

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

Be It Resolved by the House of Representatives of the State of Florida, the Senate 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That former Joint Rule One is rescinded and new Joint Rule One is adopted to read: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

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29 1.1 Those Required to Register; Exemptions; Committee
30 Appearance Records

31 (1) All lobbyists before the Florida Legislature must
32 register with the Lobbyist Registration Office in the Division
33 of Legislative Information Services of the Office of Legislative
34 Services. Registration is required for each principal
35 represented.

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

38 (a) "Compensation" means a payment, distribution, loan,
39 advance, reimbursement, deposit, salary, fee, retainer, or
40 anything of value provided or owed to a lobbying firm, directly
41 or indirectly, by a principal for any lobbying activity.

42 (b) "Division" means the Division of Legislative
43 Information Services within the Office of Legislative Services.

44 (c) "Legislative action" means introduction, sponsorship,
45 testimony, debate, voting, or any other official action on any
46 measure, resolution, amendment, nomination, appointment, or
47 report of, or any matter that may be the subject of action by,
48 either house of the Legislature or any committee thereof.

49 (d) "Lobby" or "lobbying" means influencing or attempting
50 to influence legislative action or nonaction through oral or
51 written communication or an attempt to obtain the goodwill of a
52 member or employee of the Legislature.

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

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57 business entity is a lobbyist. "Lobbying firm" does not include
58 an entity that has employees who are lobbyists if the entity
59 does not derive compensation from principals for lobbying, or
60 such compensation is received exclusively from a subsidiary
61 corporation of the employer.

62 (f) "Lobbyist" means a person who is employed and receives
63 payment, or who contracts for economic consideration, for the
64 purpose of lobbying, or a person who is principally employed for
65 governmental affairs by another person or governmental entity to
66 lobby on behalf of that other person or governmental entity. An
67 employee of the principal is not a "lobbyist" unless the
68 employee is principally employed for governmental affairs.

69 "Principally employed for governmental affairs" means that one
70 of the principal or most significant responsibilities of the
71 employee to the employer is overseeing the employer's various
72 relationships with government or representing the employer in
73 its contacts with government. Any person employed by the
74 Governor, the Executive Office of the Governor, or any executive
75 or judicial department of the state or any community college of
76 the state who seeks to encourage the passage, defeat, or
77 modification of any legislation by personal appearance or
78 attendance before the House of Representatives or the Senate, or
79 any member or committee thereof, is a lobbyist.

80 (g) "Payment" or "salary" means wages or any other
81 consideration provided in exchange for services, but does not
82 include reimbursement for expenses.

83 (h) "Principal" means the person, firm, corporation, or
84 other entity that has employed or retained a lobbyist. When an

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85 | association has employed or retained a lobbyist, the association
86 | is the principal; the individual members of the association are
87 | not principals merely because of their membership in the
88 | association.

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

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

93 | (b) An appearance in response to a legislative subpoena.

94 | (c) Advice or services that arise out of a contractual
95 | obligation with the Legislature, a member, a committee, any
96 | staff, or any legislative entity to render the advice or
97 | services where such obligation is fulfilled through the use of
98 | public funds.

99 | (d) Representation of a client before the House of
100 | Representatives or the Senate, or any member or committee
101 | thereof, when the client is subject to disciplinary action by
102 | the House of Representatives or the Senate, or any member or
103 | committee thereof.

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

106 | (a) A member of the Legislature.

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

108 | (c) A judge who is acting in that judge's official
109 | capacity.

110 | (d) A person who is a state officer holding elective
111 | office or an officer of a political subdivision of the state

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112 holding elective office and who is acting in that officer's
113 official capacity.

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

117 (f) A person employed by any executive or judicial
118 department of the state or any community college of the state
119 who makes a personal appearance or attendance before the House
120 of Representatives or the Senate, or any member or committee
121 thereof, while that person is on approved leave or outside
122 normal working hours, and who does not otherwise meet the
123 definition of lobbyist.

124 (5) When a person, whether or not the person is registered
125 as a lobbyist, appears before a committee of the Legislature,
126 that person must submit a Committee Appearance Record as
127 required by the respective house.

128 1.2 Method of Registration

129 (1) Each person who is required to register must register
130 on forms furnished by the Lobbyist Registration Office, on which
131 that person must state, under oath, that person's full legal
132 name, business address and telephone number, the name and
133 business address of each principal that person represents, and
134 the extent of any direct business association or partnership
135 that person has with any member of the Legislature. In addition,
136 if the lobbyist is a partner, owner, officer, or employee of a
137 lobbying firm, the lobbyist must state the name, address,
138 Federal Employer's Identification Number (FEIN), contact name,
139 and telephone number of each lobbying firm to which the lobbyist

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140 belongs. The Lobbyist Registration Office or its designee is
141 authorized to acknowledge the oath of any person who registers
142 in person. Any changes to the information provided in the
143 registration form must be reported to the Lobbyist Registration
144 Office in writing within 15 days on forms furnished by the
145 Lobbyist Registration Office.

146 (2) Any person required to register must do so with
147 respect to each principal prior to commencement of lobbying on
148 behalf of that principal. At the time of registration, the
149 registrant shall provide a statement on a form provided by the
150 Lobbyist Registration Office, signed by the principal or
151 principal's representative that the registrant is authorized to
152 represent the principal. On the authorization statement the
153 principal or principal's representative shall also identify and
154 designate the principal's main business pursuant to a
155 classification system approved by the Office of Legislative
156 Services that shall be the North American Industry
157 Classification System (NAICS) six-digit numerical code that most
158 accurately describes the principal's main business.

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

161 (4) A lobbyist shall promptly send a notice to the
162 Lobbyist Registration Office on forms furnished by the Lobbyist
163 Registration Office, canceling the registration for a principal
164 upon termination of the lobbyist's representation of that
165 principal. A notice of cancellation takes effect the day it is
166 received by the Lobbyist Registration Office. Notwithstanding
167 this requirement, the Lobbyist Registration Office may remove

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168 the name of a lobbyist from the list of registered lobbyists if
169 the principal notifies the Lobbyist Registration Office that the
170 lobbyist is no longer authorized to represent that principal.

171 (5) The Lobbyist Registration Office shall publish on the
172 first Monday of each regular session and weekly thereafter
173 through the end of that session a compilation of the names of
174 persons who have registered and the information contained in
175 their registrations.

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

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

182 1.3 Registration Costs

183 (1) To cover the costs incurred in administering the
184 legislative Lobbyist Registration Office, each person who
185 registers must pay an annual registration fee to the Lobbyist
186 Registration Office. The annual period runs from January 1 to
187 December 31. These fees must be paid at the time of
188 registration.

189 (2) An annual fee up to \$50 per each house for a person to
190 register shall be established annually by the President of the
191 Senate and the Speaker of the House of Representatives. The fees
192 set shall be adequate to ensure operation of the lobbyist
193 registration and reporting operations of the Lobbyist
194 Registration Office. The fees collected by the Lobbyist
195 Registration Office under this Joint Rule One shall be deposited

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196 | in the State Treasury and credited to the Legislative Lobbyist
 197 | Registration Trust Fund specifically to cover the costs incurred
 198 | in administering the Lobbyist Registration Office.

199 | 1.4 Reporting of Lobbying Firm Compensation

200 | (1) (a) Each lobbying firm shall file a compensation report
 201 | with the division for each calendar quarter during any portion
 202 | of which one or more of the firm's lobbyists were registered to
 203 | represent a principal. The report shall include the:

- 204 | 1. Full name, business address, and telephone number of
 205 | the lobbying firm;
- 206 | 2. Registration name of each of the firm's lobbyists; and
- 207 | 3. Total compensation provided or owed to the lobbying
 208 | firm from all principals for the reporting period, reported in
 209 | one of the following categories: \$0; \$1 to \$49,999; \$50,000 to
 210 | \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to
 211 | \$999,999; \$1 million or more.

212 | (b) For each principal represented by one or more of the
 213 | firm's lobbyists, the lobbying firm's compensation report shall
 214 | also include the:

- 215 | 1. Full name, business address, and telephone number of
 216 | the principal; and
- 217 | 2. Total compensation provided or owed to the lobbying
 218 | firm for the reporting period, reported in one of the following
 219 | categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to
 220 | \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or
 221 | more. If the category "\$50,000 or more" is selected, the
 222 | specific dollar amount of compensation must be reported, rounded
 223 | up or down to the nearest \$1,000.

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

226 1. The lobbying firm providing the work to be
 227 subcontracted shall be treated as the reporting lobbying firm's
 228 principal for reporting purposes under this paragraph; and

229 2. The reporting lobbying firm shall, for each lobbying
 230 firm identified as the reporting lobbying firm's principal under
 231 paragraph (b), identify the name and address of the principal
 232 originating the lobbying work.

233 (d) The senior partner, officer, or owner of the lobbying
 234 firm shall certify to the veracity and completeness of the
 235 information submitted pursuant to this Rule 1.4, and certify
 236 that no compensation has been omitted from this report by
 237 deeming such compensation as "consulting services," "media
 238 services," "professional services," or anything other than
 239 compensation, and certify that no officer or employee of the
 240 firm has made an expenditure in violation of section 11.045,
 241 Florida Statutes, as amended by chapter 2005-359, Laws of
 242 Florida.

243 (2) For each principal represented by more than one
 244 lobbying firm, the division shall aggregate the reporting-period
 245 and calendar-year compensation reported as provided or owed by
 246 the principal. Compensation reported within a category shall be
 247 aggregated as the arithmetic mean of the category.

248 (3) The reporting statements shall be filed no later than
 249 45 days after the end of each reporting period. The four
 250 reporting periods are from January 1 through March 31, April 1
 251 through June 30, July 1 through September 30, and October 1

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252 through December 31, respectively. The statements shall be
 253 rendered in the identical form provided by the respective houses
 254 and shall be open to public inspection. Reporting statements may
 255 be filed by electronic means, when feasible.

256 (4) Reports shall be filed no later than 5 p.m. of the
 257 report due date. However, any report that is postmarked by the
 258 United States Postal Service no later than midnight of the due
 259 date shall be deemed to have been filed in a timely manner, and
 260 a certificate of mailing obtained from and dated by the United
 261 States Postal Service at the time of the mailing, or a receipt
 262 from an established courier company that bears a date on or
 263 before the due date, shall be proof of mailing in a timely
 264 manner.

265 1.5 Failure to File Timely Compensation Report; Notice and
 266 Assessment of Fines; Appeals

267 (1) Upon determining that the report is late, the person
 268 designated to review the timeliness of reports shall immediately
 269 notify the lobbying firm as to the failure to timely file the
 270 report and that a fine is being assessed for each late day. The
 271 fine shall be \$50 per day per report for each late day, not to
 272 exceed \$5,000 per report.

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

- 276 (a) When a report is actually received by the division.
- 277 (b) When the report is postmarked.
- 278 (c) When the certificate of mailing is dated.

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279 (d) When the receipt from an established courier company
280 is dated.

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

286 (4) A fine shall not be assessed against a lobbying firm
287 the first time the report for which the lobbying firm is
288 responsible is not timely filed. However, to receive the one-
289 time fine waiver, the report for which the lobbying firm is
290 responsible must be filed within 30 days after notice that the
291 report has not been timely filed is transmitted by the person
292 designated to review the timeliness of reports. A fine shall be
293 assessed for any subsequent late-filed reports.

294 (5) Any lobbying firm may appeal or dispute a fine, based
295 upon unusual circumstances surrounding the failure to file on
296 the designated due date, and may request and shall be entitled
297 to a hearing before the General Counsel of the Office of
298 Legislative Services, who shall recommend to the President of
299 the Senate and the Speaker of the House of Representatives, or
300 their respective designees, that the fine be waived in whole or
301 in part for good cause shown. The President of the Senate and
302 the Speaker of the House of Representatives, or their respective
303 designees, may by joint agreement concur in the recommendation
304 and waive the fine in whole or in part. Any such request shall
305 be made within 30 days after the notice of payment due is
306 transmitted by the person designated to review the timeliness of

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307 reports. In such case, the lobbying firm shall, within the 30-
308 day period, notify the person designated to review the
309 timeliness of reports in writing of his or her intention to
310 request a hearing.

311 (6) A lobbying firm may request that the filing of a
312 report be waived upon good cause shown, based on unusual
313 circumstances. The request must be filed with the General
314 Counsel of the Office of Legislative Services, who shall make a
315 recommendation concerning the waiver request to the President of
316 the Senate and the Speaker of the House of Representatives. The
317 President of the Senate and the Speaker of the House of
318 Representatives may, by joint agreement, grant or deny the
319 request.

320 (7)(a) All lobbyist registrations for lobbyists who are
321 partners, owners, officers, or employees of a lobbying firm that
322 fails to timely pay a fine are automatically suspended until the
323 fine is paid or waived, and the division shall promptly notify
324 all affected principals and the President of the Senate and the
325 Speaker of the House of Representatives of any suspension or
326 reinstatement. All lobbyists who are partners, owners, officers,
327 or employees of a lobbying firm are jointly and severally liable
328 for any outstanding fine owed by a lobbying firm.

329 (b) No such lobbyist may be reinstated in any capacity
330 representing any principal until the fine is paid or until the
331 fine is waived as to that lobbyist. A suspended lobbyist may
332 request a waiver upon good cause shown, based on unusual
333 circumstances. The request must be filed with the General
334 Counsel of the Office of Legislative Services who shall, as soon

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335 as practicable, make a recommendation concerning the waiver
 336 request to the President of the Senate and the Speaker of the
 337 House of Representatives. The President of the Senate and the
 338 Speaker of the House of Representatives may, by joint agreement,
 339 grant or deny the request.

340 (8) The person designated to review the timeliness of
 341 reports shall notify the director of the division of the failure
 342 of a lobbying firm to file a report after notice or of the
 343 failure of a lobbying firm to pay the fine imposed.

344 1.6 Open Records

345 All of the lobbyist registration and compensation reports
 346 received by the Lobbyist Registration Office shall be available
 347 for public inspection and for duplication at reasonable cost.

348 1.7 Records Retention and Inspection and Complaint
 349 Procedure

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

354 (2) Upon receipt of a complaint based upon the personal
 355 knowledge of the complainant made pursuant to the Senate Rules
 356 or Rules of the House of Representatives, any such documents and
 357 records may be inspected when authorized by the President of the
 358 Senate or the Speaker of the House of Representatives, as
 359 applicable. The person authorized to perform the inspection
 360 shall be designated in writing and shall be a member of The
 361 Florida Bar or a certified public accountant licensed in
 362 Florida. Any information obtained by such an inspection may only

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363 be used for purposes authorized by law, this Joint Rule One,
364 Senate Rules, or Rules of the House of Representatives, which
365 purposes may include the imposition of sanctions against a
366 person subject to this rule or Senate Rules or the Rules of the
367 House of Representatives. Any employee who uses that information
368 for an unauthorized purpose is subject to discipline. Any member
369 who uses that information for an unauthorized purpose is subject
370 to discipline under the applicable rules of each house.

371 (3) The right of inspection may be enforced by appropriate
372 writ issued by any court of competent jurisdiction.

373 1.8 Questions Regarding Interpretation of this Joint Rule
374 One

375 (1) A person may request in writing an informal opinion
376 from the General Counsel of the Office of Legislative Services
377 as to the application of this Joint Rule One to a specific
378 situation. The General Counsel shall issue the opinion within 10
379 days after receiving the request. The informal opinion may be
380 relied upon by the person who requested the informal opinion. A
381 copy of each informal opinion that is issued shall be provided
382 to the presiding officer of each house. A committee of either
383 house designated pursuant to section 11.045(5), Florida
384 Statutes, may revise any informal opinion rendered by the
385 General Counsel through an advisory opinion to the person who
386 requested the informal opinion. The advisory opinion shall
387 supersede the informal opinion as of the date the advisory
388 opinion is issued.

389 (2) Persons in doubt about the applicability or
390 interpretation of this Joint Rule One may submit in writing the

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391 facts for an advisory opinion to the committee of either house
392 designated pursuant to section 11.045(5), Florida Statutes, and
393 may appear in person before the committee in accordance with
394 section 11.045(5), Florida Statutes.

395 1.9 Application of Section 11.0455, Florida Statutes;
396 Recommendations

397 Prior to the 2006 Organizational Session, the House of
398 Representatives and the Senate should consider what changes
399 should be made to this Joint Rule One to implement section
400 11.0455, Florida Statutes.

401 1.10 Effect of Former Joint Rule One

402 Every obligation under former Joint Rule One, rescinded
403 upon adoption of this Joint Rule One, is hereby waived and
404 abolished. The obligations under Joint Rules 1.1, 1.2, and 1.3
405 are to be enforced retroactively to January 1, 2006, provided
406 that substantial compliance with the provisions of former Joint
407 Rules 1.1, 1.2, and 1.3 on or before the effective date of this
408 Joint Rule One shall be deemed to be compliance with any
409 retroactive requirements of this Joint Rule One.