

1
2 An act relating to lobbying; amending s.
3 11.045, F.S.; revising procedures for
4 appointing a designated lobbyist to represent a
5 principal that is represented by two or more
6 lobbyists; requiring that a lobbyist file an
7 expenditure report for each period during which
8 the lobbyist is registered; requiring a
9 principal that retains a lobbyist to ensure
10 that expenditure reports are properly filed
11 with the Division of Legislative Information
12 Services within the Office of Legislative
13 Services; revising the period for filing
14 expenditure reports; deleting a requirement
15 that certain supplemental reports be filed;
16 limiting the amount of certain fines that may
17 be assessed against a lobbyist; revising the
18 period for paying fines; authorizing the
19 President of the Senate and the Speaker of the
20 House of Representatives to waive the required
21 filing of an expenditure report; providing for
22 the automatic suspension of a lobbyist's
23 registration following failure to pay a fine;
24 amending s. 112.3215, F.S.; modifying the
25 definition of lobbyist for purpose of lobbying
26 before the Executive Branch or the Constitution
27 Revision Commission; requiring registered
28 lobbyists to submit biannual expenditure
29 reports; modifying dates for filing such
30 reports; providing a fine of up to a maximum of
31 \$5,000 per late report per day; extending time

1 period for payment of such fine and for waiver
2 and appeals; requiring the Department of
3 Banking and Finance to collect such fines as
4 claims of the state; authorizing the department
5 to assign collection to a collection agent;
6 providing responsibility of lobbyists and
7 principals for filing expenditure reports;
8 providing an effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Subsection (3) of section 11.045, Florida
13 Statutes, is amended to read:

14 11.045 Lobbyists; registration and reporting;
15 exemptions; penalties.--

16 (3) Each house of the Legislature shall provide by
17 rule the following reporting requirements:

18 (a) Statements shall be filed by all registered
19 lobbyists two times per year ~~and after each special session of~~
20 ~~the Legislature, which must statements shall~~ disclose all
21 lobbying expenditures by the lobbyist and the principal and
22 the source of funds for such expenditures. All expenditures
23 made by the lobbyist and the principal for the purpose of
24 lobbying must be reported. Reporting of expenditures shall be
25 made on an accrual basis. The report of such expenditures must
26 identify whether the expenditure was made directly by the
27 lobbyist, directly by the principal, initiated or expended by
28 the lobbyist and paid for by the principal, or initiated or
29 expended by the principal and paid for by the lobbyist. The
30 principal is responsible for the accuracy of the expenditures
31 reported as lobbying expenditures made by the principal. The

1 lobbyist is responsible for the accuracy of the expenditures
2 reported as lobbying expenditures made by the lobbyist.
3 Expenditures made must be reported by the category of the
4 expenditure, including, but not limited to, the categories of
5 food and beverages, entertainment, research, communication,
6 media advertising, publications, travel, and lodging.
7 Lobbying expenditures do not include a lobbyist's or
8 principal's salary, office expenses, and personal expenses for
9 lodging, meals, and travel.

10 (b) If a principal is represented by two or more
11 lobbyists, the first lobbyist who registers to represent that
12 principal shall be the designated lobbyist. The designated
13 lobbyist's ~~A principal who is represented by two or more~~
14 ~~lobbyists shall designate one lobbyist whose~~ expenditure
15 report shall include all lobbying expenditures made directly
16 by the principal and those expenditures of the designated
17 lobbyist on behalf of that principal as required by paragraph
18 (a). All other lobbyists registered to represent that
19 principal shall file a report pursuant to paragraph (a). The
20 report of lobbying expenditures by the principal shall be made
21 pursuant to the requirements of paragraph (a). The principal
22 is responsible for the accuracy of figures reported by the
23 designated lobbyist as lobbying expenditures made directly by
24 the principal. The designated lobbyist is responsible for the
25 accuracy of the figures reported as lobbying expenditures made
26 by that lobbyist. Each lobbyist shall file an expenditure
27 report for each period during any portion of which he or she
28 was registered, and each principal shall ensure that an
29 expenditure report is filed for each period during any portion
30 of which the principal was represented by a registered
31 lobbyist.

1 (c) For each reporting period the division shall
2 aggregate the expenditures reported by all of the lobbyists
3 for a principal represented by more than one lobbyist.
4 Further, the division shall aggregate figures that provide a
5 cumulative total of expenditures reported as spent by and on
6 behalf of each principal for the calendar year.

7 (d) The reporting statements shall be filed no later
8 than 45 days after the end of the reporting period. The first
9 report shall include the expenditures for the period from
10 January 1 through June 30 ~~the date of adjournment of the~~
11 ~~regular session of the Legislature, including an extension, if~~
12 ~~any.~~ The second report shall disclose expenditures for the
13 period from July 1 through December 31 ~~the remainder of the~~
14 ~~calendar year. A supplemental report shall be filed no later~~
15 ~~than 45 days after each special session of the Legislature~~
16 ~~which shall disclose expenditures incurred during the period~~
17 ~~since the filing of the last previous report through~~
18 ~~adjournment of the special session.~~ The statements shall be
19 rendered in the identical form provided by the respective
20 houses and shall be open to public inspection. Reporting
21 statements may be filed by electronic means, when feasible.

22 (e) Reports shall be filed not later than 5 p.m. of
23 the report due date. However, any report that is postmarked
24 by the United States Postal Service no later than midnight of
25 the due date shall be deemed to have been filed in a timely
26 manner, and a certificate of mailing obtained from and dated
27 by the United States Postal Service at the time of the
28 mailing, or a receipt from an established courier company
29 which bears a date on or before the due date, shall be proof
30 of mailing in a timely manner.

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1 (f) Each house of the Legislature shall provide by
2 rule, or both houses may provide by joint rule, a procedure by
3 which a lobbyist who fails to timely file a report shall be
4 notified and assessed fines. The rule shall provide for the
5 following:

6 1. Upon determining that the report is late, the
7 person designated to review the timeliness of reports shall
8 immediately notify the lobbyist as to the failure to timely
9 file the report and that a fine is being assessed for each
10 late day. The fine shall be \$50 per day per report for each
11 late day, not to exceed \$5,000 per report.

12 2. Upon receipt of the report, the person designated
13 to review the timeliness of reports shall determine the amount
14 of the fine due based upon the earliest of the following:

15 a. When a report is actually received by the lobbyist
16 registration and reporting office.

17 b. When the report is postmarked.

18 c. When the certificate of mailing is dated.

19 d. When the receipt from an established courier
20 company is dated.

21 3. Such fine shall be paid within 30 ~~20~~ days after
22 ~~receipt of~~ the notice of payment due is transmitted by the
23 Lobbyist Registration Office, unless appeal is made to the
24 division. The moneys shall be deposited into the Legislative
25 Lobbyist Registration Trust Fund.

26 4. A fine shall not be assessed against a lobbyist the
27 first time any reports for which the lobbyist is responsible
28 are not timely filed. However, to receive the one-time fine
29 waiver, all reports for which the lobbyist is responsible must
30 be filed within 30 ~~20~~ days after ~~receipt of~~ notice that any
31 reports have not been timely filed is transmitted by the

1 Lobbyist Registration Office. A fine shall be assessed for any
2 subsequent late-filed reports.

3 5. Any lobbyist may appeal or dispute a fine, based
4 upon unusual circumstances surrounding the failure to file on
5 the designated due date, and may request and shall be entitled
6 to a hearing before the General Counsel of the Office of
7 Legislative Services, who shall recommend to the President of
8 the Senate and the Speaker of the House of Representatives, or
9 their respective designees, that the fine be waived in whole
10 or in part for good cause shown. The President of the Senate
11 and the Speaker of the House of Representatives, or their
12 respective designees, may concur in the recommendation and
13 waive the fine in whole or in part. Any such request shall be
14 made within 30 ~~20~~ days after ~~receipt of~~ the notice of payment
15 due is transmitted by the Lobbyist Registration Office. In
16 such case, the lobbyist shall, within the 30-day ~~20-day~~
17 period, notify the person designated to review the timeliness
18 of reports in writing of his or her intention to request a
19 hearing.

20 6. A lobbyist, a lobbyist's legal representative, or
21 the principal of a lobbyist may request that the filing of an
22 expenditure report be waived upon good cause shown, based on
23 unusual circumstances. The request must be filed with the
24 General Counsel of the Office of Legislative Services, who
25 shall make a recommendation concerning the waiver request to
26 the President of the Senate and the Speaker of the House of
27 Representatives. The President of the Senate and the Speaker
28 of the House of Representatives may grant or deny the request.
29 The registration of a lobbyist who fails to timely pay a fine
30 is automatically suspended until the fine is paid or waived.

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1 ~~7.6.~~ The person designated to review the timeliness of
2 reports shall notify the director of the division of the
3 failure of a lobbyist to file a report after notice or of the
4 failure of a lobbyist to pay the fine imposed.

5 Section 2. Section 112.3215, Florida Statutes, is
6 amended to read:

7 112.3215 Lobbyists before the Executive Branch or the
8 Constitution Revision Commission; registration and reporting;
9 investigation by commission.--

10 (1) For the purposes of this section:

11 (a) "Agency" means the Governor, Governor and Cabinet,
12 or any department, division, bureau, board, commission, or
13 authority of the executive branch. In addition, "agency"
14 shall mean the Constitution Revision Commission as provided by
15 s. 2, Art. XI of the State Constitution.

16 (b) "Expenditure" means a payment, distribution, loan,
17 advance, reimbursement, deposit, or anything of value made by
18 a lobbyist or principal for the purpose of lobbying.

19 (c) "Fund" means the Executive Branch Lobby
20 Registration Trust Fund.

21 (d) "Lobbies" means seeking, on behalf of another
22 person, to influence an agency with respect to a decision of
23 the agency in the area of policy or procurement or an attempt
24 to obtain the goodwill of an agency official or employee.
25 "Lobbies" also means influencing or attempting to influence,
26 on behalf of another, the Constitution Revision Commission's
27 action or nonaction through oral or written communication or
28 an attempt to obtain the goodwill of a member or employee of
29 the Constitution Revision Commission.

30 (e) "Lobbyist" means a person who is employed and
31 receives payment, or who contracts for economic consideration,

1 for the purpose of lobbying, or a person who is principally
2 employed for governmental affairs by another person or
3 governmental entity to lobby on behalf of that other person or
4 governmental entity. "Lobbyist" does not include a person who
5 is:

6 1. An attorney, or any person, who represents a client
7 in a judicial proceeding or in a formal administrative
8 proceeding conducted pursuant to chapter 120 or any other
9 formal hearing before an agency, board, commission, or
10 authority of this state.

11 2. An employee of an agency or of a legislative or
12 judicial branch entity acting in the normal course of his or
13 her duties.

14 3. A confidential informant who is providing, or
15 wishes to provide, confidential information to be used for law
16 enforcement purposes.

17 4. A person who lobbies to procure a contract pursuant
18 to chapter 287 which contract is less than the threshold for
19 CATEGORY ONE as provided in s. 287.017(1)(a).

20 (f) "Principal" means the person, firm, corporation,
21 or other entity which has employed or retained a lobbyist.

22 (2) The Executive Branch Lobby Registration Trust Fund
23 is hereby created within the commission to be used for the
24 purpose of funding any office established to administer the
25 registration of lobbyists lobbying an agency, including the
26 payment of salaries and other expenses. The trust fund is not
27 subject to the service charge to General Revenue provisions of
28 chapter 215. All annual registration fees collected pursuant
29 to this section shall be deposited into such fund.

30 (3) A person may not lobby an agency until such person
31 has registered as a lobbyist with the commission. Such

1 registration shall be due upon initially being retained to
2 lobby and is renewable on a calendar year basis thereafter.
3 Upon registration the person shall provide a statement signed
4 by the principal or principal's representative that the
5 registrant is authorized to represent the principal. The
6 registration shall require the lobbyist to disclose, under
7 oath, the following information:

8 (a) Name and business address;

9 (b) The name and business address of each principal
10 represented;

11 (c) His or her area of interest;

12 (d) The agencies before which he or she will appear;
13 and

14 (e) The existence of any direct or indirect business
15 association, partnership, or financial relationship with any
16 employee of an agency with which he or she lobbies, or intends
17 to lobby, as disclosed in the registration.

18 (4) The annual lobbyist registration fee shall be set
19 by the commission by rule, not to exceed \$40 for each
20 principal represented.

21 (5)(a) A registered lobbyist must also submit to the
22 commission, biannually ~~quarterly~~, a signed expenditure report
23 summarizing all lobbying expenditures by the lobbyist and the
24 principal for each six-month period during any portion of
25 which the lobbyist is registered. All expenditures made by
26 the lobbyist and the principal for the purpose of lobbying
27 must be reported. Reporting of expenditures shall be on an
28 accrual basis. The report of such expenditures must identify
29 whether the expenditure was made directly by the lobbyist,
30 directly by the principal, initiated or expended by the
31 lobbyist and paid for by the principal, or initiated or

1 expended by the principal and paid for by the lobbyist. The
2 principal is responsible for the accuracy of the expenditures
3 reported as lobbying expenditures made by the principal. The
4 lobbyist is responsible for the accuracy of the expenditures
5 reported as lobbying expenditures made by the lobbyist.
6 Expenditures made must be reported by the category of the
7 expenditure, including, but not limited to, the categories of
8 food and beverages, entertainment, research, communication,
9 media advertising, publications, travel, and lodging. Lobby
10 expenditures do not include a lobbyist's or principal's
11 salary, office expenses, and personal expenses for lodging,
12 meals, and travel.

13 (b) A principal who is represented by two or more
14 lobbyists shall designate one lobbyist whose expenditure
15 report shall include all lobbying expenditures made directly
16 by the principal and those expenditures of the designated
17 lobbyist on behalf of that principal as required by paragraph
18 (a). All other lobbyists registered to represent that
19 principal shall file a report pursuant to paragraph (a). The
20 report of lobbying expenditures by the principal shall be made
21 pursuant to the requirements of paragraph (a). The principal
22 is responsible for the accuracy of figures reported by the
23 designated lobbyist as lobbying expenditures made directly by
24 the principal. The designated lobbyist is responsible for the
25 accuracy of the figures reported as lobbying expenditures made
26 by that lobbyist.

27 (c) For each reporting period the commission shall
28 aggregate the expenditures of all lobbyists for a principal
29 represented by more than one lobbyist. Further, the commission
30 shall aggregate figures that provide a cumulative total of
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1 expenditures reported as spent by and on behalf of each
2 principal for the calendar year.

3 (d) The reporting statements shall be filed no later
4 than 45 days after the end of each reporting period and shall
5 include the expenditures for the period from January 1 through
6 ~~March 31, April 1 through~~ June 30, and July 1 through
7 ~~September 30, and October 1 through~~ December 31, respectively.

8 (e) Reports shall be filed not later than 5 p.m. of
9 the report due date. However, any report that is postmarked
10 by the United States Postal Service no later than midnight of
11 the due date shall be deemed to have been filed in a timely
12 manner, and a certificate of mailing obtained from and dated
13 by the United States Postal Service at the time of the
14 mailing, or a receipt from an established courier company
15 which bears a date on or before the due date, shall be proof
16 of mailing in a timely manner.

17 (f) The commission shall provide by rule a procedure
18 by which a lobbyist who fails to timely file a report shall be
19 notified and assessed fines. The rule shall provide for the
20 following:

21 1. Upon determining that the report is late, the
22 person designated to review the timeliness of reports shall
23 immediately notify the lobbyist as to the failure to timely
24 file the report and that a fine is being assessed for each
25 late day. The fine shall be \$50 per day per report for each
26 late day up to a maximum of \$5,000 per late report.

27 2. Upon receipt of the report, the person designated
28 to review the timeliness of reports shall determine the amount
29 of the fine due based upon the earliest of the following:

30 a. When a report is actually received by the lobbyist
31 registration and reporting office.

- 1 b. When the report is postmarked.
- 2 c. When the certificate of mailing is dated.
- 3 d. When the receipt from an established courier
- 4 company is dated.
- 5 3. Such fine shall be paid within 30 ~~20~~ days after
- 6 ~~receipt of~~ the notice of payment due is transmitted by the
- 7 lobbyist registration office, unless appeal is made to the
- 8 commission. The moneys shall be deposited into the Executive
- 9 Branch Lobby Registration Trust Fund.
- 10 4. A fine shall not be assessed against a lobbyist the
- 11 first time any reports for which the lobbyist is responsible
- 12 are not timely filed. However, to receive the one-time fine
- 13 waiver, all reports for which the lobbyist is responsible must
- 14 be filed within 30 ~~20~~ days after the receipt of notice that
- 15 any reports have not been timely filed is transmitted by the
- 16 lobbyist registration office. A fine shall be assessed for any
- 17 subsequent late-filed reports.
- 18 5. Any lobbyist may appeal or dispute a fine, based
- 19 upon unusual circumstances surrounding the failure to file on
- 20 the designated due date, and may request and shall be entitled
- 21 to a hearing before the commission, which shall have the
- 22 authority to waive the fine in whole or in part for good cause
- 23 shown. Any such request shall be made within 30 ~~20~~ days after
- 24 ~~receipt of~~ the notice of payment due is transmitted by the
- 25 lobbyist registration office. In such case, the lobbyist
- 26 shall, within the 30-day ~~20-day~~ period, notify the person
- 27 designated to review the timeliness of reports in writing of
- 28 his or her intention to bring the matter before the
- 29 commission.
- 30 6. The person designated to review the timeliness of
- 31 reports shall notify the commission of the failure of a

1 lobbyist to file a report after notice or of the failure of a
2 lobbyist to pay the fine imposed.

3 7. Notwithstanding any provision of ch. 120, any fine
4 imposed under this subsection that is not waived by final
5 order of the commission and that remains unpaid more than 60
6 days after the notice of payment due or more than 60 days
7 after the commission renders a final order on the lobbyist's
8 appeal shall be collected by the Department of Banking and
9 Finance as a claim, debt, or other obligation owed to the
10 state, and the department may assign the collection of such
11 fine to a collection agent as provided in s. 17.20.

12 (g) The commission shall adopt a rule which allows
13 reporting statements to be filed by electronic means, when
14 feasible.

15 (h) Each lobbyist and each principal shall preserve
16 for a period of 4 years all accounts, bills, receipts,
17 computer records, books, papers, and other documents and
18 records necessary to substantiate lobbying expenditures. Any
19 documents and records retained pursuant to this section may be
20 inspected under reasonable circumstances by any authorized
21 representative of the commission. The right of inspection may
22 be enforced by appropriate writ issued by any court of
23 competent jurisdiction.

24 (6) A lobbyist shall promptly send a written statement
25 to the commission canceling the registration for a principal
26 upon termination of the lobbyist's representation of that
27 principal. Notwithstanding this requirement, the commission
28 may remove the name of a lobbyist from the list of registered
29 lobbyists if the principal notifies the office that a person
30 is no longer authorized to represent that principal. Each
31 lobbyist is responsible for filing an expenditure report for

1 each period during any portion of which he or she was
2 registered, and each principal is responsible for seeing that
3 an expenditure report is filed for each period during any
4 portion of which the principal was represented by a registered
5 lobbyist.

6 (7) The commission shall investigate every sworn
7 complaint that is filed with it alleging that a person covered
8 by this section has failed to register, has failed to submit
9 an expenditure report, or has knowingly submitted false
10 information in any report or registration required in this
11 section. All proceedings, the complaint, and other records
12 relating to the investigation are confidential and exempt from
13 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
14 State Constitution, and any meetings held pursuant to an
15 investigation are exempt from the provisions of s. 286.011(1)
16 and s. 24(b), Art. I of the State Constitution either until
17 the alleged violator requests in writing that such
18 investigation and associated records and meetings be made
19 public or until the commission determines, based on the
20 investigation, whether probable cause exists to believe that a
21 violation has occurred.

22 (8) If the commission finds no probable cause to
23 believe that a violation of this section occurred, it shall
24 dismiss the complaint, whereupon the complaint, together with
25 a written statement of the findings of the investigation and a
26 summary of the facts, shall become a matter of public record,
27 and the commission shall send a copy of the complaint,
28 findings, and summary to the complainant and the alleged
29 violator. If the commission finds probable cause to believe
30 that a violation occurred, it shall report the results of its
31 investigation to the Governor and Cabinet and send a copy of

1 the report to the alleged violator by certified mail. Such
2 notification and all documents made or received in the
3 disposition of the complaint shall then become public records.
4 Upon request submitted to the Governor and Cabinet in writing,
5 any person whom the commission finds probable cause to believe
6 has violated any provision of this section shall be entitled
7 to a public hearing. Such person shall be deemed to have
8 waived the right to a public hearing if the request is not
9 received within 14 days following the mailing of the probable
10 cause notification. However, the Governor and Cabinet may on
11 its own motion require a public hearing and may conduct such
12 further investigation as it deems necessary.

13 (9) If the Governor and Cabinet finds that a violation
14 occurred, it may reprimand the violator, censure the violator,
15 or prohibit the violator from lobbying all agencies for a
16 period not to exceed 2 years.

17 (10) Any person, when in doubt about the applicability
18 and interpretation of this section to himself or herself in a
19 particular context, may submit in writing the facts of the
20 situation to the commission with a request for an advisory
21 opinion to establish the standard of duty. An advisory
22 opinion shall be rendered by the commission and, until amended
23 or revoked, shall be binding on the conduct of the person who
24 sought the opinion, unless material facts were omitted or
25 misstated in the request.

26 (11) Agencies shall be diligent to ascertain whether
27 persons required to register pursuant to this section have
28 complied. An agency may not knowingly permit a person who is
29 not registered pursuant to this section to lobby the agency.

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1 (12) Upon discovery of violations of this section an
2 agency or any person may file a sworn complaint with the
3 commission.

4 (13) The commission shall adopt rules to administer
5 this section, which shall prescribe forms for registration and
6 expenditure reports, procedures for registration, and
7 procedures that will prevent disclosure of information that is
8 confidential as provided in this section.

9 Section 3. This act shall take effect upon becoming a
10 law.

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