

By the Committee on Rules and Calendar; and Senator Pruitt

595-1777-06

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Senate Concurrent Resolution

A concurrent resolution adopting Joint Rule One relating to lobbyist registration and compensation reporting.

WHEREAS, existing Joint Rule One has regulated lobbyist registration and expenditure reporting, and

WHEREAS, the enactment of chapter 2005-359, Laws of Florida, directed the adoption of rules imposing and regulating lobbyist registration and compensation reporting, and

WHEREAS, each house of the Legislature has inherent, independent authority, acting separately or jointly, to regulate legislative lobbying in each house respectively, and

WHEREAS, there is uncertainty about the present effect of former Joint Rule One, and

WHEREAS, the Senate and House of Representatives desire to resolve uncertainty and jointly implement the statutory directive for lobbyist registration and compensation reporting, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That former Joint Rule One is rescinded and new Joint Rule One is adopted to read:

JOINT RULE ONE

LOBBYIST REGISTRATION AND COMPENSATION REPORTING

1           1.1 Those Required to Register; Exemptions; Committee  
2 Appearance Records

3           (1) All lobbyists before the Florida Legislature must  
4 register with the Lobbyist Registration Office in the Division  
5 of Legislative Information Services of the Office of  
6 Legislative Services. Registration is required for each  
7 principal represented.

8           (2) As used in Joint Rule One, unless the context  
9 otherwise requires:

10           (a) "Compensation" means payment, distribution, loan,  
11 advance, reimbursement, deposit, salary, fee, retainer, or  
12 anything of value provided or owed to a lobbying firm,  
13 directly or indirectly, by a principal for any lobbying  
14 activity.

15           (b) "Division" means the Division of Legislative  
16 Information Services within the Office of Legislative  
17 Services.

18           (c) "Legislative action" means introduction,  
19 sponsorship, testimony, debate, voting, or any other official  
20 action on any measure, resolution, amendment, nomination,  
21 appointment, or report of, or any matter that may be the  
22 subject of action by, either house of the Legislature or any  
23 committee thereof.

24           (d) "Lobby" or "lobbying" means influencing or  
25 attempting to influence legislative action or nonaction  
26 through oral or written communication or an attempt to obtain  
27 the goodwill of a member or employee of the Legislature.

28           (e) "Lobbying firm" means any business entity,  
29 including an individual contract lobbyist, that receives or  
30 becomes entitled to receive any compensation for the purpose  
31 of lobbying, where any partner, owner, officer, or employee of

1 | the business entity is a lobbyist. "Lobbying firm" does not  
2 | include an entity that has employees who are lobbyists if the  
3 | entity does not derive compensation from principals for  
4 | lobbying, or such compensation is received exclusively from a  
5 | subsidiary corporation of the employer.

6 |         (f) "Lobbyist" means a person who is employed and  
7 | receives payment, or who contracts for economic consideration,  
8 | for the purpose of lobbying, or a person who is principally  
9 | employed for governmental affairs by another person or  
10 | governmental entity to lobby on behalf of that other person or  
11 | governmental entity. An employee of the principal is not a  
12 | "lobbyist" unless the employee is principally employed for  
13 | governmental affairs. "Principally employed for governmental  
14 | affairs" means that one of the principal or most significant  
15 | responsibilities of the employee to the employer is overseeing  
16 | the employer's various relationships with government or  
17 | representing the employer in its contacts with government. Any  
18 | person employed by the Governor, the Executive Office of the  
19 | Governor, or any executive or judicial department of the state  
20 | or any community college of the state who seeks to encourage  
21 | the passage, defeat, or modification of any legislation by  
22 | personal appearance or attendance before the House of  
23 | Representatives or the Senate, or any member or committee  
24 | thereof, is a lobbyist.

25 |         (g) "Payment" or "salary" means wages or any other  
26 | consideration provided in exchange for services, but does not  
27 | include reimbursement for expenses.

28 |         (h) "Principal" means the person, firm, corporation,  
29 | or other entity that has employed or retained a lobbyist. When  
30 | an association has employed or retained a lobbyist, the  
31 | association is the principal; the individual members of the

1 association are not principals merely because of their  
2 membership in the association.

3 (3) For purposes of this rule, the terms "lobby" and  
4 "lobbying" do not include any of the following:

5 (a) Response to an inquiry for information made by any  
6 member, committee, or staff of the Legislature.

7 (b) An appearance in response to a legislative  
8 subpoena.

9 (c) Advice or services that arise out of a contractual  
10 obligation with the Legislature, a member, a committee, any  
11 staff, or any legislative entity to render the advice or  
12 services where such obligation is fulfilled through the use of  
13 public funds.

14 (d) Representation of a client before the House of  
15 Representatives or the Senate, or any member or committee  
16 thereof, when the client is subject to disciplinary action by  
17 the House of Representatives or the Senate, or any member or  
18 committee thereof.

19 (4) For purposes of registration and reporting, the  
20 term "lobbyist" does not include any of the following:

21 (a) A member of the Legislature.

22 (b) A person who is employed by the Legislature.

23 (c) A judge who is acting in that judge's official  
24 capacity.

25 (d) A person who is a state officer holding elective  
26 office or an officer of a political subdivision of the state  
27 holding elective office and who is acting in that officer's  
28 official capacity.

29 (e) A person who appears as a witness or for the  
30 purpose of providing information at the written request of the  
31 chair of a committee, subcommittee, or legislative delegation.

1 (f) A person employed by any executive or judicial  
2 department of the state or any community college of the state  
3 who makes a personal appearance or attendance before the House  
4 of Representatives or the Senate, or any member or committee  
5 thereof, while that person is on approved leave or outside  
6 normal working hours, and who does not otherwise meet the  
7 definition of lobbyist.

8 (5) When a person, whether or not the person is  
9 registered as a lobbyist, appears before a committee of the  
10 Legislature, that person must submit a Committee Appearance  
11 Record as required by the respective house.

12 1.2 Method of Registration

13 (1) Each person who is required to register must  
14 register on forms furnished by the Lobbyist Registration  
15 Office, on which that person must state, under oath, that  
16 person's full legal name, business address and telephone  
17 number, the name and business address of each principal that  
18 person represents, and the extent of any direct business  
19 association or partnership that person has with any member of  
20 the Legislature. In addition, if the lobbyist is a partner,  
21 owner, officer, or employee of a lobbying firm, the lobbyist  
22 must state the name, address, Federal Employer's  
23 Identification Number (FEIN), contact name, and telephone  
24 number of each lobbying firm to which the lobbyist belongs.  
25 The Lobbyist Registration Office or its designee is authorized  
26 to acknowledge the oath of any person who registers in person.  
27 Any changes to the information provided in the registration  
28 form must be reported to the Lobbyist Registration Office in  
29 writing within 15 days on forms furnished by the Lobbyist  
30 Registration Office.  
31

1           (2) Any person required to register must do so with  
2 respect to each principal prior to commencement of lobbying on  
3 behalf of that principal. At the time of registration, the  
4 registrant shall provide a statement on a form provided by the  
5 Lobbyist Registration Office, signed by the principal or  
6 principal's representative that the registrant is authorized  
7 to represent the principal. On the authorization statement the  
8 principal or principal's representative shall also identify  
9 and designate the principal's main business pursuant to a  
10 classification system approved by the Office of Legislative  
11 Services that shall be the North American Industry  
12 Classification System (NAICS) six-digit numerical code that  
13 most accurately describes the principal's main business.

14           (3) Any person required to register must renew the  
15 registration annually for each calendar year.

16           (4) A lobbyist shall promptly send a notice to the  
17 Lobbyist Registration Office on forms furnished by the  
18 Lobbyist Registration Office, canceling the registration for a  
19 principal upon termination of the lobbyist's representation of  
20 that principal. A notice of cancellation takes effect the day  
21 it is received by the Lobbyist Registration Office.

22 Notwithstanding this requirement, the Lobbyist Registration  
23 Office may remove the name of a lobbyist from the list of  
24 registered lobbyists if the principal notifies the Lobbyist  
25 Registration Office that the lobbyist is no longer authorized  
26 to represent that principal.

27           (5) The Lobbyist Registration Office shall publish on  
28 the first Monday of each regular session and weekly thereafter  
29 through the end of that session a compilation of the names of  
30 persons who have registered and the information contained in  
31 their registrations.

1           (6) The Lobbyist Registration Office shall retain all  
2 original documents submitted under this rule.

3           (7) A person who is required to register under this  
4 rule, or who chooses to register, shall be considered a  
5 lobbyist of the Legislature for the purposes of sections  
6 11.045, 112.3148, and 112.3149, Florida Statutes.

7           1.3 Registration Costs; Exemptions

8           (1) To cover the costs incurred in administering this  
9 joint policy, each person who registers under Joint Senate and  
10 House Rule 1.1 must pay an annual registration fee to the  
11 Lobbyist Registration Office. The annual period runs from  
12 January 1 to December 31. These fees must be paid at the time  
13 of registration.

14           (2) The following persons are exempt from paying the  
15 fee, provided they are designated in writing by the agency  
16 head or person designated in this subsection:

17           (a) Two employees of each department of the executive  
18 branch created under chapter 20, Florida Statutes.

19           (b) Two employees of the Fish and Wildlife  
20 Conservation Commission.

21           (c) Two employees of the Executive Office of the  
22 Governor.

23           (d) Two employees of the Commission on Ethics.

24           (e) Two employees of the Florida Public Service  
25 Commission.

26           (f) Two employees of the judicial branch designated in  
27 writing by the Chief Justice of the Florida Supreme Court.

28           (3) The annual fee is up to \$50 per each house for a  
29 person to register to represent one principal and up to an  
30 additional \$10 per house for each additional principal that  
31 the person registers to represent. The amount of each fee

1 shall be established annually by the President of the Senate  
2 and the Speaker of the House of Representatives. The fees set  
3 shall be adequate to ensure operation of the lobbyist  
4 registration and reporting operations of the Lobbyist  
5 Registration Office. The fees collected by the Lobbyist  
6 Registration Office under this joint policy shall be deposited  
7 in the State Treasury and credited to the Legislative Lobbyist  
8 Registration Trust Fund specifically to cover the costs  
9 incurred in administering this joint policy.

10 1.4 Reporting of Lobbying Firm Compensation

11 (1)(a) Each lobbying firm shall file a compensation  
12 report with the division for each calendar quarter during any  
13 portion of which one or more of the firm's lobbyists were  
14 registered to represent a principal. The report shall include  
15 the:

16 1. Full name, business address, and telephone number  
17 of the lobbying firm;

18 2. Registration name of each of the firm's lobbyists;  
19 and

20 3. Total compensation provided or owed to the lobbying  
21 firm from all principals for the reporting period, reported in  
22 one of the following categories: \$0; \$1 to \$49,999; \$50,000  
23 to \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999;  
24 \$500,000 to \$999,999; \$1 million or more.

25 (b) For each principal represented by one or more of  
26 the firm's lobbyists, the lobbying firm's compensation report  
27 shall also include the:

28 1. Full name, business address, and telephone number  
29 of the principal; and

30 2. Total compensation provided or owed to the lobbying  
31 firm for the reporting period, reported in one of the



1 following categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999;  
2 \$20,000 to \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or  
3 \$50,000 or more. If the category "\$50,000 or more" is  
4 selected, the specific dollar amount of compensation must be  
5 reported, rounded up or down to the nearest \$1,000.

6 (c) If the lobbying firm subcontracts work from  
7 another lobbying firm and not from the original principal:

8 1. The lobbying firm providing the work to be  
9 subcontracted shall be treated as the reporting lobbying  
10 firm's principal for reporting purposes under this paragraph;  
11 and

12 2. The reporting lobbying firm shall, for each  
13 lobbying firm identified as the reporting lobbying firm's  
14 principal under paragraph (b), identify the name and address  
15 of the principal originating the lobbying work.

16 (d) The senior partner, officer, or owner of the  
17 lobbying firm shall certify to the veracity and completeness  
18 of the information submitted pursuant to this Rule 1.4, and  
19 certify that no compensation has been omitted from this report  
20 by deeming such compensation as "consulting services," "media  
21 services," "professional services," or anything other than  
22 compensation, and certify that no officer or employee of the  
23 firm has made an expenditure in violation of section 11.045,  
24 Florida Statutes, as amended by chapter 2005-359, Laws of  
25 Florida.

26 (2) For each principal represented by more than one  
27 lobbying firm, the division shall aggregate the  
28 reporting-period and calendar-year compensation reported as  
29 provided or owed by the principal. Compensation reported  
30 within a category shall be aggregated as the arithmetic mean  
31 of the category.

1           (3) The reporting statements shall be filed no later  
2 than 45 days after the end of each reporting period. The four  
3 reporting periods are from January 1 through March 31, April 1  
4 through June 30, July 1 through September 30, and October 1  
5 through December 31, respectively. The statements shall be  
6 rendered in the identical form provided by the respective  
7 houses and shall be open to public inspection. Reporting  
8 statements may be filed by electronic means, when feasible.

9           (4) Reports shall be filed no later than 5 p.m. of the  
10 report due date. However, any report that is postmarked by the  
11 United States Postal Service no later than midnight of the due  
12 date shall be deemed to have been filed in a timely manner,  
13 and a certificate of mailing obtained from and dated by the  
14 United States Postal Service at the time of the mailing, or a  
15 receipt from an established courier company that bears a date  
16 on or before the due date, shall be proof of mailing in a  
17 timely manner.

18           1.5 Failure to File Timely Compensation Report; Notice  
19 and Assessment of Fines; Appeals

20           (1) Upon determining that the report is late, the  
21 person designated to review the timeliness of reports shall  
22 immediately notify the lobbying firm as to the failure to  
23 timely file the report and that a fine is being assessed for  
24 each late day. The fine shall be \$50 per day per report for  
25 each late day, not to exceed \$5,000 per report.

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

29           (a) When a report is actually received by the  
30 division.

31           (b) When the report is postmarked.

1 (c) When the certificate of mailing is dated.

2 (d) When the receipt from an established courier  
3 company is dated.

4 (3) Such fine shall be paid within 30 days after the  
5 notice of payment due is transmitted by the person designated  
6 to review the timeliness of reports, unless appeal is made to  
7 the division. The moneys shall be deposited into the  
8 Legislative Lobbyist Registration Trust Fund.

9 (4) A fine shall not be assessed against a lobbying  
10 firm the first time the report for which the lobbying firm is  
11 responsible is not timely filed. However, to receive the  
12 one-time fine waiver, the report for which the lobbying firm  
13 is responsible must be filed within 30 days after notice that  
14 the report has not been timely filed is transmitted by the  
15 person designated to review the timeliness of reports. A fine  
16 shall be assessed for any subsequent late-filed reports.

17 (5) Any lobbying firm may appeal or dispute a fine,  
18 based upon unusual circumstances surrounding the failure to  
19 file on the designated due date, and may request and shall be  
20 entitled to a hearing before the General Counsel of the Office  
21 of Legislative Services, who shall recommend to the President  
22 of the Senate and the Speaker of the House of Representatives,  
23 or their respective designees, that the fine be waived in  
24 whole or in part for good cause shown. The President of the  
25 Senate and the Speaker of the House of Representatives, or  
26 their respective designees, may by joint agreement concur in  
27 the recommendation and waive the fine in whole or in part. Any  
28 such request shall be made within 30 days after the notice of  
29 payment due is transmitted by the person designated to review  
30 the timeliness of reports. In such case, the lobbying firm  
31 shall, within the 30-day period, notify the person designated

1 | to review the timeliness of reports in writing of his or her  
2 | intention to request a hearing.

3 |         (6) A lobbying firm may request that the filing of a  
4 | report be waived upon good cause shown, based on unusual  
5 | circumstances. The request must be filed with the General  
6 | Counsel of the Office of Legislative Services, who shall make  
7 | a recommendation concerning the waiver request to the  
8 | President of the Senate and the Speaker of the House of  
9 | Representatives. The President of the Senate and the Speaker  
10 | of the House of Representatives may, by joint agreement, grant  
11 | or deny the request.

12 |         (7)(a) All lobbyist registrations for lobbyists who  
13 | are partners, owners, officers, or employees of a lobbying  
14 | firm that fails to timely pay a fine are automatically  
15 | suspended until the fine is paid or waived, and the division  
16 | shall promptly notify all affected principals and the  
17 | President of the Senate and the Speaker of the House of  
18 | Representatives of any suspension or reinstatement. All  
19 | lobbyists who are partners, owners, officers, or employees of  
20 | a lobbying firm are jointly and severally liable for any  
21 | outstanding fine owed by a lobbying firm.

22 |         (b) No such lobbyist may be reinstated in any capacity  
23 | representing any principal until the fine is paid or until the  
24 | fine is waived as to that lobbyist. A suspended lobbyist may  
25 | request a waiver upon good cause shown, based on unusual  
26 | circumstances. The request must be filed with the General  
27 | Counsel of the Office of Legislative Services who shall, as  
28 | soon as practicable, make a recommendation concerning the  
29 | waiver request to the President of the Senate and the Speaker  
30 | of the House of Representatives. The President of the Senate  
31 |

1 and the Speaker of the House of Representatives may, by joint  
2 agreement, grant or deny the request.

3 (8) The person designated to review the timeliness of  
4 reports shall notify the director of the division of the  
5 failure of a lobbying firm to file a report after notice or of  
6 the failure of a lobbying firm to pay the fine imposed.

7 1.6 Open Records

8 All of the lobbyist registration and compensation  
9 reports received by the Lobbyist Registration Office shall be  
10 available for public inspection and for duplication at  
11 reasonable cost.

12 1.7 Records Retention and Inspection and Complaint  
13 Procedure

14 (1) Each lobbying firm and each principal shall  
15 preserve for a period of 4 years all accounts, bills,  
16 receipts, computer records, books, papers, and other documents  
17 and records necessary to substantiate compensation reports.

18 (2) Upon receipt of a complaint based upon the  
19 personal knowledge of the complainant made pursuant to the  
20 Senate Rules or Rules of the House of Representatives, any  
21 such documents and records may be inspected when authorized by  
22 the President of the Senate or the Speaker of the House of  
23 Representatives, as applicable. The person authorized to  
24 perform the inspection shall be designated in writing and  
25 shall be a member of The Florida Bar or a certified public  
26 accountant licensed in Florida. Any information obtained by  
27 such an inspection may only be used for purposes authorized by  
28 law, this Joint Rule One, Senate Rules, or Rules of the House  
29 of Representatives, which purposes may include the imposition  
30 of sanctions against a person subject to this rule or Senate  
31 Rules or the Rules of the House of Representatives. Any

1 employee who uses that information for an unauthorized purpose  
2 is subject to discipline. Any member who uses that information  
3 for an unauthorized purpose is subject to discipline under the  
4 applicable rules of each house.

5 (3) The right of inspection may be enforced by  
6 appropriate writ issued by any court of competent  
7 jurisdiction.

8 1.8 Questions Regarding Interpretation of this Joint  
9 Rule One

10 (1) A person may request in writing an informal  
11 opinion from the General Counsel of the Office of Legislative  
12 Services as to the application of this Joint Rule One to a  
13 specific situation. The General Counsel shall issue the  
14 opinion within 10 days after receiving the request. The  
15 informal opinion may be relied upon by the person who  
16 requested the informal opinion. A copy of each informal  
17 opinion that is issued shall be provided to the presiding  
18 officer of each house. A committee of either house designated  
19 pursuant to section 11.045(5), Florida Statutes, may revise  
20 any informal opinion rendered by the General Counsel through  
21 an advisory opinion to the person who requested the informal  
22 opinion. The advisory opinion shall supersede the informal  
23 opinion as of the date the advisory opinion is issued.

24 (2) Persons in doubt about the applicability or  
25 interpretation of this Joint Rule One may submit in writing  
26 the facts for an advisory opinion to the committee of either  
27 house designated pursuant to section 11.045(5), Florida  
28 Statutes, and may appear in person before the committee in  
29 accordance with section 11.045(5), Florida Statutes.

30 1.9 Effect of Former Joint Rule One  
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1           Every fine and penalty finally due and owing on or  
2 before December 31, 2005, under the Rules of the Senate or the  
3 House of Representatives or under former Joint Rules 1.1-1.9,  
4 with no appeal pending under such rules, is hereby ratified  
5 and preserved and shall be collected as previously finally  
6 determined. Every other obligation under former Joint Rule  
7 One, rescinded upon adoption of this Joint Rule One, is hereby  
8 waived and abolished. The obligations under Joint Rules 1.1,  
9 1.2, and 1.3 are to be enforced retroactively to January 1,  
10 2006, provided that substantial compliance with the provisions  
11 of former Joint Rules 1.1, 1.2, and 1.3 on or before the  
12 effective date of this Joint Rule One shall be deemed to be in  
13 compliance with any retroactive requirements of this Joint  
14 Rule One.

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16                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
17   COMMITTEE SUBSTITUTE FOR  
18   Senate Concurrent Resolution 1856

19 Differs substantially from the original resolution in that it:  
20 rescinds Joint Rule 1 of the Florida Legislature entitled  
21 "Lobbyist Registration and Reporting"; creates a new Joint  
22 Rule 1 governing lobbyist registration and lobbying firm  
23 compensation reporting, consistent with the requirements of  
24 Senate Bill 6-B (2005); abolishes the existing system of  
25 expenditure reporting; continues the administrative  
26 enforcement and appeals mechanisms currently in place for  
27 registration and expenditure reporting (automatic fines for  
28 late filed reports, one-time fine waiver for first offenders,  
29 appeal based on "unusual circumstances," etc.), modified to  
30 conform to the new registration and compensation reporting  
31 requirements of SB 6-B (2005); provides for day-to-day  
administration of the new Joint Rule by the Office of  
Legislative Services; waives most of the obligations under the  
previous registration and expenditure reporting rules (former  
Joint Rule 1), while making the new registration requirements  
applicable retroactively to January 1, 2006; incorporates many  
of the statutory requirements from SB 6-B (2005); and, makes  
numerous technical and clarifying changes to provisions  
carried over from the former Joint Rule 1 to accord with the  
requirements in SB 6-B (2005).