

TITLE 49. STATE ADMINISTRATION

CHAPTER 11. GENERAL PROVISIONS

PART IV. EXECUTIVE BRANCH LOBBYING

§71. Purpose

The legislature declares that the operation of open and responsible government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely their opinions on actions of the executive branch. To preserve and maintain the integrity of executive branch action and state government, the legislature also declares it is necessary that the identity of persons who attempt to influence actions of the executive branch and certain expenditures by those persons be publicly disclosed.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re Implementation, Administration, and Effectiveness.*

§72. Definitions

When used in this Part:

(1) "Ethics board" means the ethics body which has jurisdiction over elected officials under Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950.

(2)(a) "Executive branch action" means any act by an executive branch agency or official to effectuate the public powers, functions, and duties of an executive branch official or an executive branch agency, including but not limited to any act in the nature of policymaking, rulemaking, adjudication, licensing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to formulate, adopt, amend, or repeal any rule, as that term is defined in R.S. 49:951; to adopt, repeal, increase, or decrease any fee imposed on the affairs, actions, or persons regulated by an executive branch agency; or to affect the passage, defeat, or implementation of any legislation.

(b) "Executive branch action" shall not mean any act by a licensed healthcare professional, or a person acting under a licensed healthcare professional's direction, to diagnose, treat, or provide medical advice to an individual patient, including prescribing a drug or device for use by the patient; however, any action by the Medicaid Pharmaceutical and Therapeutics Committee shall be an "executive branch action" and, therefore, any pharmaceutical representative who engages in lobbying any member of the Medicaid Pharmaceutical and Therapeutics Committee for the purpose of inclusion of any product on the pharmacopoeia or formulary shall be required to register as a lobbyist pursuant to the provisions of this Part.

(3) "Executive branch agency" or "agency" means the state, and any state office, department, board, commission, institution, or any quasi-public entity created in the executive branch of state government by or pursuant to law or by or pursuant to the constitution, specifically including but not limited to the Public Service Commission. The terms "executive branch agency" or "agency" shall not include any unit of the legislative or judicial branch of state government, local government, or any political subdivision of the state or any agency thereof; however, the terms "executive branch agency" or "agency" shall include any board or commission to which the governor appoints at least a majority of the membership of the board or commission.

(4) "Executive branch official" or "official" means an elected official, an appointed official, or an employee in an executive branch agency.

(5) "Expenditure" means the gift or payment of money or anything of value when the amount of value exceeds ten dollars for the purchase of food, drink, or refreshment for an executive branch official and any gift or payment permitted by R.S. 42:1123(13) when the value exceeds ten dollars for the purpose of lobbying when the lobbyist or principal accounts, or would be expected to account, for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's, or the principal's trade or business.

(6) "Lobbying" or "to lobby" means any direct act or communication with an executive branch official, the purpose of which is to aid in influencing an executive branch action.

(7) "Lobbyist" means:

(a) Any person who is employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the duties of such employment or engagement; however, any person who is engaged or employed to provide a professional service to a person and incidental to such professional service such person communicates with an executive branch agency or official or makes an appearance or assists in an appearance with an executive branch agency or official shall not be a lobbyist unless such person or the person who engaged the professional services of or employed such person makes an expenditure as defined in this Section.

(b) Any person who receives compensation of any kind, including reimbursement of expenditures, to act in a representative capacity when one of the functions for which compensation is paid is lobbying and makes expenditures as herein defined of five hundred dollars or more in a calendar year for the purpose of lobbying.

(8) "Person" means an individual, partnership, committee, association, corporation, and any other organization or group of persons.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005; Acts 2006, No. 527, §1, eff. June 22, 2006; Acts 2006, No. 748, §1, eff. Jan. 1, 2007.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

NOTE: *See Acts 2006, No. 748, §2, relative to application of Act.*

§73. Persons to whom applicable; exceptions

Except as otherwise provided in this Part relative to a principal or employer of a lobbyist, the provisions of this Part shall apply only to persons who are lobbyists as defined in R.S. 49:72. An elected or appointed public official or any designee of such an official acting in the performance of his public duties shall not be considered to be a lobbyist as defined in this Part.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§74. Registration of lobbyists with the ethics board; compilation of information

A. Each lobbyist shall register with the ethics board within five days of employment as a lobbyist or within five days after the first action requiring his registration as a lobbyist. He shall give to the ethics board in writing, on forms provided by it, the following information:

(1) His name and business address.

(2) The name and address of each person by whom he is employed and, if different, whose interests he represents, including the business in which that person is engaged.

(3) The name of each person by whom he is paid or is to be paid.

(4) One copy of a two-inch-by-two-inch recent photograph of the registrant made within the prior six months shall be filed with the initial registration form.

B. At the time of the initial registration of a lobbyist, the ethics board shall assign the lobbyist a registration number, which number shall be inscribed on the registration form. This number shall be inscribed on each supplemental registration form, renewal form, and expenditure report filed by the lobbyist.

C. A registration shall expire on December thirty-first of each year unless the lobbyist submits a renewal on forms provided by the ethics board along with the appropriate fee. The registrant may file his renewal any time from December first until January thirty-first. Failure to file the renewal form by January thirty-first each year shall cause the registration to expire retroactively as of December thirty-first of the preceding year.

D.(1) Within ten days of termination of a registrant's employment or representation of any person, the registrant shall file a supplemental registration with the ethics board acknowledging the termination of his employment or representation.

(2) Each registrant who ceases activities requiring him to register shall file a supplemental registration with the ethics board acknowledging the termination of his lobbying activities.

(3) Each registrant who has terminated his registration must file disclosure reports for each reporting period during which he was registered.

E. The forms shall be published by the ethics board. Registrations which have been filed shall be maintained in the office of the ethics board.

F. Whenever any information contained in his registration changes, or the lobbyist begins representing an additional person, a supplemental registration shall be filed with the ethics board within five days of such change on forms provided by the ethics board.

G. Each lobbyist shall pay a fee of one hundred ten dollars with each registration and each renewal of registration form filed. No additional fee shall be paid for filing supplemental registration forms.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§75. Reports and statements under oath

A.(1) All reports, registrations, and statements required under this Part shall include a certification of accuracy by the person responsible for filing the report, registration, or statement that the information contained in the report, registration, or statement is true and correct to the best of his knowledge, information, and belief; that no reportable expenditures have been made that are not included therein as required by law; and that no information required by this Part has been deliberately omitted.

(2) All reports, registrations, and statements required under this Part shall be filed by mailing said documents through the United States Postal Service, delivering by hand or through a commercial delivery service, or by transmitting by facsimile or electronic transfer.

B. All reports, registrations, and forms filed with the ethics board shall be maintained as public records and shall be made available for public inspection. The ethics board may charge a reasonable amount for copies of such reports.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§76. Lobbyist expenditure reports

A. Each lobbyist registered under the provisions of this Part shall file with the ethics board, in the manner prescribed by the ethics board by rule in accordance with the provisions of this Part, a report of all expenditures incurred for the purpose of lobbying.

B. A report shall be filed semiannually, and shall be filed, or if mailed shall be postmarked, as follows:

(1) By August fifteenth for the period from January first through June thirtieth.

(2) By February fifteenth for the period from July first through December thirty-first.

C. The report shall be filed on forms provided by the ethics board, shall be signed by the person filing, and shall include a certification of accuracy by the person responsible for filing the report.

D.(1) Each report shall include the following:

(a) The total of all expenditures made during each reporting period aggregated in the manner prescribed by the ethics board by rule.

(b) The aggregate total of expenditures attributable to an individual executive branch official as provided in Subsection E of this Section during each reporting period, including the name of the executive branch official and his executive branch agency.

(c) The aggregate total of expenditures for all reporting periods during the same calendar year, aggregated in the manner prescribed by the ethics board by rule.

(d) The aggregate total of all expenditures attributable to an individual executive branch official as provided in Subsection E of this Section for all reporting periods during the same calendar year, including the name of the executive branch official and his executive branch agency.

(2) For the purposes of this Section, the aggregate amount or any per occasion amount attributable to an executive branch official shall not include any expenditure which is otherwise required to be reported in Paragraph (F)(1) of this Section or which is exempt as provided in Paragraph (F)(2) or (3) of this Section.

E. When the aggregate expenditure for any one executive branch official exceeds the sum of fifty dollars on any one occasion, or when the aggregate expenditure for any one executive branch official exceeds the sum of two hundred fifty dollars in a reporting period, then the total amount of expenditures for the executive branch official during the reporting period shall be attributable to an individual executive branch official.

F.(1) Each report shall include a statement of the expenditure for each reception, social gathering, or other function to which more than twenty-five executive branch officials are invited. Any report of such amount shall include the name of the group or groups invited and the date and location of the reception, social gathering, or other function.

(2) Any expenditure, as defined herein, for any reception or social gathering sponsored in whole or in part by a lobbyist, individually or on behalf of a principal he represents, held in conjunction with a meeting of a national or regional organization of executive branch officials shall be exempt from the provisions of this Part.

(3) Any expenditure for any meal or refreshment consumed by or offered to an executive branch official which is incidental to the executive branch official giving a speech, being a member of a panel, or otherwise being involved in an informational presentation to a group shall be exempt from the provisions of this Part.

G.(1)(a) Any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist shall be reported by the lobbyist as provided in this Part.

(b) Any lobbyist's principal or employer who makes direct expenditures required to be reported pursuant to this Part shall timely furnish its lobbyist information about such expenditures as necessary for compliance with this Part. Such information shall be furnished to the lobbyist no later than two business days after the close of each reporting period.

(c) Any lobbyist's principal or employer who makes direct expenditures required to be reported pursuant to this Part who fails to provide its lobbyist the information regarding such expenditures as provided in Subparagraph (b) of this Paragraph shall be required to register as a lobbyist pursuant to this Part and shall be subject to penalties for violations of this Part.

(2)(a) Notwithstanding any provision of this Part to the contrary, a lobbyist's principal or employer may opt to file reports required by this Section in the manner prescribed by the ethics board by rule on behalf of all of the lobbyists who represent such principal's or employer's interests. If a lobbyist's principal or employer opts to file such reports, the principal or employer shall notify the ethics board no later than January thirty-first of each year, and such option shall be effective for the reporting of all expenditures made during that calendar year. The notification shall include a listing of all persons on whose behalf the lobbyist's principal or employer is filing the reports required by this Section.

(b) Any lobbyist whose principal or employer opts pursuant to this Paragraph to file the reports required by this Section shall timely furnish its principal or employer all information about expenditures as necessary for compliance with this Part. Such information shall be furnished to the principal or employer no later than two business days after the close of each reporting period.

(c) Any lobbyist's principal or employer who opts pursuant to this Paragraph to file the reports required by this Section who fails to file or timely file such reports shall be liable for and subject to any applicable late fees or penalties, or both for violations of this Part.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§77. Administration

The ethics board, in performance of its duties under this Part, shall:

(1) Register lobbyists and assign lobbyist registration numbers as required by this Part.

(2) Issue to each registered lobbyist at the time of initial registration a copy of this Part and any rules adopted pursuant to this Part.

(3) Promulgate all rules and forms necessary for the implementation and administration of this Part, including but not limited to rules and forms to prescribe the level of organizational unit or units of an executive branch agency for which expenditures required to be reported pursuant to this Part shall be aggregated.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§78. Enforcement

A. The ethics board shall be responsible for the enforcement of provisions of this Part. The provisions of Part III of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950 shall be applicable to enforcement of this Part.

B. No action to enforce any provision of this Part shall be commenced after expiration of two years after the occurrence of the alleged violation.

C. The ethics board shall have the authority to impose and collect penalties in accordance with the provisions of Part III of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950 for a violation of this Part. In addition, for recurring or egregious violations of this Part, the ethics board may censure any person found guilty of such violation by the ethics board and prohibit such person from lobbying for not less than thirty days and not more than one year.

D. In addition to any other applicable penalties:

(1) Any person required to register and who fails to timely register and any person who fails to timely file any report required by this Part shall be assessed, pursuant to R.S. 42:1157, a late fee of fifty dollars per day.

(2) Any person whose registration or report is filed eleven or more days after the day on which it was due shall be assessed, in addition to any late fees pursuant to this Section, after a hearing by the ethics board, a civil penalty not to exceed ten thousand dollars.

Acts 2004, No. 116, §2, eff. Jan. 1, 2005.

NOTE: *See Acts 2004, No. 116, §§4 and 5, re implementation, administration, and effectiveness.*

§78.1. Prohibited conduct; additional remedies; contract defeat or voidability

A. No person shall enter into a contract to act in a representative capacity for the purpose of lobbying and fail to register or fail to file a supplemental registration providing the name and address of the person by whom he is employed or engaged and, if different, whose interests he represents pursuant to such contract as required by this Part.

B. Any person who violates the provisions of Subsection A of this Section shall have engaged in a misrepresentation sufficient to defeat or void the contract such person entered into to act in a representative capacity for the purpose of lobbying. Any effort to register or to file a supplemental registration after any remedy or relief relative to such a violation is sought pursuant to any provision of law shall not be sufficient to reverse the misrepresentation.

C. The board shall afford any person accused of violating Subsection A of this Section a hearing in accordance with the provisions of Part III of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950. If the board finds that a person violated the provisions of Subsection A of this Section, the board shall order that the contract entered into for the purpose of lobbying by such person is void and the provisions thereof unenforceable.

D. The provisions of this Section shall be in addition to any other applicable penalties or any other remedy or relief provided by law.

Acts 2006, No. 748, §1, eff. Jan. 1, 2007.

NOTE: *See Acts 2006, No. 748, §2, relative to application of Act to contracts entered into after Jan. 1, 2007.*