

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: Ethics and Elections Committee

BILL: SB 6-B

INTRODUCER: Senator Sebesta

SUBJECT: Lobbying

DATE: December 5, 2005

REVISED: 12/06/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	<u></u>	<u></u>	<u></u>	<u></u>
3.	<u></u>	<u></u>	<u></u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

Senate Bill 6-B modifies the registration and reporting requirements that govern legislative and executive lobbyists.

Some of the more important provisions of the bill include:

- Requiring lobbying firms to report *compensation* (broadly defined) from principals, largely in dollar ranges.
- Limiting lobbying *expenditures* to only two categories, “food and beverage” and “novelty items,” and requiring the former to be reported *individually* as well as in the aggregate.
- Requiring a principal to designate the *industry group classification* that most accurately describes its main business when the principal’s designated lobbyist registers to lobby.
- Mandating the reporting of each principal’s *general and specific areas of lobbying interest* on quarterly expenditure statements.
- Modifying the reporting period from *semi-annual to quarterly*.
- Authorizing the creation of an online, *electronic filing system* for quarterly expenditure and compensation reports; directing the Division of Legislative Information Services (legislative lobbyists) and the Florida Commission on Ethics (executive lobbyists); to provide the information on a web site accessible to the general public.

- Authorizing the Auditor General to audit some lobbying firm compensation reports and provide a report to each chamber (legislative) or the Commission on Ethics (executive).
- Conditionally prohibits lobbyist-felons from being registered to lobby.

Except as otherwise provided, the bill takes effect on January 1, 2006, except that the felon lobbying restrictions take effect March 15, 2006.

This bill amends sections 11.045 and 11.45, 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 registrations for the year was 7,915, as one lobbyist often registers to represent multiple principals and must file a separate registration for each one. Registered executive lobbyists for 2004 numbered 1,342 and represented 2,285 principals. Collectively, they filed 5,702 total registrations for principals.

Florida's lobbyists must register annually and report lobbying "expenditures" twice per year;² salaries, however, are expressly not considered "expenditures" under Florida law.³ 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 broad categories to the Division of Legislative Information Services' Lobbying Registration Office ("the division") or the Florida Commission on Ethics ("the commission").⁴ *Individual* expenditures are not reported.

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 division 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 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.

³ Sections 11.045(3)(a), 112.3215(5)(a), F.S.

⁴ Expenditure categories on the legislative 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. Section 11.045(3)(a), F.S.

This aggregate expenditure information, as well as monetary information contained in the expenditure reports, are available from the division and commission in hard-copy form upon request, but are not currently available online. The only tangible online information for legislative lobbyists (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. [amending s. 11.045, F.S]

- a. Modifies the reporting period for expenditure reports by lobbyists, from semi-annual to *quarterly*, and creates the same reporting periods for compensation reporting by lobbying firms.
- 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 lobbying firm, directly or indirectly, by a principal.”
- c. Requires each principal to designate the *industry group classification* that most accurately describes its main business when the principal’s designated lobbyist registers to lobby.
- d. Requires the lobbyist to identify each principal’s *general areas of legislative interest lobbied* and the *specific issues lobbied within each general area* on quarterly expenditure reports.
- e. Requires all lobbying firms, including individual contract lobbyists, to quarterly report cumulative *compensation* and compensation received from each principal; much of the reporting is required in dollar ranges, except that if compensation from any individual principal in the reporting period is \$45,000 or more the specific dollar amount of compensation must be reported; prohibits compensation for lobbying from being provided to any individual or entity that is not a lobbying firm.
- f. Limits lobbying *expenditures* to two categories, “food and beverage” and “novelty items” of \$25 or less distributed chamber-wide during a session or committee week; deems all expenditures for “food and beverage” from a lobbyist or principal to a legislator/employee a lobbying “expenditure” subject to reporting, *unless* the lobbyist or principal is the legislator’s/employee’s parent, spouse, child, or sibling --- which is determined on a factual basis; mandates that expenditures for food and beverage must be reported not only in the aggregate but *individually*, with the: name and address of each person *to whom* the expenditure was made; the date of the expenditure; and, the name and

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>).

title of the member/employee *for whom* the expenditure was made; permissible expenditures for food and beverage are limited to those:

- Consumed in a single sitting or meal;
- Paid for solely by the lobbyists or principals present;
- Where the actual value attributable to each legislator/employee is determinable; and,
- The actual gross value attributable to each legislator/employee is no more than \$100.

Food/beverages provided by a lobbyist or principal to a legislator's/employee's spouse or child is attributed toward the legislator's/employee's \$100 ceiling.

- 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. Expands the jurisdiction of Senate and House committees to investigate and enforce violations involving compensation reporting.

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

Effective April 1, 2007, 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 expenditure and compensation reports. This section also contains conforming changes.

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

- a. *Effective April 1, 2007*, requires the division to have in place an online reporting system for filing quarterly lobbying expenditure and compensation reports. The electronic filing system will be Internet-based, and permit direct entry and upload of report information.
- b. *Effective April 1, 2007*, requires the Division to disseminate information on lobbying compensation, expenditures, industry group classifications, and areas of lobbying interests on its web site.

Section 4 & 5. Enforcement. [amends s. 11.45, F.S.]

Effective February 15, 2007, requires the Auditor General to randomly audit the quarterly compensation reports of three percent (3%) of the lobbying firms for the previous calendar year, for the limited purpose of determining whether compensation has been accurately reported; *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) or the Florida Commission on Ethics (executive) for further action.

Section 6. Executive Lobbying

Essentially re-creates the legislative lobbying reporting and regulation scheme in section 1 of the bill in the Florida Statutes section governing executive lobbying (s. 112.3215, F.S.), except that the Florida Commission on Ethics:

- a. Is entrusted with the responsibilities of the division, with regard to custodianship and dissemination of expenditure and compensation reports; and,
- b. Assumes the responsibilities of the legislative committees, for purposes of investigation and enforcement of violations --- except that the Governor and Cabinet, per current procedure, have final authority with regard to sanctions for violations.

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

Effective April 1, 2007, 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 expenditure and compensation reports. This section also contains conforming changes.

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

- a. *Effective April 1, 2007*, requires the commission to have in place an online reporting system for filing quarterly lobbying expenditure and compensation reports. The electronic filing system will be Internet-based, and permit direct entry and upload of report information.
- b. *Effective April 1, 2007*, 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 bill takes effect January 1, 2006, except that the provisions governing the registration of legislative and executive lobbyists convicted of a felony takes effect March 15, 2006.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

This bill is linked to Senate Bill 40-B, 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 6-B will require lobbyists to keep more extensive records and to file more items at registration and on quarterly expenditure and compensation reports. In addition, moving from a semi-annual to quarterly filing period for expenditure reports and creating the same reporting structure for lobbying firms reporting compensation will likely increase a lobbyist's current administrative costs. The precise cost of these items has not been determined.

C. Government Sector Impact:*Mandatory Auditing*

Section 4 of the bill requires the Auditor General to audit the prior calendar years' quarterly compensation reports for 3% of lobbying firms. It is currently not possible to estimate how many compensation reports will be audited in any given year, since: 1) there is no existing data as to the number of active lobbying firms; and, the number of principals for each lobbying firm selected for audit can vary dramatically depending on the size and reputation of the firm.

However, assuming half of the registered legislative lobbyists (2,041 registered in 2004) and executive lobbyists (1,342 registered in 2004) belong to lobbying firms, that would equate to auditing all quarterly lobbying compensation reports for about 50 lobbying firms. Further assuming that each lobbying firm represented three (3) principals, the total number of compensation reports audited would be about 450. (50 lobbying firms x 3 principals x 4 quarterly reports for each principal). Based on the cost figures provided by

the Auditor General's staff, it is estimated that this will cost between \$360,000 (plus travel and incidental costs) if seven (7) certified public accountants perform the audits, and \$425,000 (plus travel and incidental costs) if one (1) certified public accountant oversees six paraprofessional staff (i.e., bookkeepers). The Auditor General's staff recommends using all licensed CPAs, as this is more consistent with current practices and provides a higher degree of reliability.

Electronic Reporting System

The estimated cost to create the Internet-based electronic filing system required beginning with the first quarterly report for 2007 (due May 15, 2007) is estimated at between \$800,000 to \$1 million, of which approximately \$500,000 is in Lobbyists' Reporting Trust Fund and must be appropriated for this use and supplemented with the balance from another source. It is unclear whether the Division of Legislative Information Services and the Commission on Ethics could administer the system without increasing its current staffing levels. (The creation and administration of the reporting system is envisioned as a joint venture between these two entities.)

Paper Forms for 2006 Reporting

Changes to expenditure reporting and the establishment of compensation reporting will require the division and commission to design and print new paper reporting forms for 2006, which will be retired beginning with the period January 1, 2007 to March 31, 2007 when the electronic reporting requirements take effect. The fiscal impact of redesigning and printing the paper forms is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 393028 by Ethics and Elections:
Title amendment.

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