

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 398\*

Short Title: Amend Lobbyist Law.

(Public)

Sponsors: Senators Odom; and Lee.

Referred to: Rules and Operation of the Senate.

February 24, 1993

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOBBYISTS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO REGISTER AND FILE EXPENSE REPORTS WITH THE SECRETARY OF STATE, TO MAKE OTHER CLARIFYING AMENDMENTS TO THE LOBBYING LAW, AND TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. Article 9A of Chapter 120 of the General Statutes reads as rewritten:

**"ARTICLE 9A.**

**"LOBBYING.**

**"§ 120-47.1. Definitions.**

For the purposes of this Article, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

(1) ~~The terms "contribution," "compensation" and "expenditure" mean any advance, conveyance, deposit, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge or anything of value and any contract, agreement, promise or other obligation whether or not legally enforceable, but those terms do not include prizes, awards, or compensation not exceeding one hundred dollars (\$100.00) in a calendar year.~~

(1a) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered. The term includes, but is not limited to, salaries,

- 1                    fees, retainers, and commissions. The term does not include  
2                    reimbursement of actual travel and subsistence expenses unless  
3                    lobbying is a significant part of the duties of the individual who  
4                    receives the reimbursement.
- 5                    (1b) Executive Action. – The proposal, drafting, development,  
6                    consideration, amendment, adoption, approval, issuance, modification,  
7                    rejection, or postponement of a rule, license, contract, order,  
8                    determination, or other quasi-judicial action or proceeding by (i) a  
9                    State agency, or (ii) an officer or employee of a State agency acting or  
10                   purporting to act in an official capacity.
- 11                   (1c) Expenditure. – Any advance, compensation, contribution, conveyance,  
12                   deposit, gift, honorarium, loan, payment, pledge, reimbursement,  
13                   retainer, salary, or any thing of value, and any agreement, contract, or  
14                   other obligation whether or not enforceable. The term does not  
15                   include: (i) a prize or award with a value not exceeding one hundred  
16                   dollars (\$100.00); (ii) compensation to one individual not exceeding  
17                   one hundred dollars (\$100.00) in a calendar year; or (iii)  
18                   reimbursement of actual travel and subsistence expenses unless  
19                   lobbying is a significant part of the duties of the individual who  
20                   receives the reimbursement.
- 21                   (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 22                   (4) ~~The term "legislative action" means the~~ Legislative Action. – The  
23                   preparation, research, drafting, introduction, consideration,  
24                   modification, amendment, approval, passage, enactment, tabling,  
25                   postponement, defeat, or rejection of a bill, resolution, amendment,  
26                   motion, report, nomination, appointment, or other matter by the  
27                   legislature or by a member or ~~employee of the legislature~~ a legislative  
28                   employee acting or purporting to act in an official capacity.
- 29                   (4a) Legislative Employee. – Defined in G.S. 120-129(2).
- 30                   (5) ~~The term 'lobbying' means:~~ Lobbying. – The term includes:
- 31                   a.     Influencing or attempting to ~~influence~~ influence:
- 32                       1.     Legislative action through direct oral or written  
33                               communication with a member of the General Assembly;  
34                               or
- 35                       2.     Executive action through direct oral or written  
36                               communication with an officer or employee of the State  
37                               agency that is authorized to take that executive action; or
- 38                   b.     Solicitation of others by lobbyists to influence directly or  
39                               indirectly (i) legislative ~~action~~ action, or (ii) executive action  
40                               taken or to be taken by a State agency.
- 41                   (6) ~~The term 'lobbyist' means an~~ Lobbyist. – An individual who:
- 42                   a.     Is employed and receives compensation, or who contracts for  
43                               economic ~~consideration~~, compensation, for the purpose of  
44                               lobbying; or

1           b. Represents another person and receives compensation for the  
2           purpose of lobbying.

3           The term 'lobbyist' shall not include those individuals who are  
4           specifically exempted from this Article by G.S. 120-47.8. For  
5           the purpose of determining whether an individual is a lobbyist  
6           under this subdivision, reimbursement of actual travel and  
7           subsistence expenses shall not be considered compensation;  
8           provided, however, that reimbursement in the ordinary course  
9           of business of these expenses shall be considered compensation  
10          if a significant part of the individual's duties involve lobbying  
11          before the General Assembly.

12          (7) ~~The terms 'lobbyist's principal' and 'principal' mean the entity in whose~~  
13          ~~behalf the lobbyist influences or attempts to influence legislative~~  
14          ~~action.~~ Principal. – The person whom the lobbyist represents or in  
15          whose behalf the lobbyist is lobbying.

16          (8) ~~The term 'person' means any~~ Person. – Any individual, firm, partnership,  
17          committee, association, corporation, or any other organization or group  
18          of persons.

19          (9) ~~The General Assembly is in 'regular session' from the date set by law or~~  
20          ~~resolution that the General Assembly convenes~~ Regular Session. – The  
21          period of time between the date set by the General Assembly on which  
22          it shall convene until the General Assembly either:

23           a. Adjourns **sine die**; or

24           b. Recesses or adjourns for more than 10 days.

25          (10) State Agency. – An agency, board, commission, committee,  
26          department, office, or other body of the executive branch of State  
27          government.

28        **"§ 120-47.2. Registration procedure.**

29          (a) A lobbyist shall file a registration statement with the Secretary of State before  
30          engaging in any lobbying. A separate registration statement is required for each  
31          lobbyist's principal.

32          (b) The form of the registration shall be prescribed by the Secretary of State and  
33          shall include the registrant's full name, firm, and complete address; the registrant's place  
34          of business; the full name and complete address of each person by whom the registrant  
35          is employed or retained; and a general description of the matters on which the registrant  
36          expects to act as a lobbyist.

37          (c) Each lobbyist shall register again with the Secretary of State no later than 10  
38          days after any change in the information supplied in his last registration under  
39          subsection ~~(b)~~ (b) of this section. Each supplementary registration shall include a  
40          complete statement of the information that has changed.

41          (d) Within 20 days after the convening of each session of the General Assembly,  
42          the Secretary of State shall furnish each State agency, each member of the General  
43          ~~Assembly~~ Assembly, and the State Legislative Library a list of all persons who have

1 registered as lobbyists and whom they represent. A supplemental list shall be furnished  
2 periodically each 20 days thereafter as the session progresses.

3 (e) Each registration statement required under this Article shall be effective from  
4 the date of filing until January 1 of the following odd-numbered year. The lobbyist  
5 shall file a new registration statement after that date, and the applicable fee shall be due  
6 and payable.

7 **"§ 120-47.3. Registration fee.**

8 Every lobbyist's principal shall pay to the Secretary of State a fee of seventy-five  
9 dollars (\$75.00) which fee shall be due and payable by either the lobbyist or the  
10 lobbyist's principal at the time of registration.

11 A separate registration, together with a separate registration fee of seventy-five  
12 dollars (\$75.00), shall be required for each lobbyist's principal for which a person acts  
13 as a lobbyist. Fees so collected shall be deposited in the General Fund of the State.

14 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

15 Each lobbyist shall file with the Secretary of State within 10 days after his  
16 registration a written authorization to act as such, signed by the lobbyist's principal.

17 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

18 (a) No person shall act as a lobbyist for compensation which is dependent in any  
19 manner upon (i) the passage or defeat of any proposed legislation or upon any other  
20 contingency connected with any action of the General Assembly, the House, the Senate  
21 or any committee thereof—thereof, or (ii) the outcome of any executive action.

22 (b) No person shall attempt to influence the action of any member of the General  
23 Assembly or any elected officer or employee of the executive branch of State  
24 government by the promise of financial support of the ~~member's~~ individual's candidacy,  
25 or by threat of financial contribution in opposition to the ~~member's~~ individual's  
26 candidacy in any future election.

27 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

28 (a) Each lobbyist shall file an expense report with the Secretary of State with  
29 respect to each principal ~~within 60 days after the last day of the regular session—no later than~~  
30 September 30 of each year. This expense report shall include all expenditures made  
31 between January 1 and ~~the last day of the regular session—July 31 of that year.~~ The  
32 lobbyist shall file a supplemental report including all expenditures made ~~after the last day~~  
33 ~~of the regular session, but during the calendar year, between August 1 and December 31 by~~  
34 February 28 of the following year. The lobbyist shall file both expense reports whether  
35 or not expenditures are made.

36 (b) Each expense report shall set forth the date of each lobbying expenditure, to  
37 whom paid, the name of any legislator or any officer or employee of a State agency who  
38 benefitted from each expenditure, and the amount of each expenditure made during the  
39 previous reporting period in connection with lobbying, in each of the following  
40 categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item  
41 having a cash equivalent value of more than twenty-five dollars (\$25.00) and (6)  
42 contributions made, ~~paid, incurred or promised,~~ directly or indirectly. It shall not be  
43 necessary to report ~~expenditures of twenty five dollars (\$25.00) or less, nor shall it be~~  
44 ~~necessary to report~~ any expenditures made in connection with the attendance of a

1 legislator or an officer or employee of a State agency at any fund-raising function ~~or~~  
2 ~~event~~ sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When  
3 more than 10 members of the General Assembly benefitted or were invited to benefit  
4 from an expenditure, the lobbyist shall not be required to report the name of any  
5 legislator, but shall be required to report the number of legislators ~~or,~~ and, with  
6 particularity, the basis for their selection. The lobbyist shall retain the records  
7 corroborating the expenditures reported under this subsection for a period of three years  
8 after the filing deadline for each report.

9 (c) All reports shall be in the form prescribed by the Secretary of State and shall  
10 be open to public inspection.

11 (d) When a lobbyist fails to file a lobbying expense report as required herein, the  
12 Secretary of State shall send a certified or registered letter advising the lobbyist of the  
13 delinquency and the penalties provided by law. Within 20 days of the receipt of the  
14 letter, the lobbyist shall deliver or post by United States mail to the Secretary of State  
15 the required report and an additional late filing fee of ten dollars (\$10.00). Filing of the  
16 required report and payment of the additional fee within the time extended shall  
17 constitute compliance with this section. Failure to file an expense report in one of the  
18 manners prescribed herein shall result in revocation of any and all registrations of a  
19 lobbyist under this Article. No lobbyist may register or reregister under this Article  
20 until he has fully complied with this section.

21 **"§ 120-47.7. Statements of lobbyist's principal lobbying expenses required.**

22 (a) Each lobbyist's principal shall file an expense report with the Secretary of  
23 State ~~within 60 days after the last day of the regular session, no later than September 30 of~~  
24 each year. This expense report shall include all expenditures made between January 1  
25 and ~~the last day of the regular session, July 31 of that year.~~ The principal shall file a  
26 supplemental expense report, including all expenditures made after the last day of the  
27 regular session, but during the calendar year, between August 1 and December 31 by  
28 February 28 of the following year. The principal shall file both expense reports whether  
29 or not expenditures are made during a reporting period.

30 (b) Each expense report shall set forth the name and address of each lobbyist  
31 employed, appointed, or retained by the lobbyist's principal, the date of each  
32 expenditure made, to whom paid, name of any legislator or any officer or employee of a  
33 State agency who benefitted from each expenditure, and amount of each expenditure  
34 made during the previous reporting period in connection with lobbying, in each of the  
35 following categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any  
36 item having a cash equivalent value of more than twenty-five dollars (\$25.00), (6)  
37 contributions made, ~~paid, incurred or promised,~~ directly or indirectly, and (7)  
38 compensation to lobbyists in connection with their lobbying activities. It shall not be  
39 necessary to report ~~expenditures of twenty-five dollars (\$25.00) or less, nor shall it be~~  
40 ~~necessary to report~~ any expenditures made in connection with the attendance of a  
41 legislator or an officer or employee of a State agency at any fund-raising function ~~or~~  
42 ~~event~~ sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When  
43 more than 10 members of the General Assembly benefitted or were invited to benefit  
44 from an expenditure, the principal shall not be required to report the name of any

1 legislator, but shall be required to report the number of legislators ~~or~~ and, with  
2 particularity, the basis for their selection. In the category of compensation to lobbyists  
3 the principal shall estimate and report the compensation paid or promised directly or  
4 indirectly, to all lobbyists based on the estimated time, effort and expense in connection  
5 with lobbying activities on behalf of the principal. If a lobbyist is a full-time employee  
6 of the principal, or is compensated by means of an annual fee or retainer, the principal  
7 shall estimate and report the portion of all such lobbyists' salaries or retainers that  
8 compensate the lobbyists for lobbying. The principal shall designate on the report the  
9 amounts paid in reimbursement of expenditures made on behalf of the principal by each  
10 lobbyist. The principal shall retain records corroborating the expenditures reported  
11 under this subsection for a period of three years after the filing deadline for each report.

12 (c) All reports shall be in the form prescribed by the Secretary of State and open  
13 to public inspection.

14 (d) When a lobbyist's principal fails to file a lobbying expense report as required  
15 herein, the Secretary of State shall send a certified or registered letter advising the  
16 lobbyist's principal of the delinquency and the penalties provided by law. Within 20  
17 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United  
18 States mail to the Secretary of State the required report and a late filing fee of ten  
19 dollars (\$10.00). Filing of the required report and payment of the late fee within the  
20 time extended shall constitute compliance with this section.

21 **"§ 120-47.8. Persons exempted from provisions of Article.**

22 The provisions of this Article shall not be construed to apply to any of the following:

23 (1) ~~An individual, not acting as a lobbyist, solely engaged in expressing a~~  
24 ~~personal opinion on legislative matters to his own legislative~~  
25 ~~delegation or other members of the General Assembly.~~ opinion:

- 26 a. On legislative action to members or employees of the General  
27 Assembly, or  
28 b. On executive action to officers or employees of a State agency.

29 (2) A person appearing before a legislative committee at the  
30 invitation or request of the committee or a member thereof and who  
31 engages in no further activities as a lobbyist in connection with that  
32 or any other legislative ~~matter.~~ action.

33 (2a) A person appearing before a State agency at the invitation or request of  
34 the State agency or of an officer or employee of that State agency and  
35 who engages in no further activities as a lobbyist in connection with  
36 that or any other executive action.

37 (3) a. A duly elected or appointed official or employee of the State, the  
38 United States, a county, municipality, school district or other  
39 governmental agency, when appearing solely in connection with  
40 matters pertaining to his office and public duties.

41 b. Notwithstanding the persons exempted in this Article, the  
42 Governor, Council of State, and all appointed heads of State  
43 departments, agencies and institutions, shall designate all  
44 authorized official legislative liaison personnel and shall file

1 and maintain current lists of designated legislative liaison  
 2 personnel with the Secretary of State and shall likewise file  
 3 with the Secretary of State a full and accurate accounting of all  
 4 money expended on lobbying, other than the salaries of regular  
 5 full-time employees, at the same times lobbyists are required to  
 6 file expense reports under G.S. 120-47.5.

- 7 (4) A person performing professional services in drafting bills or in  
 8 advising and rendering opinions to clients, or to legislators on behalf  
 9 of clients, as to the construction and effect of proposed or pending  
 10 legislation or executive action where the professional services are not  
 11 otherwise, directly or indirectly, connected with legislative ~~action~~  
 12 action or executive action.
- 13 (5) A person who owns, publishes or is employed by any news medium  
 14 while engaged in the acquisition or dissemination of news on behalf of  
 15 the news medium.
- 16 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 17 (7) ~~Members of the General Assembly. When in discharge of their legislative~~  
 18 duties, members of the General Assembly and legislative employees.
- 19 (8) A person responding to inquiries ~~from~~ from:  
 20 a. A member of the General Assembly or a legislative employee,  
 21 and who engages in no further activities as a lobbyist in  
 22 connection with that or any other legislative ~~matter~~ action, or  
 23 b. An officer or employee of a State agency, and who engages in  
 24 no further activities as a lobbyist in connection with that or any  
 25 other executive action.
- 26 (9) An individual giving facts or recommendations pertaining to  
 27 legislative ~~matters to his~~ action to the individual's own legislative  
 28 delegation only.
- 29 (10) A person who submits written comments, oral comments, or both, on a  
 30 proposed rule at a public hearing held by a State agency or during the  
 31 period of time set by a State agency for written comments and who  
 32 engages in no further activities as a lobbyist in connection with that  
 33 executive action.
- 34 (11) An attorney who represents a party in a request for a declaratory ruling  
 35 or in an administrative hearing under Chapter 150B of the General  
 36 Statutes or any other quasi-judicial proceeding.

37 **"§ 120-47.9. Punishment for violation.**

38 Whoever willfully violates any provision of this Article shall be guilty of a  
 39 misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor  
 40 more than one thousand dollars (\$1,000), or imprisoned not exceeding two years, or  
 41 both. In addition, no lobbyist who is convicted of a violation of the provisions of this  
 42 Article shall in any way act as a lobbyist for a period of two years following his  
 43 conviction.

44 **"§ 120-47.10. Enforcement of Article by Attorney General.**

1 The Secretary of State shall report apparent violations of this Article to the Attorney  
2 General. The Attorney General shall, upon complaint made to him of violations of this  
3 Article, make an appropriate investigation thereof, and he shall forward a copy of the  
4 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-  
5 60 of which Wake County is a part, who shall prosecute any person who violates any  
6 provisions of this Article.

7 **"§ 120-47.11. Rules and forms.**

8 The Secretary of State shall make, amend, and rescind any rules, orders, forms, and  
9 definitions as are necessary to carry out ~~the provisions of this Article.~~ this Article to  
10 effectively protect the public interest from undue influence in the governmental  
11 processes of the State."

12 Sec. 2. In addition to other funds appropriated to the Office of the Secretary  
13 of State, there is appropriated from the General Fund to the Office of the Secretary of  
14 State for the 1993-94 fiscal year the sum of sixty-five thousand two hundred thirty-nine  
15 dollars (\$65,239); and for the 1994-95 fiscal year the sum of fifty-eight thousand five  
16 hundred thirty-nine dollars (\$58,539).

17 Sec. 3. This act becomes effective January 1, 1994.