation for lobbying
26 does not exceed \$1,000 in the aggregate during any
27 reporting period.

28 (iii) An individual who engages in lobbying on
29 behalf of the individual's employer and where lobbying
30 activity represents less than the equivalent of \$1,000 of

1 the employee's time during any reporting period, based on
2 an hourly proration of the employee's compensation.

3 (4) Any of the following:

4 (i) An elected State officer acting in an official
5 capacity.

6 (ii) A State executive officer appointed by the
7 Governor acting in an official capacity.

8 (iii) An elected official of a political subdivision
9 acting in an official capacity.

10 (iv) An employee of the Commonwealth or independent
11 agency of the Commonwealth acting in an official
12 capacity.

13 (5) An individual representing a bona fide church of
14 which the individual is a member solely for the purpose of
15 protecting the constitutional right to the free exercise of
16 religion.

17 (6) An employee, who is not a registered lobbyist, of a
18 corporation which:

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

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

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

23 Section 7. Prohibited activities.

24 (a) Contingent compensation.--

25 (1) No one may compensate or incur an obligation to
26 compensate any lobbyist, principal or individual to engage in
27 lobbying for compensation contingent in whole or in part upon
28 any of the following:

29 (i) Passage or defeat, or approval or veto, of
30 legislation.

1 (ii) Occurrence or nonoccurrence of an
2 administrative action.

3 (2) No lobbyist, principal or individual may engage or
4 agree to engage in lobbying for compensation contingent in
5 whole or in part upon any of the following:

6 (i) Passage or defeat, or approval or veto, of
7 legislation.

8 (ii) Occurrence or nonoccurrence of an
9 administrative action.

10 (b) Political committees.--A lobbyist may not serve as a
11 treasurer or another officer for a candidate's political
12 committee or a candidate's political action committee.

13 (c) Fee restrictions.--A lobbyist may not charge a fee or
14 receive compensation or economic consideration based upon an
15 understanding, either written or oral, that any part of the fee,
16 compensation or economic consideration will be converted into a
17 contribution to a candidate for public office, a candidate's
18 political committee or a political action committee.

19 Section 8. Administration and enforcement.

20 (a) Criminal enforcement.--If the commission believes an
21 intentional violation of this act has been committed, it shall
22 refer all relevant documents to the Office of Attorney General.
23 The Office of Attorney General shall conduct investigations
24 concerning intentional violations of this act.

25 (b) Regulations.--Within 180 days of the effective date of
26 this act, the department shall promulgate regulations necessary
27 to carry out this act. The department shall also prepare and
28 publish a manual setting forth guidelines for accounting and
29 reporting.

30 (c) Advice and opinions.--The commission shall provide

1 advice and opinions in accordance with procedures set forth in
2 the act of October 4, 1978 (P.L.883, No.170), referred to as the
3 Public Official and Employee Ethics Law, to a lobbyist,
4 principal, public official or staff member of a public official
5 who has a question regarding compliance with this act. A
6 principal, a lobbyist or an individual who acts in good faith
7 based on the written advice or opinion of the commission shall
8 not be held liable for a violation of this act.

9 (d) Public inspection and copying.--The commission shall
10 make completed registration statements available for public
11 inspection and provide copies of these documents at a price
12 which shall not exceed the actual cost of copying. The
13 department shall make completed disclosure reports available for
14 public inspection and provide copies of these documents at a
15 price which shall not exceed the actual cost of copying.

16 (e) Annual reporting.--The commission shall prepare and
17 publish an annual report on lobbying activities in this
18 Commonwealth. The commission shall also annually publish a
19 listing of respective principals and affiliated political action
20 committees of all lobbyists registered in this Commonwealth.

21 (f) Retention of records.--Completed registration statements
22 shall remain on file with the commission for a three-year
23 period. Completed disclosure reports shall remain on file with
24 the department for a three-year period.

25 (g) Audits.--The commission shall initiate random annual
26 audits of the registration statements and disclosure reports in
27 sufficient number to ensure compliance with this act.

28 (h) Hearings.--A civil hearing concerning negligent conduct
29 by a lobbyist or principal shall be conducted by the commission
30 in accordance with sections 7 and 8 of the Public Official and

1 Employee Ethics Law.

2 (i) Directory.--The commission shall produce and distribute
3 on a biennial basis a directory of all registered lobbyists,
4 including photographs. Copies of this directory shall be made
5 available to the public at a price not to exceed the actual cost
6 of production. All revenue received by the commission from the
7 sales of this directory shall be deposited into the fund.

8 Section 9. Penalties.

9 (a) Negligent failure to register or report.--Negligent
10 failure to register or report as required by this act is
11 punishable by the commission by a fine of up to \$50 for each
12 late day. This fine shall be levied by the commission and shall
13 be unlimited. Failure to comply after the commission issues a
14 notice of noncompliance may also result in a prohibition from
15 acting as a registered lobbyist or principal for up to five
16 years.

17 (b) Intentional violations.--

18 (1) Any lobbyist, principal or individual that
19 intentionally fails to register or report under this act
20 commits a misdemeanor of the third degree and shall, upon
21 conviction, be sentenced to pay a fine of \$2,500, or to
22 imprisonment for not more than one year, or both.

23 (2) A registrant that files a report under this act with
24 knowledge that the report contains misleading information
25 commits a misdemeanor of the third degree and shall, upon
26 conviction, be sentenced to pay a fine of \$2,500, or to
27 imprisonment for not more than one year, or both.

28 (3) Except as set forth in paragraph (1) or (2), any
29 lobbyist, principal or individual that intentionally violates
30 this act commits a misdemeanor of the third degree and shall,

1 upon conviction, be sentenced to pay a fine of \$2,500 or to
2 imprisonment for not more than one year, or both.

3 (4) In addition to the criminal penalties imposed by
4 this subsection, the commission may prohibit an individual
5 from acting as a registered lobbyist or principal for up to
6 five years for doing an act which constitutes an offense
7 under this subsection.

8 Section 10. Filing fees, fund established.

9 (a) Filing fees.--A principal or lobbyist required to be
10 registered under this act shall pay a biennial filing fee of
11 \$100 to the commission.

12 (b) Fund established.--All money received from filing fees
13 under subsection (a) shall be deposited in a restricted receipts
14 account to be known as the Lobbying Disclosure Fund.

15 Section 11. Appropriation.

16 The sum of \$165,000 is hereby appropriated to the State
17 Ethics Commission for the fiscal year July 1, 1998, to June 30,
18 1999, to carry out the provisions of this act.

19 Section 12. Nonseverability.

20 The provisions of this act are nonseverable. If any provision
21 of this act or its application to any person or circumstance is
22 held invalid, the remaining provisions or applications of this
23 act are void.

24 Section 13. Repeal.

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

27 Section 14. Effective date.

28 This act shall take effect as follows:

29 (1) Section 8(b) and this section shall take effect
30 immediately.

1 (2) Section 13 shall take effect December 31, 1998.

2 (3) The remainder of this act shall take effect January

3 1, 1999.