

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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Short Title: Ethics/Lobbying.

(Public)

Sponsors:

Referred to:

February 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE REGISTRATION, IDENTIFICATION, AND
3 REPORTING REQUIREMENTS FOR LOBBYISTS AND THEIR PRINCIPALS;
4 AND TO PROHIBIT CAMPAIGN FUND-RAISING FROM LOBBYISTS FOR
5 LEGISLATORS AND COUNCIL OF STATE MEMBERS WHILE THE
6 GENERAL ASSEMBLY IS IN REGULAR SESSION.

PART I CHANGES IN REGISTRATION, IDENTIFICATION,
AND REPORTING FOR LOBBYISTS
AND THEIR PRINCIPALS.

PART II NO-FUNDRAISING IN SESSION FROM LOBBYISTS.

7 The General Assembly of North Carolina enacts:

8 **PART I – CHANGES IN REGISTRATION AND REPORTING.**

9 Section 1.1. Article 9A of Chapter 120 of the General Statutes reads as
10 rewritten:

11 "ARTICLE 9A.

12 "LOBBYING.

13 "§ 120-47.1. Definitions.

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

- 1 (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any
2 advance, conveyance, deposit, payment, gift, retainer, fee, salary,
3 honorarium, reimbursement, loan, pledge or anything of value and any
4 contract, agreement, promise or other obligation whether or not legally
5 enforceable.
- 6 ~~(2) The term "legislative agent" shall mean any person who is employed~~
7 ~~or retained, with compensation, by another person to give facts or~~
8 ~~arguments to any member of the General Assembly during any regular~~
9 ~~or special session thereof upon or concerning any bill, resolution,~~
10 ~~amendment, report or claim pending or to be introduced. The term~~
11 ~~"legislative agent" shall include, but not be limited to, corporate~~
12 ~~officers and directors and other individuals who are full or part-time~~
13 ~~employees of other persons and whose duties or activities as~~
14 ~~legislative agents, as hereinbefore defined, are incidental to the~~
15 ~~principal purposes for which they are employed or retained. The~~
16 ~~reimbursement of actual personal travel and subsistence expenses~~
17 ~~reasonably necessary to communicate with a member or members of~~
18 ~~the General Assembly shall not be considered compensation for~~
19 ~~purposes of determining whether a person is a legislative agent under~~
20 ~~this subdivision.~~
- 21 ~~(3) The term 'person' means any individual, firm, partnership, committee,~~
22 ~~association, corporation or any other organization or group of persons.~~
- 23 (4) The term 'legislative action' means the preparation, research, drafting,
24 introduction, consideration, modification, amendment, approval,
25 passage, enactment, tabling, postponement, defeat, or rejection of a
26 bill, resolution, amendment, motion, report, nomination, appointment,
27 or other matter by the legislature or by a member or employee of the
28 legislature acting or purporting to act in an official capacity.
- 29 (5) The term 'legislative official' includes:
30 a. A member or member-elect of either house of the General
31 Assembly;
32 b. A member of a commission or other entity established by and
33 responsible to either house, or both houses, of the General
34 Assembly; or
35 c. A legislative employee.
- 36 (6) The term 'lobbying' means:
37 a. Influencing or attempting to influence legislative action through
38 oral or written communication;
39 b. Solicitation of others to influence legislative action; or
40 c. An attempt to obtain the goodwill of a legislative official.
- 41 (7) The term 'lobbyist' means an individual who:
42 a. Is employed and receives compensation, or who contracts for
43 economic consideration, for the purpose of 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 specifically exempted
4 from this Article by G.S. 120-47.8. For the purpose of determining whether an
5 individual is a lobbyist under this subdivision, reimbursement of actual travel and
6 subsistence expenses shall not be considered compensation; provided, however, that
7 reimbursement in the ordinary course of business of these expenses shall be considered
8 compensation if a significant part of the individual's duties involve lobbying before the
9 General Assembly.

10 (8) The terms 'lobbyist's principal' and 'principal' mean the entity in whose
11 behalf the lobbyist influences or attempts to influence legislative
12 action.

13 (9) The term 'person' means any individual, firm, partnership, committee,
14 association, corporation or any other organization or group of persons.

15 (10) The General Assembly is in 'regular session' from the date set by law
16 or resolution that the General Assembly convenes each year until the
17 General Assembly either:

18 a. Adjourns sine die; or

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

20 **"§ 120-47.2. Registration procedure.**

21 ~~(a) In each General Assembly session and for each employer, or retainer, every~~
22 ~~person employed or retained as a legislative agent in this State shall, before engaging in~~
23 ~~any activities as a legislative agent, register with the Secretary of State. If a corporation~~
24 ~~or partnership is employed or retained as a legislative counsel, and more than one~~
25 ~~partner, employee or officer of the corporation or partnership, shall act as a legislative~~
26 ~~agent on behalf of the client, then the additional individuals shall be separately listed on~~
27 ~~the registration under subsection (b), and a fee in the same amount as imposed by G.S.~~
28 ~~120-47.3 shall be due for each such individual in excess of one. A lobbyist shall file a~~
29 ~~registration statement with the Secretary of State before engaging in any lobbying, but~~
30 ~~no later than 30 days after being appointed, employed, or retained as a lobbyist. A~~
31 ~~separate registration statement is required for each lobbyist's principal.~~

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

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

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

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

3 (e) Each lobbyist who ceases to engage in lobbying requiring registration under
4 this section shall file a written statement with the Secretary of State acknowledging the
5 termination of lobbying. The written statement of termination is effective immediately.
6 Each lobbyist who files a written statement of termination shall file reports required by
7 this Article for any reporting period during which he was registered as a lobbyist.

8 (f) Each registration statement required under this Article shall be effective from
9 the date of filing until January 1 of the following odd numbered year. The lobbyist shall
10 file a new registration statement after that date, and the applicable fee shall be due and
11 payable.

12 **"§ 120-47.3. Registration fee.**

13 ~~Every person, corporation or association which employs any person to act as~~
14 ~~legislative agent as defined by law to promote or oppose in any manner the passage by~~
15 ~~the General Assembly of any legislation affecting the pecuniary interests of any~~
16 ~~individual, association or corporation as distinct from those of the whole people of the~~
17 ~~State, or to act in any manner as a legislative agent in connection with any such~~
18 ~~legislation, Every lobbyist's principal shall pay to the Secretary of State a fee of~~
19 ~~seventy-five dollars (\$75.00) which fee shall be due and payable by either the employer~~
20 ~~or the employee lobbyist or the lobbyist's principal at the time of registration.~~

21 A separate registration, together with a separate registration fee of seventy-five
22 dollars (\$75.00), shall be required for each ~~person, corporation or association~~ lobbyist's
23 principal for which a person acts as ~~legislative agent~~ a lobbyist. Fees so collected shall
24 be deposited in the ~~general fund~~ General Fund of the State.

25 **"§ 120-47.4. Written authority from employer to be filed; copy for legislative**
26 **committee. lobbyist's principal to be filed.**

27 Each ~~legislative agent~~ lobbyist shall file with the Secretary of State within 10 days
28 after his registration a written authorization to act as such, signed by ~~the person~~
29 ~~employing him.~~ the lobbyist's principal.

30 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

31 (a) No person shall act as a ~~legislative agent~~ lobbyist for compensation which is
32 dependent in any manner upon the passage or defeat of any proposed legislation or upon
33 any other contingency connected with any action of the General Assembly, the House,
34 the Senate or any committee thereof.

35 (b) No person shall attempt to influence the action of any member of the General
36 Assembly by the promise of financial support of ~~his~~ the member's candidacy, or by
37 threat of financial contribution in opposition to ~~his~~ the member's candidacy in any future
38 election.

39 **"§ 120-47.6. Statements of legislative agent's lobbyist's lobbying expenses required.**

40 Each ~~legislative agent~~ shall file annually, within 30 days after the final adjournment
41 of the regular session of the General Assembly held in a calendar year, a report with
42 respect to each person represented setting forth the date, to whom paid, and amount of
43 each expenditure made during the previous year in connection with promoting or
44 opposing any legislation in any manner covered by this Article,

1 (a) For each calendar year that a lobbyist is registered, the lobbyist shall file an
2 expense report with respect to each principal within 30 days after the last day of the
3 regular session. This expense report shall include all expenditures made between
4 January 1 and the last day of the regular session. The lobbyist shall file a supplemental
5 report including all expenditures made after the last day of the regular session, but
6 during the calendar year, by January 31 of the following year. The lobbyist shall file
7 both expense reports whether or not expenditures are made.

8 (b) Each expense report shall set forth the date of each expenditure, to whom
9 paid, the name of any legislator who benefitted from each expenditure, identification of
10 the legislative action, if any, which was the subject of the lobbying activity, and the
11 amount of each expenditure made during the previous reporting period in connection
12 with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)
13 entertainment, (4) food, (5) any item having a cash equivalent value of more than
14 twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,
15 directly or indirectly. It shall not be necessary to report expenditures in a particular
16 category if the total amount expended during the reporting period in the particular
17 category on behalf of a ~~person represented~~ lobbyist's principal is twenty-five dollars
18 (\$25.00) or less. A report shall be filed annually whether or not contributions or expenditures
19 are made. When more than 25 members of the General Assembly benefitted or were
20 invited to benefit from an expenditure, the lobbyist shall not be required to report the
21 name of any legislator, but shall be required to report the number of legislators or the
22 party affiliation, legislative district, or any other basis for their selection.

23 (c) All reports shall be in ~~such the~~ form as shall be prescribed by the Secretary of
24 State and shall be open to public inspection.

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

36 **"§ 120-47.7. Statements of ~~employer~~ lobbyist's principal lobbying expenses**
37 **required.**

38 (a) Each ~~person who employs or retains a legislative agent~~ shall file annually,
39 ~~within 30 days after the final adjournment of the regular session of the General~~
40 ~~Assembly held in a calendar year, a report with respect to each agent employed or~~
41 ~~retained setting~~ For each calendar year that a lobbyist's principal has employed,
42 appointed, or retained one or more lobbyists to lobby on the principal's behalf, the
43 principal shall file an expense report within 30 days after the last day of the regular
44 session. This expense report shall include all expenditures made between January 1 and

1 the last day of the regular session. The principal shall file a supplemental expense
2 report, including all expenditures made after the last day of the regular session, but
3 during the calendar year, by January 31 of the following year. The principal shall file
4 both expense reports whether or not expenditures are made during a reporting period.

5 (b) Each expense report shall set forth the ~~date, name and address of each lobbyist~~
6 ~~employed, appointed, or retained by the lobbyist's principal, the date of each~~
7 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~
8 ~~expenditure, identification of the legislative action, if any, which was the subject matter~~
9 ~~of the lobbying, and amount of each expenditure made during the previous year~~
10 ~~reporting period in connection with promoting or opposing any legislation in any manner~~
11 ~~covered by this Article, lobbying, in each of the following categories: (1) transportation,~~
12 (2) lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of
13 more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or
14 promised, directly or indirectly, and (7) compensation to ~~legislative agents.~~ lobbyists in
15 connection with their lobbying activities. It shall not be necessary to report
16 expenditures in any particular category if the total amount expended during the
17 reporting period in the particular category ~~on behalf of a person represented is~~ twenty-five
18 dollars (\$25.00) or less. When more than 25 members of the General Assembly
19 benefitted or were asked to benefit from an expenditure, the principal shall not be
20 required to report the name of any legislator, but shall be required to report the number
21 of legislators or the party affiliation, legislative district, or any other basis for their
22 selection. In the category of compensation to ~~legislative agents it shall not be necessary to~~
23 ~~report the full salary, or any portion thereof, of a legislative agent who is a full-time employee~~
24 ~~of or is annually retained by the reporting employer.~~ lobbyists, the principal shall report the
25 sum of all compensation paid or promised, directly or indirectly, to all lobbyists in
26 connection with lobbying activities on behalf of the principal. ~~A report shall be filed~~
27 ~~annually whether or not payments are made.~~

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

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

38 **"§ 120-47.7A. Identification of lobbyists.**

39 Any lobbyist registered under this Article shall, while in the Legislative Building or
40 in the Legislative Office Building, or while in attendance at any reception for members
41 of the General Assembly, wear an identification tag giving that person's name and the
42 word 'Lobbyist.'

43 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

- 1 (1) ~~An individual, not acting as a legislative agent, solely engaged in~~
2 ~~expressing a personal opinion on legislative matters to his own~~
3 ~~legislative delegation or other members of the General Assembly.~~
4 (2) A person appearing before a legislative committee at the
5 invitation or request of the committee or a member thereof and who
6 engages in no further activities as a ~~legislative agent~~ lobbyist in
7 connection with that or any other legislative matter.
- 8 (3) a. A duly elected or appointed official or employee of the State, the
9 United States, a county, municipality, school district or other
10 governmental agency, when appearing solely in connection with
11 matters pertaining to his office and public duties.
- 12 b. Notwithstanding the persons exempted in this Article, the
13 Governor, Council of State, and all appointed heads of State
14 departments, agencies and institutions, shall designate all
15 authorized official legislative liaison personnel and shall file
16 and maintain current lists of designated legislative liaison
17 personnel with the Secretary of State and shall likewise file
18 with the Secretary of State a full and accurate accounting of all
19 money expended on lobbying, other than the salaries of regular
20 full-time employees, at the same times lobbyists are required to
21 file expense reports under G.S. 120-47.5.
- 22 (4) A person performing professional services in drafting bills or in
23 advising and rendering opinions to clients as to the construction and
24 effect of proposed or pending legislation where ~~such~~ the professional
25 services are not otherwise, directly or indirectly, connected with
26 legislative 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 ~~such~~ the news medium.
- 30 (6) ~~Notwithstanding the persons exempted in this section, the Governor,~~
31 ~~Council of State, and all appointed heads of State departments,~~
32 ~~agencies and institutions, shall designate all authorized official~~
33 ~~legislative liaison personnel and shall file and maintain current lists of~~
34 ~~designated legislative liaison personnel with the Secretary of State and~~
35 ~~shall likewise file with the Secretary of State a full and accurate~~
36 ~~accounting of all money expended in influencing or attempting to~~
37 ~~influence legislation, other than the salaries of regular full time~~
38 ~~employees.~~
- 39 (7) ~~Members of the General Assembly~~ Legislative officials.
- 40 (8) A person responding to inquiries from a ~~member of the General~~
41 ~~Assembly,~~ legislative official, and who engages in no further activities
42 as a ~~legislative agent~~ lobbyist in connection with that or any other
43 legislative matter.

1 (9) ~~An individual giving facts or recommendations pertaining to~~
2 ~~legislative matters to his own legislative delegation only.~~

3 **"§ 120-47.9. Punishment for violation.**

4 Whoever willfully violates any provision of this Article shall be guilty of a
5 misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor
6 more than one thousand dollars (\$1,000), or imprisoned not exceeding two years, or
7 both. In addition, no ~~legislative agent~~ lobbyist who is convicted of a violation of the
8 provisions of this Article shall in any way act as a ~~legislative agent~~ lobbyist for a period
9 of two years following his conviction.

10 **"§ 120-47.10. Enforcement of Article by Attorney General.**

11 The Secretary of State shall report apparent violations of this Article to the Attorney
12 General. The Attorney General shall, upon complaint made to him of violations of this
13 Article, make an appropriate investigation thereof, and he shall forward a copy of the
14 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-
15 60 of which Wake County is a part, who shall prosecute any person who violates any
16 provisions of this Article.

17 **"§ 120-47.11. Rules and forms.**

18 The Secretary of State may make, amend, and rescind any rules, orders, forms, and
19 definitions as are necessary to carry out the provisions of this Article."

20 Sec. 1.2. Article 10 of Chapter 120 of the General Statutes is repealed.

21 **PART II – LIMITS ON FUND-RAISING IN SESSION.**

22 Sec. 2. Chapter 163 of the General Statutes is amended by adding a new
23 section to read:

24 **"§ 163-278.13A. No fund-raising from lobbyists for legislators or Council of State**
25 **members while General Assembly is in regular session.**

26 (a) While the General Assembly is in regular session, none of the following
27 entities may solicit or accept a contribution from an individual registered as a lobbyist
28 pursuant to Article 9A of Chapter 120 of the General Statutes:

29 (1) A member of the Council of State; or

30 (2) A member of the General Assembly; or

31 (3) A political committee the principal purpose of which is to assist a
32 member or members of the Council of State or General Assembly.

33 (b) While the General Assembly is in regular session, no individual registered as
34 a lobbyist under Article 9A of Chapter 120 of the General Statutes may make a
35 contribution to any of the entities listed in subdivisions (1) through (3) of subsection (a).

36 (c) This section does not apply to:

37 (1) Any contribution made to or by a State, county or congressional
38 district executive committee of a political party; or

39 (2) Any contribution made to or solicited for a political committee that
40 operates on a Statewide basis in conjunction with the executive
41 committee of a political party for the purpose of assisting that party's
42 candidates for Council of State or General Assembly; or

1 (3) Any contribution made by a member of the Council of State or
2 General Assembly to a political committee the principal purpose of
3 which is to assist himself; or

4 (4) Any contribution made to or any solicitation for a nonprofit
5 organization under 26 U.S.C. § 501(c); or

6 (5) Any contribution accepted with the intent that it be used to defray legal
7 or other expenses incurred in connection with the contesting of
8 election results.

9 (d) A violation of this section is a misdemeanor, but no individual or person shall
10 be prosecuted under this section for accepting a contribution unless the State Board of
11 Elections has notified the individual or person of the apparent violation in writing by
12 certified mail, has given the individual or person an opportunity to return or to request
13 the return of the contribution, and, within 10 days of the receipt of the notification, the
14 individual or person has failed to return or to request the return of the contribution.

15 (e) For purposes of this section, the General Assembly is in regular session from
16 the date set by law or resolution that the General Assembly convenes each year until the
17 General Assembly either:

18 (1) Adjourns **sine die**; or

19 (2) Recesses or adjourns for more than 10 days."

20 Sec. 3. This act shall become effective upon ratification. This act shall be
21 implemented within funds available to the Secretary of State. Nothing in this act shall
22 be construed to obligate the General Assembly to appropriate funds to implement the
23 provisions of this act.