

# STATE OF LOUISIANA

## SUMMARY OF THE EXECUTIVE BRANCH LOBBYING LAWS

### LSA-R.S. 49:71-78

**The following Summary is intended to serve as guidance to lobbyists or potential lobbyists. It is not binding upon the Louisiana Board of Ethics and does not constitute formal advice by the Board or its staff. Any requests for advice, formal or informal, should be directed to the Board and its staff. If any inconsistencies between the Executive Branch Lobbying Disclosure Act or subsequent advisory opinions issued by the Board and this Summary exist, the statutory language and the written interpretation of the Act by the Board shall prevail.**

#### **I. Introduction to the Statutes Governing Executive Branch Lobbying**

##### **A. Purpose (LSA-R.S. 49:71)**

- Preserve and maintain the integrity of executive branch action and state government
- Provide public disclosure of the identity of persons who attempt to influence the actions of the executive branch and the expenditures made by those persons.

##### **B. Administration (LSA-R.S. 49: 71 et seq.)**

- Louisiana Board of Ethics
  1. Promulgates rules and forms for the implementation and administration of the executive lobbying program
  2. Prepares and distributes forms
  3. Registers executive branch lobbyists and assigns registration numbers
  4. Enforces the statutes governing executive branch lobbying
  5. Imposes and collects penalties for violations of executive branch lobbying laws
  6. Receives reports and makes them available to the public
  7. Issues advisory opinions interpreting executive branch lobbying laws
  8. Has staff available to provide assistance

#### **II. Persons Required to Register as Lobbyists (LSA-R.S. 49:72)**

- ##### **A. Each person who meets the definition of a “lobbyist” must register with the Louisiana Board of Ethics.**

B. Definitions

1. “**Lobbyist**” means:

- ▶ Any person who is **engaged** for compensation to act in a representative capacity for the purpose of lobbying when lobbying constitutes one of the duties of such engagement (Contract lobbyist; no expenditure threshold); OR
- ▶ Any person who is **employed** for compensation to act in a representative capacity for the purpose of lobbying when lobbying constitutes one of the duties of such employment (includes, but not limited to, in house lobbyists; no expenditure threshold); However, a 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 or employed such person makes **an expenditure** as defined in the Act. (single expenditure threshold for persons who fit this exception) OR
- ▶ 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 of **\$500 or more** in a calendar year for the purpose of lobbying. ( includes, but not limited to, volunteer lobbyists)

**NOTE:** *Act 748 of the 2006 Regular Legislative Session changed the definition of “lobbyist” and removed the \$500 expenditure “trigger” for persons employed or otherwise engaged.*

2. “**Expenditure**” must meet the following criteria:

- gift or payment of money or anything of value;
- when the amount of value **exceeds \$10**;
- for the purchase of food, drink, or refreshment for an executive branch official in accordance with the restrictions found in LSA-R.S. 42:1102 et seq **OR** for the purchase of a ticket or to gain admission or entrance into a cultural or sporting event for an **elected official** in accordance with the restrictions contained in LSA-R.S. 42:1123(13); AND
- 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.

**NOTE:** *Please review the Louisiana Code of Governmental Ethics (LSA-R.S. 42:1101 et seq). which contains limitations on the receipt of gifts by public employees and consequences for giving a public employee a gift which he is prohibited from receiving. Additionally, please be aware that Rule 1701 of the Board's Rules does not allow for lobbyists to split the payment of a ticket to circumvent the \$100 cap.*

3. **“Person”** means an individual, partnership, committee, association, corporation, and any other organization or group of persons.
4. **“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.
5. **“Executive branch official”** means an elected official, an appointed official, or an employee in an executive branch agency.
6. **“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, licencing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to formulate, 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.

**NOTE:** *Act 527 of the 2006 Regular Legislative Session removes from “executive branch action” 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. Any action by the Medicaid Pharmaceutical and Therapeutics Committee is still considered to be executive branch action. Any person, such as a pharmaceutical representative, who lobbies a member of such committee for the purpose of inclusion of any product on the pharmacopoeia or formulary must register as a lobbyist in accordance with requirements of the Act.*

### **III. Persons who are not considered to be lobbyists [LSA-R.S. 49:72(7)(a) & (73)]**

- A. A 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 or employed such person makes **an expenditure** as defined in the Act. [Exception contained in the definition of “lobbyist” - LSA R.S. 49:72(7)(a)]

- B. Elected or appointed public officials or any designee of such official acting in the performance of his public duties.
- C. A principal or employer of a lobbyist.\*

**\*NOTE:** *A principal or employer may make itself subject to some provisions of the Executive Branch lobbying laws by opting to file expenditure reports on behalf of all of its lobbyists in accordance with Section 76G(2). See Section V. G. of this outline.*

#### **IV. Registration Requirements (LSA-R.S. 49:74)**

- A. Each lobbyist must register with the Louisiana Board of Ethics within **5 days** of employment as a lobbyist **or** within **5 days** after the first action requiring registration as a lobbyist.
- B. Each lobbyist must provide the following on forms approved by the Board of Ethics:
  - 1. Name and business address
  - 2. Name and address of each person by whom he is employed and any person whose interests he represents including the business in which that person is engaged
  - 3. Name of each person by whom he is paid
  - 4. 2x2 inch photograph made within the prior 6 months (for initial registration only)
  - 5. \$110 registration fee

**NOTE:** *The absence of any of the above information on a registration form and lack of payment of the \$110 registration fee will delay the processing of your registration and issuance of your registration identification number until all necessary information and fees have been received.*

- C. Registration expires on December 31<sup>st</sup> of each year unless the lobbyist submits a renewal\* along with a fee of \$110. Renewals may be filed any time between December 1<sup>st</sup> and January 31<sup>st</sup>.

**\*NOTE:** *In order to renew a registration, a lobbyist must complete and submit an Executive Branch Lobbying Registration Form, the same form used for the initial registration. There is no separate form for renewals.*

- D. Supplemental registration forms must be filed:
  - 1. Within **10 days** of termination of a lobbyist’s employment or representation of a person or termination of all lobbying activities

2. Within **5 days** of the addition of a new representation **or** all other changes in a lobbyist's registration information.

**NOTE:** *A change of address and changes to other registration information may be made during the renewal period on your renewal/registration form; thereafter, such changes MUST be made via the submission of a supplemental registration form. Indicating a change of address on your expenditure report is not sufficient, as these reports are not audited for changes of registration information.*

- E. There is no fee for supplemental registrations.
- F. Each lobbyist who has terminated his registration is required to file disclosure reports for each reporting period during which he was registered.

**NOTE:** *In order for a lobbyist to terminate his registration, a Supplemental Registration Form must be submitted indicating that he has ceased all lobbying activities. It is imperative that when terminating all lobbying activities that a lobbyist list a mailing address where he may be personally reached so that he receives all correspondence regarding upcoming deadlines for any final reports that are required to be filed. It is highly recommended that lobbyists terminating their registrations with the Board submit their final expenditure report along with their termination.*

## **V. Reporting Requirements (LSA-R.S. 49:76)**

- A. Executive Lobbying Expenditure Reports must be filed with the Board by registered lobbyists semi-annually as follows:
  1. By August 15<sup>th</sup> for the period January 1<sup>st</sup> through June 30<sup>th</sup>
  2. By February 15<sup>th</sup> for the period July 1<sup>st</sup> through December 31<sup>st</sup>

**NOTE:** *Even if a registered lobbyist had no expenditures during a reporting period, a report is still required to be filed with the Board by the deadline and all applicable late penalties will be imposed for a late filing.*

- B. All reports shall be filed on forms provided by the Board and shall include a signed certification of accuracy.
- C. When an expenditure for any one executive branch official exceeds \$50 on any one occasion, or \$250 in a reporting period, then the total expenditures attributable to that executive branch official must be reported along with his name and his executive branch agency.

**NOTE:** *Such expenditures are included in calculating the totals for reporting*

*periods, the aggregate totals and the totals attributable to the executive branch official's agency as well as listed on the Schedule A of the report form. When listing the executive branch official's agency on Schedule A, please refer to the Executive Branch Schedule provided by the Board in Rule 2111C of the Board's Rules pertaining to Executive Branch Lobbying.*

- D. Each report must include a statement of the expenditure for each reception, social gathering, or other function to which more than 25 executive branch officials are invited, including the name of the group or groups invited and the date and location of the function.

**NOTE:** *Such expenditures are included in calculating the totals for reporting periods and the aggregate totals, as well as, listed on the Schedule B of the report form.*

- E. Exemptions from Reporting:

1. Any expenditure 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
2. 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
3. Expenditures of less than \$10

- F. Any expenditures by a lobbyist's principal or employer made in the presence of the lobbyist shall be reported by the lobbyist. Information regarding such expenditures must be provided to the lobbyist by the principal or employer **within 2 business days** of the close of the reporting period. Failure by the principal or employer to timely provide such information to its lobbyist will cause the principal or employer to **be required to register** as a lobbyist under the Executive Branch Lobbying Laws and will subject it to any applicable penalties.

- G. A lobbyist's employer or principal may opt to file expenditure reports for all of its registered executive branch lobbyists.

1. An employer or principal must notify the Board of its intention to file on behalf of its lobbyists **no later than January 31<sup>st</sup>** of each year.
2. Such option will be effective for the reporting of all expenditures made during that calendar year.

3. Any lobbyist whose employer or principal opts to file reports on his behalf must provide all information about expenditures no later than 2 business days after the close of each reporting period.
4. An employer or principal who opts to file on behalf of its lobbyists shall be liable for any applicable late fees and penalties for late filings.

***NOTE:*** *Employers and Principals reporting on behalf of their lobbyists have a different expenditure report form than used by an individual lobbyist. Employers and Principals are to use Form 508 - Executive Lobbying Employer/Principal's Expenditure Report Form.*

## **VI. Penalties**

- A. Any person required to register who fails to timely register and any person who fails to timely file any report shall be assessed a late fee of \$50 per day, up to a maximum of \$1,500.
- B. Any person whose registration or report is filed 11 or more days after the day on which it was due **shall** be assessed a penalty of up to \$10,000 in addition to any late fee.
- C. The Board may censure any person found guilty of a violation of these laws by the Board of Ethics and prohibit such person from lobbying for not less than 30 days and not more than one year.
- D. Penalties may also be imposed for the failure to accurately report.
- E. The Board may file a claim to offset any late fees or other penalties imposed against an individual's state income tax refund.
- F. Failure to register as a lobbyist may render the contract for representation void and unenforceable.

**NOTE: This outline was compiled as a summary to give an overview of registration and reporting requirements for the Executive Lobbying Program. It does not purport to fully state the law. For further information, or registration and reporting forms, please contact the Louisiana Board of Ethics, 2415 Quail Drive, 3<sup>rd</sup> Floor, Baton Rouge, LA 70808, (225) 763-8777 or toll free at (800) 842-6630, or visit our website at [www.ethics.state.la.us](http://www.ethics.state.la.us).**