

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1993

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SENATE BILL 398*
Judiciary II Committee Substitute Adopted 5/3/93

Short Title: Amend Lobbyist Law.

(Public)

Sponsors:

Referred to: Appropriations.

February 24, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LOBBYISTS OF THE EXECUTIVE BRANCH OF STATE
3 GOVERNMENT TO REGISTER AND FILE EXPENSE REPORTS WITH THE
4 SECRETARY OF STATE, TO MAKE OTHER CLARIFYING AMENDMENTS
5 TO THE LOBBYING LAW, AND TO MAKE AN APPROPRIATION
6 THEREFOR.

7 The General Assembly of North Carolina enacts:

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

"ARTICLE 9A.
"LOBBYING.

12 **"§ 120-47.1. Definitions.**

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

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

22 (1a) Compensation. – Any money, thing of value, or economic benefit
23 conferred on or received by any person in return for services rendered

1 or to be rendered. The term includes, but is not limited to, salaries,
2 fees, retainers, and commissions. The term does not include
3 reimbursement of actual travel and subsistence expenses unless
4 lobbying is a significant part of the duties of the individual who
5 receives the reimbursement.

6 (1b) Executive Action. – The proposal, drafting, development,
7 consideration, amendment, adoption, approval, issuance, modification,
8 rejection, or postponement of a rule, license, contract, order,
9 determination, or other quasi-judicial action or proceeding by (i) a
10 State agency, or (ii) an officer or employee of a State agency acting or
11 purporting to act in an official capacity.

12 (1c) Expenditure. – Any advance, compensation, contribution, conveyance,
13 deposit, gift, honorarium, loan, payment, pledge, reimbursement,
14 retainer, salary, or any thing of value, and any agreement, contract, or
15 other obligation whether or not enforceable. The term does not
16 include: (i) a prize or award with a value not exceeding one hundred
17 dollars (\$100.00); (ii) compensation to one individual not exceeding
18 one hundred dollars (\$100.00) in a calendar year; or (iii)
19 reimbursement of actual travel and subsistence expenses unless
20 lobbying is a significant part of the duties of the individual who
21 receives the reimbursement.

22 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

23 (4) ~~The term "legislative action" means the~~ Legislative Action. – The
24 preparation, research, drafting, introduction, consideration,
25 modification, amendment, approval, passage, enactment, tabling,
26 postponement, defeat, or rejection of a bill, resolution, amendment,
27 motion, report, nomination, appointment, or other matter by the
28 legislature or by a member or ~~employee of the legislature~~ a legislative
29 employee acting or purporting to act in an official capacity.

30 (4a) Legislative Employee. – Defined in G.S. 120-129(2).

31 (5) ~~The term 'lobbying' means:~~ Lobbying. – The term includes:

32 a. Influencing or attempting to ~~influence~~ influence:

33 1. ~~legislative~~ Legislative action through direct oral or
34 written communication with a member of the General
35 Assembly; or

36 2. Executive action through direct oral or written
37 communication with an officer or employee of the State
38 agency that is authorized to take that executive action; or

39 b. Solicitation of others by lobbyists to influence directly or
40 indirectly (i) legislative action ~~action~~, or (ii) executive action
41 taken or to be taken by a State agency.

42 (6) ~~The term 'lobbyist' means an~~ Lobbyist. – An individual who:

- 1 a. Is employed and receives compensation, or who contracts for
 2 economic ~~consideration,~~ compensation, for the purpose of
 3 lobbying; or
 4 b. Represents another person and receives compensation for the
 5 purpose of lobbying.

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

- 14 (7) ~~The terms 'lobbyist's principal' and 'principal' mean the entity in whose~~
 15 ~~behalf the lobbyist influences or attempts to influence legislative~~
 16 ~~action.~~ Principal. – The person whom the lobbyist represents or in
 17 whose behalf the lobbyist is lobbying.
 18 (8) ~~The term 'person' means any~~ Person. – Any individual, firm, partnership,
 19 committee, association, corporation, or any other organization or group
 20 of persons.
 21 (9) ~~The General Assembly is in 'regular session' from the date set by law or~~
 22 ~~resolution that the General Assembly convenes~~ Regular Session. – The
 23 period of time between the date set by the General Assembly on which
 24 it shall convene until the General Assembly either:
 25 a. Adjourns **sine die**; or
 26 b. Recesses or adjourns for more than 10 days.
 27 (10) State Agency. – An agency, board, commission, committee,
 28 department, office, or other body of the executive branch of State
 29 government.

30 **"§ 120-47.2. Registration procedure.**

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

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

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

43 (d) Within 20 days after the convening of each session of the General Assembly,
 44 the Secretary of State shall furnish each State agency, each member of the General

1 ~~Assembly~~ Assembly, and the State Legislative Library a list of all persons who have
2 registered as lobbyists and whom they represent. A supplemental list shall be furnished
3 periodically each 20 days thereafter as the session progresses.

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

8 **"§ 120-47.3. Registration fee.**

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

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

15 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

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

18 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

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

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

28 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

29 (a) Each lobbyist shall file an expense report with the Secretary of State with
30 respect to each principal ~~within 60 days after the last day of the regular session.~~ no later than
31 September 30 of each year. This expense report shall include all expenditures made
32 between January 1 and ~~the last day of the regular session.~~ July 31 of that year. The
33 lobbyist shall file a supplemental report including all expenditures made ~~after the last day~~
34 ~~of the regular session, but during the calendar year,~~ between August 1 and December 31
35 February 28 of the following year. The lobbyist shall file both expense reports whether
36 or not expenditures are made. The lobbyist shall report all expenditures, including those
37 made in connection with entertaining any legislator or any officer or employee of a
38 State agency and including any expenditure that was made during a reporting period but
39 before the lobbyist registered with the Secretary of State.

40 (a1) Notwithstanding G.S. 120-47.8, the lobbyist shall file a personal expense
41 report specifying all expenditures made, within the applicable reporting period and
42 before registering as a lobbyist, to or on behalf of any legislator or officer or employee
43 of a State agency. This expense report shall be filed at the same time that the reports
44 under subsection (a) of this section are filed.

1 (b) Each expense report shall set forth the date of each lobbying expenditure, to
2 whom paid, the name of any legislator or any officer or employee of a State agency who
3 benefitted from each expenditure, and the amount of each expenditure made during the
4 previous reporting period in connection with lobbying, in each of the following
5 categories: (1) transportation, (2) lodging, (3) entertainment, (4) ~~food~~, food with a cost
6 of more than five dollars (\$5.00), (5) any item having a cash equivalent value of more
7 than twenty-five dollars (\$25.00) and (6) contributions made, ~~paid, incurred or promised,~~
8 directly or indirectly. It shall not be necessary to report ~~expenditures of twenty-five dollars~~
9 ~~(\$25.00) or less, nor shall it be necessary to report~~ any expenditures made in connection
10 with the attendance of a legislator or an officer or employee of a State agency at any
11 fund-raising function ~~or event~~ sponsored by a nonprofit organization qualified under 26
12 U.S.C. § 501(c). When more than 10 members of the General Assembly benefitted or
13 were invited to benefit from an expenditure, the lobbyist shall not be required to report
14 the name of any legislator, but shall be required to report the number of legislators ~~or,~~
15 and, with particularity, the basis for their selection. The lobbyist shall retain the records
16 corroborating the expenditures reported under this subsection for a period of three years
17 after the filing deadline for each report.

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

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

30 **"§ 120-47.7. Statements of lobbyist's principal lobbying expenses required.**

31 (a) Each lobbyist's principal shall file an expense report with the Secretary of
32 State ~~within 60 days after the last day of the regular session, no later than September 30 of~~
33 each year. This expense report shall include all expenditures made between January 1
34 and ~~the last day of the regular session, July 31 of that year.~~ The principal shall file a
35 supplemental expense report, including all expenditures made ~~after the last day of the~~
36 ~~regular session, but during the calendar year, between August 1 and December 31 by~~
37 February 28 of the following year. The principal shall file both expense reports whether
38 or not expenditures are made during a reporting period. The principal shall report all
39 expenditures to or on behalf of any legislator or any State officer or employee, including
40 expenditures made in connection with entertaining any legislator or any officer or
41 employee of a State agency and including any expenditure that was made during a
42 reporting period but before the principal's lobbyist registered with the Secretary of State.

43 (b) Each expense report shall set forth the name and address of each lobbyist
44 employed, appointed, or retained by the lobbyist's principal, the date of each

1 expenditure made, to whom paid, name of any legislator or any officer or employee of a
2 State agency who benefitted from each expenditure, and amount of each expenditure
3 made during the previous reporting period in connection with lobbying, in each of the
4 following categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any
5 item having a cash equivalent value of more than twenty-five dollars (\$25.00), (6)
6 contributions made, ~~paid, incurred or promised,~~ directly or indirectly, and (7)
7 compensation to lobbyists in connection with their lobbying activities. It shall not be
8 necessary to report ~~expenditures of twenty five dollars (\$25.00) or less, nor shall it be~~
9 ~~necessary to report~~ any expenditures made in connection with the attendance of a
10 legislator or an officer or employee of a State agency at any fund-raising function or
11 ~~event~~ sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When
12 more than 10 members of the General Assembly benefitted or were invited to benefit
13 from an expenditure, the principal shall not be required to report the name of any
14 legislator, but shall be required to report the number of legislators ~~or~~ and, with
15 particularity, the basis for their selection. In the category of compensation to lobbyists
16 the principal shall estimate and report the compensation paid or promised directly or
17 indirectly, to all lobbyists based on the estimated time, effort and expense in connection
18 with lobbying activities on behalf of the principal. If a lobbyist is a full-time employee
19 of the principal, or is compensated by means of an annual fee or retainer, the principal
20 shall estimate and report the portion of all such lobbyists' salaries or retainers that
21 compensate the lobbyists for lobbying. The principal shall designate on the report the
22 amounts paid in reimbursement of expenditures made on behalf of the principal by each
23 lobbyist. The principal shall retain records corroborating the expenditures reported
24 under this subsection for a period of three years after the filing deadline for each report.

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

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

34 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

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

39 a. On legislative action to members or employees of the General
40 Assembly, or

41 b. On executive action to officers or employees of a State agency.

42 (2) A person appearing before a legislative committee at the
43 invitation or request of the committee or a member thereof and who

- 1 engages in no further activities as a lobbyist in connection with that
2 or any other legislative ~~matter-action~~.
- 3 (2a) A person appearing before a State agency at the invitation or request of
4 the State agency or of an officer or employee of that State agency and
5 who engages in no further activities as a lobbyist in connection with
6 that or any other executive action.
- 7 (3) a. A duly elected or appointed official or employee of the State, the
8 United States, a county, municipality, school district or other
9 governmental agency, when appearing solely in connection with
10 matters pertaining to his office and public duties.
11 b. Notwithstanding the persons exempted in this Article, the
12 Governor, Council of State, and all appointed heads of State
13 departments, agencies and institutions, shall designate all
14 authorized official legislative liaison personnel and shall file
15 and maintain current lists of designated legislative liaison
16 personnel with the Secretary of State and shall likewise file
17 with the Secretary of State a full and accurate accounting of all
18 money expended on lobbying, other than the salaries of regular
19 full-time employees, at the same times lobbyists are required to
20 file expense reports under G.S. 120-47.5.
- 21 (4) A person performing professional services in drafting bills or in
22 advising and rendering opinions to clients, or to legislators on behalf
23 of clients, as to the construction and effect of proposed or pending
24 legislation or executive action where the professional services are not
25 otherwise, directly or indirectly, connected with legislative ~~action-~~
26 action or executive action.
- 27 (5) A person who owns, publishes or is employed by any news medium
28 while engaged in the acquisition or dissemination of news on behalf of
29 the news medium.
- 30 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 31 (7) ~~Members of the General Assembly. When in discharge of their legislative~~
32 duties or in accordance with accepted legislative protocol or tradition,
33 members of the General Assembly and legislative employees.
- 34 (8) A person responding to inquiries ~~from~~ from:
35 a. A member of the General Assembly or a legislative employee,
36 and who engages in no further activities as a lobbyist in
37 connection with that or any other legislative ~~matter-action~~, or
38 b. An officer or employee of a State agency, and who engages in
39 no further activities as a lobbyist in connection with that or any
40 other executive action.
- 41 (9) An individual giving facts or recommendations pertaining to
42 legislative ~~matters to his own legislative delegation only.~~ action to a
43 member of the General Assembly who represents any portion of the
44 county in which the individual resides.

- 1 (10) A person who submits written comments, oral comments, or both, on a
2 proposed rule at a public hearing held by a State agency or during the
3 period of time set by a State agency for written comments and who
4 engages in no further activities as a lobbyist in connection with that
5 executive action.
- 6 (11) An attorney who represents a party in a request for a declaratory ruling
7 or in an administrative hearing under Chapter 150B of the General
8 Statutes or any other quasi-judicial proceeding.
- 9 (12) Where legislators or any officers or employees of a State agency attend
10 a meeting of an association whether within or outside the State where
11 legislators, officers, or employees of a State agency are considered
12 members of that association.

13 **"§ 120-47.9. Punishment for violation.**

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

20 **"§ 120-47.10. Enforcement of Article by Attorney General.**

21 The Secretary of State shall report apparent violations of this Article to the Attorney
22 General. The Attorney General shall, upon complaint made to him of violations of this
23 Article, make an appropriate investigation thereof, and he shall forward a copy of the
24 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-
25 60 of which Wake County is a part, who shall prosecute any person who violates any
26 provisions of this Article.

27 **"§ 120-47.11. Rules and forms.**

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

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

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