

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ways and Means Committee

BILL: CS/SB 2646

SPONSOR: Ways and Means Committee and Senator Sebesta

SUBJECT: Lobbying

DATE: March 31, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Fav/1amendment
2.		Hayes	GA	Withdrawn
3.	Peters	Coburn	WM	Fav/CS
4.				
5.				
6.				

I. Summary:

Committee Substitute for Senate Bill 2646 modifies the registration and reporting requirements that govern legislative and executive lobbyists.

Some of the more important provisions of the bill include:

- Requiring lobbyists to report *compensation* from principals.
- Expanding the reporting of lobbying expenditures to require detailed information on *individual* expenditures, in addition to the current *aggregate* reporting by category.
- Requiring each designated lobbyist to select the *industry group classification* that most accurately describes the principal's main business from prescribed categories.
- Mandating the reporting of the principal's *general and specific areas of lobbying interest*.
- Modifying the periodic reporting schedule for activity reports (compensation, expenditures, and areas of lobbying interest) from *semi-annually to quarterly*.
- Authorizing the creation of an online, *electronic filing system* for quarterly activity reports and requiring lobbyists to file quarterly activity reports electronically with the Division of Legislative Information Services; directing the Division and Florida Commission on Ethics to provide activity report information on a web site accessible to the public.
- Authorizing the Auditor General to audit compensation-reporting information and provide a final audit report to a designated committee in each chamber (legislative lobbyists) and the Commission on Ethics (executive lobbyists).

Except as otherwise provided, the bill takes effect on January 1, 2006, with the first activity reports subject to the new requirements in the bill to be filed no later than May 15, 2006 (reporting period January 1 through March 31, 2006).

This bill amends sections 11.045, 11.45, and 112.3215 and creates sections 11.0455 and 112.32155 of the Florida Statutes.

II. Present Situation:

Florida is the most populous state in the country without a legislative lobbying compensation reporting requirement.¹

In 2004, Florida had 2,041 legislative lobbyists registered to represent 2,845 principals. The total number of registration for the year was 7,915, as one lobbyist often registers to represent multiple principals and must file a separate registration for each one. For that same year, Florida had 1,342 executive branch lobbyists registered to represent 2,285 principals. The total number of registrations for the year was 5,702.

Florida's lobbyists (and principals through their designated lobbyists) must register annually² and report lobbying "expenditures" twice per year;³ salaries, however, are expressly not considered "expenditures" under Florida law. Thus, compensation for lobbying services is not reported.

Lobbying "expenditures," essentially payments, distributions, or anything of value made by a lobbyist or principal for the purpose of lobbying, are reported *in the aggregate* in 10 broad categories to the Division of Legislative Information Services' Lobbying Registration Office ("LRO") and the Commission on Ethics.⁴ Individual expenditures are not reported to the LRO or Commission.

Legislative lobbyists filed 7,445 expenditure reports for activities in the first half of 2004, and 7,543 for the second half; executive lobbyists filed 5,129 expenditure reports for the first half of 2004 and 5,379 for the second half.

Florida does not have electronic filing for registration or semi-annual expenditure reports; paper registration and reports are required. Consequently, the LRO and Commission manually aggregate: the expenditures for each reporting period, for each principal with multiple lobbyists; and, each principal's total annual lobbying expenditures.

¹ California, Texas, and New York are the largest states by size of population; all three states require some form of lobbying compensation reporting.

² Each lobbyist registration must include a free-form, general description of the lobbyist's area of lobbying interest on behalf of the principal. No categories of interest are prescribed for the lobbyist to select from.

As a result, descriptions tend to be generic (i.e., "issues pertaining to clients") and mostly without any practical value in providing the public notice of the general lobbying interests of each principal.

³ Expenditure reports are due 45 days after the end of each semi-annual reporting period. Reporting for the period January 1 through June 30 is due no later than August 14; reporting for the period July 1 through December 31 is due no later than February 14.

⁴ Categories of expenditures on the report are: (1) Food & Beverage; (2) Entertainment; (3) Research; (4) Communication; (5) Media Advertising; (6) Publications; (7) Travel; (8) Lodging; (9) Special Events; (10) Other.

Aggregate expenditure information, as well as monetary information contained in the expenditure reports, are available from the LRO in hard-copy form upon request, but are not currently available online. The only tangible online information (from the standpoint of providing public notice of special interest activities) is the name and address of principals and lobbyists, along with the affiliation between lobbyists and principals.⁵

III. Effect of Proposed Changes:

Section 1. Legislative Lobbying; Substantive Changes. [amending s. 11.045, F.S]

- a. Maintains the current timetables for lobbying registration (annually) but modifies the schedule for periodic reporting of compensation, expenditures, and lobbying interests, from semi-annually to quarterly filing.
- b. Defines lobbyist “compensation” broadly to include any “payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbyist for the purpose of lobbying.”
- c. Requires the *designated* lobbyist of each principal at registration to designate the industry group classification that *most accurately describes* the principal’s business from a number of prescribed categories (i.e., Agriculture, Education, Insurance).
- d. Returns to a modified version of the 1978 requirement that the lobbyist provide both a *general description*⁶ and a *specific description*⁷ of the area of legislative lobbying interest on behalf of each principal. This is required both at registration and on quarterly *activity* reports.⁸
- e. Requires all lobbyists to report compensation, expenditures, and areas of lobbying interest on each quarterly *activity* report.
- f. Mandates that each activity report contain not only *aggregate expenditures* allocated to one of 10 categories (i.e., Food & Beverage, Entertainment, Lodging, Travel), but that each *individual* expenditure (except legislative-wide “open” events) be detailed with the name and address of the person *to whom* the expenditure was made; the amount, date, and purpose of the expenditure; and the name and title of the legislator or other person *for whom* the expenditure was made.

⁵ The web site also contains instructional materials such as forms, guides to filing, and applicable laws and rules. (<http://www.flSenate.gov/Lobbyist/index.cfm?Submenu=1&Tab=lobbyist>).

⁶ The *general description* is selected from a check-box list of prescribed categories (i.e., Agriculture, Telecommunications, Pari-mutuel, Natural Resources, etc.).

⁷ For each designated area of general interest, the lobbyist must also describe the *specific sub-issue(s)* lobbied. (For example, a lobbyist for a concrete manufacturer company might identify “Environmental” as the sole category of general interest, with the specific issue lobbied being “water quality discharge standards for cement plants.”)

⁸ The general description on quarterly activity reports also requires the lobbyist to make a good faith estimate of the percentage of lobbying time spent on each designated category of legislative interest.

- g. Expands the current requirement that the Division of Legislative Information Services annually and semi-annually aggregate total *expenditures* for each principal with multiple lobbyists, to require aggregation annually and by *quarter* of both expenditure and compensation information.
- h. Specifically adds “ledgers,” “e-mails,” and “federal tax information” to an already extensive list of items enumerated in statute that must be retained by lobbyists and principals in order to support lobbying expenditures and compensation reported.

Section 2. Online Electronic Reporting Requirement. [amending s. 11.045(3), F.S., as amended by section 1 of this Act]

Effective April 1, 2006, Section 11.045(3), F.S., is amended to include a reference to new s. 11.0455, F.S., (created in Section 3 of the bill), which mandates electronic filing of quarterly lobbying activity reports. This section also contains conforming changes.

Section 3. Online Electronic Reporting. [creating s. 11.0455, F.S.]

- a. *Effective April 1, 2006*, requires the division to have in place an online reporting system for filing quarterly lobbying activity reports of expenditures, compensation, and areas of lobbying interest. The electronic filing system will be Internet-based, and permit direct entry and upload of lobbying activity report information.
- b. *Effective April 1, 2006*, requires the Division to disseminate information on lobbying compensation, expenditures, industry group classifications, and areas of lobbying interests on its web site.

Section 4. Enforcement; Random Compensation Auditing. [amends s. 11.45, F.S.]

Effective April 1, 2007, requires the Auditor General to randomly audit one percent (1%) of all legislative and executive lobbying registrations for the previous calendar year, for the limited purpose of determining whether compensation has been accurately reported (approximately 500 or 550 audits annually); requires the Auditor General to provide a final audit report to the appropriate committee in the Senate and House (legislative lobbyists) or the Commission on Ethics (executive lobbyists) for further action.

(Sections 1 and 6 of the bill authorize the committee in each chamber responsible for lobbying (legislative lobbyists) or the Commission on Ethics (executive lobbyists), respectively, to investigate a lobbyist upon receipt of audit information indicating a possible violation of the *compensation* reporting requirements [excluding a violation for a late-filed report, for which the statutes already contain automatic fines]).

Section 5. Enforcement; Discretionary Compensation Auditing. [amends s. 11.45, F.S.]

Effective April 1, 2006, authorizes the Auditor General to conduct audits of compensation reporting pursuant to the Auditor General’s own authority or as directed by the Committee on Legislative Auditing; requires the Auditor General to provide a final audit report to the

appropriate committee in the Senate and House (legislative lobbyists) or the Commission on Ethics (executive lobbyists) for further action.

(Sections 1 and 6 of the bill authorize the committee in each chamber responsible for lobbying (legislative lobbyists) or the Commission on Ethics (executive lobbyists), respectively, to investigate a lobbyist upon receipt of audit information indicating a possible violation of the *compensation* reporting requirements [excluding a violation for a late-filed report, for which the statutes already contain automatic fines]).

Section 6. Executive Branch Lobbying ; Substantive Changes. [amending s. 112.3215, F.S]

- a. Maintains the current timetables for lobbying registration (annually) but modifies the schedule for periodic reporting of compensation, expenditures, and lobbying interests, from semi-annually to quarterly filing.
- b. Defines lobbyist “compensation” broadly to include any “payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbyist for the purpose of lobbying.”
- c. Requires the *designated* lobbyist of each principal at registration to designate the industry group classification that *most accurately describes* the principal’s business from a number of prescribed categories (i.e., Agriculture, Education, Insurance).
- d. Requires a lobbyist to provide both a *general description*⁹ and a *specific description*¹⁰ of the area of legislative lobbying interest on behalf of each principal. This is required both at registration and on quarterly activity reports.¹¹
- e. Requires all lobbyists to report compensation, expenditures, and areas of lobbying interest on each quarterly *activity* report.
- f. Mandates that each activity report contain not only *aggregate expenditures* allocated to one of 10 categories (i.e., Food & Beverage, Entertainment, Lodging, Travel), but that each *individual* expenditure be detailed with the name and address of the person *to whom* the expenditure was made; the amount, date, and purpose of the expenditure; and the name, title and agency of the person *for whom* the expenditure was made.
- g. Expands the current requirement that the Commission annually and semi-annually aggregate total *expenditures* for each principal with multiple lobbyists, to require aggregation annually and by *quarter* of both expenditure and compensation information.

⁹ The *general description* is selected from a check-box list of prescribed categories (i.e., Agriculture, Telecommunications, Pari-mutuel, Natural Resources, etc.).

¹⁰ For each designated area of general interest, the lobbyist must also describe the *specific sub-issue(s)* lobbied. (For example, a lobbyist for a concrete manufacturer company might identify “Environmental” as the sole category of general interest, with the specific issue lobbied being “water quality discharge standards for cement plants.”)

¹¹ The general description on quarterly activity reports also requires the lobbyist to make a good faith estimate of the percentage of lobbying time spent on each designated category of lobbying interest.

- h. Specifically adds “ledgers,” “e-mails,” and “federal tax information” to an already extensive list of items enumerated in statute that must be retained by lobbyists and principals in order to support lobbying expenditures and compensation reported.

Section 7. Online Electronic Reporting Requirement. [amending s. 112.3215(5), F.S., as amended by section 6 of this Act]

Effective April 1, 2006, Section 112.3215(5), F.S., is amended to include a reference to new s. 112.32155, F.S., (created in Section 8 of the bill), which mandates electronic filing of quarterly lobbying activity reports. This section also contains conforming changes.

Section 8. Online Electronic Reporting. [creating s. 112.32155, F.S.]

- a. *Effective April 1, 2006*, requires the Commission to have in place an online reporting system for filing quarterly lobbying activity reports of expenditures, compensation, and areas of lobbying interest. The electronic filing system will be Internet-based, and permit direct entry and upload of lobbying activity report information.
- b. *Effective April 1, 2006*, requires the Commission to disseminate information on lobbying compensation, expenditures, industry group classifications, and areas of lobbying interests on its web site.

Section 9. Implementation Schedule.

The bill provides that the first lobbying activity reports subject to the new reporting requirements are due by May 15, 2006, for the reporting period January 1, 2006, to March 31, 2006.

Section 10 Effective Date.

Except as otherwise provided, the act takes effect on January 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill is linked to Senate Bill 2644, a public records bill that exempts passwords, user identifications, draft reports, and files associated with the electronic filing of quarterly lobbying activity reports created in sections 3 and 8 of this bill.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Senate Bill 2646 will require lobbyists to keep more extensive records and to file more items at registration and on quarterly activity reports. In addition, moving from a semi-annual to quarterly filing period for activity reports will likely double a lobbyist's current administrative costs. The precise cost of these items has not been determined.

C. Government Sector Impact:*Mandatory Auditing (Auditor General)*

Section 4 of the bill requires the Auditor General to audit one percent (1%) of all legislative and executive lobbying registrations for the previous calendar year, for the limited purpose of determining whether compensation has been accurately reported: this translates to approximately 500 audits annually. The Auditor General's staff estimates that this will cost \$465,000 (plus travel and incidental costs) if seven (7) certified public accountants perform the audits, and \$400,000 (plus travel and incidental costs) if one (1) certified public accountant oversees six (6) paraprofessional staff (i.e., bookkeepers). The Auditor General's staff recommends the former, as this is more consistent with current practices and provides a higher degree of reliability. The staff believes the initial year's impact to establish the program will be absorbed through existing managerial and legal staff; certain other audit efforts may be rescheduled as necessary.

Electronic Reporting System (Division of Legislative Information Services)

The Office of Legislative Information Technology Services (OLITS) estimates the cost of a joint electronic filing system meeting the requirements of Sections 3 and 8 of the bill, if everything were outsourced, at \$488,625. Using OLITS resources (staff and infrastructure) would significantly reduce the costs, especially labor costs which make up 80% of the estimated price.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
