

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 89
Committee Substitute Favorable 5/2/91

Short Title: Ethics/Lobbying.

(Public)

Sponsors:

Referred to:

February 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE REGISTRATION, IDENTIFICATION, AND
3 REPORTING REQUIREMENTS FOR LOBBYISTS AND THEIR PRINCIPALS;
4 TO PROHIBIT CAMPAIGN FUND-RAISING FROM LOBBYISTS FOR
5 LEGISLATORS AND COUNCIL OF STATE MEMBERS WHILE THE
6 GENERAL ASSEMBLY IS IN REGULAR SESSION; AND TO REQUIRE A
7 ONE-YEAR WAIT AFTER THEY LEAVE OFFICE BEFORE LOBBYING MAY
8 BE DONE BY FORMER MEMBERS AND PRESIDING OFFICERS OF THE
9 GENERAL ASSEMBLY, FORMER COUNCIL OF STATE MEMBERS, AND
10 FORMER CABINET SECRETARIES.

PART I CHANGES IN REGISTRATION, IDENTIFICATION,
AND REPORTING FOR LOBBYISTS
AND THEIR PRINCIPALS.

PART II NO-FUNDRAISING IN SESSION FROM LOBBYISTS.

PART III ONE-YEAR WAIT BEFORE EX-LEGISLATORS,
EX-COUNCIL OF STATE MEMBERS, AND
EX-CABINET SECRETARIES MAY LOBBY.

11 The General Assembly of North Carolina enacts:

12 **PART I – CHANGES IN REGISTRATION AND REPORTING.**

1 Section 1.1. Article 9A of Chapter 120 of the General Statutes reads as
2 rewritten:

3 "ARTICLE 9A.

4 "LOBBYING.

5 "§ 120-47.1. Definitions.

6 For the purposes of this Article, the following terms shall have the meanings
7 ascribed to them in this section unless the context clearly indicates a different meaning:

8 (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any
9 advance, conveyance, deposit, payment, gift, retainer, fee, salary,
10 honorarium, reimbursement, loan, pledge or anything of value and any
11 contract, agreement, promise or other obligation whether or not legally
12 enforceable.

13 ~~(2) The term "legislative agent" shall mean any person who is employed~~
14 ~~or retained, with compensation, by another person to give facts or~~
15 ~~arguments to any member of the General Assembly during any regular~~
16 ~~or special session thereof upon or concerning any bill, resolution,~~
17 ~~amendment, report or claim pending or to be introduced. The term~~
18 ~~"legislative agent" shall include, but not be limited to, corporate~~
19 ~~officers and directors and other individuals who are full or part time~~
20 ~~employees of other persons and whose duties or activities as~~
21 ~~legislative agents, as hereinbefore defined, are incidental to the~~
22 ~~principal purposes for which they are employed or retained. The~~
23 ~~reimbursement of actual personal travel and subsistence expenses~~
24 ~~reasonably necessary to communicate with a member or members of~~
25 ~~the General Assembly shall not be considered compensation for~~
26 ~~purposes of determining whether a person is a legislative agent under~~
27 ~~this subdivision.~~

28 ~~(3) The term 'person' means any individual, firm, partnership, committee,~~
29 ~~association, corporation or any other organization or group of persons.~~

30 ~~(4) The term 'legislative action' means the preparation, research, drafting,~~
31 ~~introduction, consideration, modification, amendment, approval,~~
32 ~~passage, enactment, tabling, postponement, defeat, or rejection of a~~
33 ~~bill, resolution, amendment, motion, report, nomination, appointment,~~
34 ~~or other matter by the legislature or by a member or employee of the~~
35 ~~legislature acting or purporting to act in an official capacity.~~

36 ~~(5) The term 'legislative official' includes:~~

37 ~~a. A member or member-elect of either house of the General~~
38 ~~Assembly;~~

39 ~~b. A member of a commission or other entity established by and~~
40 ~~responsible to either house, or both houses, of the General~~
41 ~~Assembly; or~~

42 ~~c. A legislative employee.~~

43 ~~(6) The term 'lobbying' means:~~

- 1 a. Influencing or attempting to influence legislative action through
 2 oral or written communication;
 3 b. Solicitation of others to influence legislative action; or
 4 c. An attempt to obtain the goodwill of a legislative official.
 5 (7) The term 'lobbyist' means an individual who:
 6 a. Is employed and receives compensation, or who contracts for
 7 economic consideration, for the purpose of lobbying; or
 8 b. Represents another person and receives compensation for the
 9 purpose of lobbying.

10 The term 'lobbyist' shall not include those individuals who are specifically exempted
 11 from this Article by G.S. 120-47.8. For the purpose of determining whether an
 12 individual is a lobbyist under this subdivision, reimbursement of actual travel and
 13 subsistence expenses shall not be considered compensation; provided, however, that
 14 reimbursement in the ordinary course of business of these expenses shall be considered
 15 compensation if a significant part of the individual's duties involve lobbying before the
 16 General Assembly.

- 17 (8) The terms 'lobbyist's principal' and 'principal' mean the entity in whose
 18 behalf the lobbyist influences or attempts to influence legislative
 19 action.
 20 (9) The term 'person' means any individual, firm, partnership, committee,
 21 association, corporation or any other organization or group of persons.
 22 (10) The General Assembly is in 'regular session' from the date set by law
 23 or resolution that the General Assembly convenes each year until the
 24 General Assembly either:
 25 a. Adjourns sine die; or
 26 b. Recesses or adjourns for more than 10 days.

27 **"§ 120-47.2. Registration procedure.**

28 (a) ~~In each General Assembly session and for each employer, or retainer, every~~
 29 ~~person employed or retained as a legislative agent in this State shall, before engaging in~~
 30 ~~any activities as a legislative agent, register with the Secretary of State. If a corporation~~
 31 ~~or partnership is employed or retained as a legislative counsel, and more than one~~
 32 ~~partner, employee or officer of the corporation or partnership, shall act as a legislative~~
 33 ~~agent on behalf of the client, then the additional individuals shall be separately listed on~~
 34 ~~the registration under subsection (b), and a fee in the same amount as imposed by G.S.~~
 35 ~~120-47.3 shall be due for each such individual in excess of one. A lobbyist shall file a~~
 36 ~~registration statement with the Secretary of State before engaging in any lobbying, but~~
 37 ~~no later than 30 days after being appointed, employed, or retained as a lobbyist. A~~
 38 ~~separate registration statement is required for each lobbyist's principal.~~

39 (b) ~~The form of such the registration shall be prescribed by the Secretary of State~~
 40 ~~and shall include the registrant's full name, firm, and complete address; the registrant's~~
 41 ~~place of business; the full name and complete address of each person by whom the~~
 42 ~~registrant is employed or retained; and a general description of the matters on which the~~
 43 ~~registrant expects to act as legislative agent—a lobbyist.~~

1 (c) Each ~~legislative agent~~ lobbyist shall register again with the Secretary of State
2 no later than 10 days after any change in the information supplied in his last registration
3 under subsection (b). ~~Such~~ Each supplementary registration shall include a complete
4 statement of the information that has changed.

5 (d) Within 20 days after the convening of each regular session of the General
6 Assembly, the Secretary of State shall furnish each member of the General Assembly
7 and the State Legislative Library a list of all persons who have registered as a ~~legislative~~
8 ~~agent~~ lobbyist and whom they represent. A supplemental list shall be furnished
9 periodically each 20 days thereafter as the session progresses.

10 (e) Each lobbyist who ceases to engage in lobbying requiring registration under
11 this section shall file a written statement with the Secretary of State acknowledging the
12 termination of lobbying. The written statement of termination is effective immediately.
13 Each lobbyist who files a written statement of termination shall file reports required by
14 this Article for any reporting period during which he was registered as a lobbyist.

15 (f) Each registration statement required under this Article shall be effective from
16 the date of filing until January 1 of the following odd numbered year. The lobbyist shall
17 file a new registration statement after that date, and the applicable fee shall be due and
18 payable.

19 **"§ 120-47.3. Registration fee.**

20 ~~Every person, corporation or association which employs any person to act as~~
21 ~~legislative agent as defined by law to promote or oppose in any manner the passage by~~
22 ~~the General Assembly of any legislation affecting the pecuniary interests of any~~
23 ~~individual, association or corporation as distinct from those of the whole people of the~~
24 ~~State, or to act in any manner as a legislative agent in connection with any such~~
25 ~~legislation, Every lobbyist's principal shall pay to the Secretary of State a fee of~~
26 ~~seventy-five dollars (\$75.00) which fee shall be due and payable by either the employer~~
27 ~~or the employee lobbyist or the lobbyist's principal at the time of registration.~~

28 A separate registration, together with a separate registration fee of seventy-five
29 dollars (\$75.00), shall be required for each ~~person, corporation or association~~ lobbyist's
30 principal for which a person acts as ~~legislative agent~~ a lobbyist. Fees so collected shall
31 be deposited in the ~~general fund~~ General Fund of the State.

32 **"§ 120-47.4. Written authority from employer to be filed; copy for legislative**
33 **committee lobbyist's principal to be filed.**

34 Each ~~legislative agent~~ lobbyist shall file with the Secretary of State within 10 days
35 after his registration a written authorization to act as such, signed by ~~the person~~
36 ~~employing him~~ the lobbyist's principal.

37 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

38 (a) No person shall act as a ~~legislative agent~~ lobbyist for compensation which is
39 dependent in any manner upon the passage or defeat of any proposed legislation or upon
40 any other contingency connected with any action of the General Assembly, the House,
41 the Senate or any committee thereof.

42 (b) No person shall attempt to influence the action of any member of the General
43 Assembly by the promise of financial support of ~~his~~ the member's candidacy, or by

1 threat of financial contribution in opposition to ~~his~~ the member's candidacy in any future
2 election.

3 **"§ 120-47.6. Statements of legislative agent's lobbyist's lobbying expenses required.**

4 Each ~~legislative agent~~ shall file annually, ~~within 30 days after the final adjournment~~
5 ~~of the regular session of the General Assembly held in a calendar year,~~ a report with
6 respect to each person represented setting forth the date, to whom paid, and amount of
7 each expenditure made during the previous year in connection with promoting or
8 opposing any legislation in any manner covered by this Article,

9 (a) For each calendar year that a lobbyist is registered, the lobbyist shall file an
10 expense report with respect to each principal within 30 days after the last day of the
11 regular session. This expense report shall include all expenditures made between
12 January 1 and the last day of the regular session. The lobbyist shall file a supplemental
13 report including all expenditures made after the last day of the regular session, but
14 during the calendar year, by January 31 of the following year. The lobbyist shall file
15 both expense reports whether or not expenditures are made.

16 (b) Each expense report shall set forth the date of each expenditure, to whom
17 paid, the name of any legislator who benefitted from each expenditure, identification of
18 the legislative action, if any, which was the subject of the lobbying activity, and the
19 amount of each expenditure made during the previous reporting period in connection
20 with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)
21 entertainment, (4) food, (5) any item having a cash equivalent value of more than
22 twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,
23 directly or indirectly. It shall not be necessary to report expenditures in a particular
24 category if the total amount expended during the reporting period in the particular
25 category on behalf of a ~~person represented~~ lobbyist's principal is twenty-five dollars
26 (\$25.00) or less. A report shall be filed annually whether or not contributions or expenditures
27 are made. When more than 25 members of the General Assembly benefitted or were
28 invited to benefit from an expenditure, the lobbyist shall not be required to report the
29 name of any legislator, but shall be required to report the number of legislators or the
30 party affiliation, legislative district, or any other basis for their selection.

31 (c) All reports shall be in ~~such the~~ form as ~~shall be~~ prescribed by the Secretary of
32 State and shall be open to public inspection.

33 (d) When a ~~legislative agent~~ lobbyist fails to file a lobbying expense report as
34 required herein, the Secretary of State shall send a certified or registered letter advising
35 the ~~agent~~ lobbyist of ~~his~~ the delinquency and the penalties provided by law. Within 20
36 days of the receipt of ~~such the~~ letter, the ~~agent~~ lobbyist shall deliver or post by United
37 States mail to the Secretary of State the required report and an additional late filing fee
38 of ten dollars (\$10.00). Filing of the required report and payment of the additional fee
39 within the time extended shall constitute compliance with this section. Failure to file an
40 expense report in one of the manners prescribed herein shall result in revocation of any
41 and all registrations of a ~~legislative agent~~ lobbyist under this Article. No ~~legislative agent~~
42 lobbyist may register or reregister under this Article until he has fully complied with
43 this section.

1 **"§ 120-47.7. Statements of ~~employer~~ lobbyist's principal lobbying expenses**
2 **required.**

3 (a) ~~Each person who employs or retains a legislative agent shall file annually,~~
4 ~~within 30 days after the final adjournment of the regular session of the General~~
5 ~~Assembly held in a calendar year, a report with respect to each agent employed or~~
6 ~~retained setting~~ For each calendar year that a lobbyist's principal has employed,
7 appointed, or retained one or more lobbyists to lobby on the principal's behalf, the
8 principal shall file an expense report within 30 days after the last day of the regular
9 session. This expense report shall include all expenditures made between January 1 and
10 the last day of the regular session. The principal shall file a supplemental expense
11 report, including all expenditures made after the last day of the regular session, but
12 during the calendar year, by January 31 of the following year. The principal shall file
13 both expense reports whether or not expenditures are made during a reporting period.

14 (b) Each expense report shall set forth the date, name and address of each lobbyist
15 employed, appointed, or retained by the lobbyist's principal, the date of each
16 expenditure made, to whom paid, name of any legislator who benefitted from each
17 expenditure, identification of the legislative action, if any, which was the subject matter
18 of the lobbying, and amount of each expenditure made during the previous year
19 reporting period in connection with promoting or opposing any legislation in any manner
20 covered by this Article, lobbying, in each of the following categories: (1) transportation,
21 (2) lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of
22 more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or
23 promised, directly or indirectly, and (7) compensation to legislative agents. ~~lobbyists in~~
24 connection with their lobbying activities. It shall not be necessary to report
25 expenditures in any particular category if the total amount expended during the
26 reporting period in the particular category on behalf of a person represented is twenty-five
27 dollars (\$25.00) or less. When more than 25 members of the General Assembly
28 benefitted or were asked to benefit from an expenditure, the principal shall not be
29 required to report the name of any legislator, but shall be required to report the number
30 of legislators or the party affiliation, legislative district, or any other basis for their
31 selection. In the category of compensation to legislative agents it shall not be necessary to
32 report the full salary, or any portion thereof, of a legislative agent who is a full-time employee
33 of or is annually retained by the reporting employer. ~~lobbyists, the principal shall report the~~
34 sum of all compensation paid or promised, directly or indirectly, to all lobbyists in
35 connection with lobbying activities on behalf of the principal. A report shall be filed
36 annually whether or not payments are made.

37 (c) All reports shall be in the form prescribed by the Secretary of State and open
38 to public inspection.

39 (d) ~~When an employer or retainer of a legislative agent~~ a lobbyist's principal fails to
40 file a lobbying expense report as required herein, the Secretary of State shall send a
41 certified or registered letter advising the employer or retainer ~~lobbyist's principal~~ of his
42 the delinquency and the penalties provided by law. Within 20 days of the receipt of such
43 the letter, the employer or retainer ~~lobbyist's principal~~ shall deliver or post by United
44 States mail to the Secretary of State the required report and a late filing fee of ten

1 dollars (\$10.00). Filing of the required report and payment of the late fee within the
2 time extended shall constitute compliance with this section.

3 **"§ 120-47.7A. Identification of lobbyists.**

4 Any lobbyist registered under this Article shall, while in the Legislative Building or
5 in the Legislative Office Building, or while in attendance at any reception for members
6 of the General Assembly, wear an identification tag giving that person's name and the
7 word 'Lobbyist.'

8 **"§ 120-47.8. Persons exempted from provisions of Article.**

9 The provisions of this Article shall not be construed to apply to any of the following:

10 (1) ~~An individual, not acting as a legislative agent, solely engaged in~~
11 ~~expressing a personal opinion on legislative matters to his own~~
12 ~~legislative delegation or other members of the General Assembly.~~

13 (2) A person appearing before a legislative committee at the
14 invitation or request of the committee or a member thereof and who
15 engages in no further activities as a ~~legislative agent~~ lobbyist in
16 connection with that or any other legislative matter.

17 (3) a. A duly elected or appointed official or employee of the State, the
18 United States, a county, municipality, school district or other
19 governmental agency, when appearing solely in connection with
20 matters pertaining to his office and public duties.

21 b. Notwithstanding the persons exempted in this Article, the
22 Governor, Council of State, and all appointed heads of State
23 departments, agencies and institutions, shall designate all
24 authorized official legislative liaison personnel and shall file
25 and maintain current lists of designated legislative liaison
26 personnel with the Secretary of State and shall likewise file
27 with the Secretary of State a full and accurate accounting of all
28 money expended on lobbying, other than the salaries of regular
29 full-time employees, at the same times lobbyists are required to
30 file expense reports under G.S. 120-47.5.

31 (4) A person performing professional services in drafting bills or in
32 advising and rendering opinions to clients as to the construction and
33 effect of proposed or pending legislation where ~~such~~ the professional
34 services are not otherwise, directly or indirectly, connected with
35 legislative action.

36 (5) A person who owns, publishes or is employed by any news medium
37 while engaged in the acquisition or dissemination of news on behalf of
38 ~~such~~ the news medium.

39 (6) ~~Notwithstanding the persons exempted in this section, the Governor,~~
40 ~~Council of State, and all appointed heads of State departments,~~
41 ~~agencies and institutions, shall designate all authorized official~~
42 ~~legislative liaison personnel and shall file and maintain current lists of~~
43 ~~designated legislative liaison personnel with the Secretary of State and~~
44 ~~shall likewise file with the Secretary of State a full and accurate~~

1 ~~accounting of all money expended in influencing or attempting to~~
2 ~~influence legislation, other than the salaries of regular full-time~~
3 ~~employees.~~

4 (7) ~~Members of the General Assembly~~ Legislative officials.

5 (8) A person responding to inquiries from a ~~member of the General~~
6 ~~Assembly, legislative official,~~ and who engages in no further activities
7 as a ~~legislative agent~~ lobbyist in connection with that or any other
8 legislative matter.

9 (9) ~~An individual giving facts or recommendations pertaining to~~
10 ~~legislative matters to his own legislative delegation only.~~

11 **"§ 120-47.9. Punishment for violation.**

12 Whoever willfully violates any provision of this Article shall be guilty of a
13 misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor
14 more than one thousand dollars (\$1,000), or imprisoned not exceeding two years, or
15 both. In addition, no ~~legislative agent~~ lobbyist who is convicted of a violation of the
16 provisions of this Article shall in any way act as a ~~legislative agent~~ lobbyist for a period
17 of two years following his conviction.

18 **"§ 120-47.10. Enforcement of Article by Attorney General.**

19 The Secretary of State shall report apparent violations of this Article to the Attorney
20 General. The Attorney General shall, upon complaint made to him of violations of this
21 Article, make an appropriate investigation thereof, and he shall forward a copy of the
22 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-
23 60 of which Wake County is a part, who shall prosecute any person who violates any
24 provisions of this Article.

25 **"§ 120-47.11. Rules and forms.**

26 The Secretary of State may make, amend, and rescind any rules, orders, forms, and
27 definitions as are necessary to carry out the provisions of this Article."

28 Sec. 1.2. Article 10 of Chapter 120 of the General Statutes is repealed.

29 **PART II – LIMITS ON FUND-RAISING IN SESSION.**

30 Sec. 2. Chapter 163 of the General Statutes is amended by adding a new
31 section to read:

32 **"§ 163-278.13A. No fund-raising from lobbyists for legislators or Council of State**
33 **members while General Assembly is in regular session.**

34 (a) While the General Assembly is in regular session, none of the following
35 entities may solicit or accept a contribution from an individual registered as a lobbyist
36 pursuant to Article 9A of Chapter 120 of the General Statutes:

37 (1) A member of the Council of State; or

38 (2) A member of the General Assembly; or

39 (3) A political committee the principal purpose of which is to assist a
40 member or members of the Council of State or General Assembly.

41 (b) While the General Assembly is in regular session, no individual registered as
42 a lobbyist under Article 9A of Chapter 120 of the General Statutes may make a
43 contribution to any of the entities listed in subdivisions (1) through (3) of subsection (a).

44 (c) This section does not apply to:

- 1 (1) Any contribution made to or by a State, county or congressional
2 district executive committee of a political party; or
3 (2) Any contribution made to a political committee that operates on a
4 Statewide basis in conjunction with the executive committee of a
5 political party for the purpose of assisting that party's candidates for
6 Council of State or General Assembly; or
7 (3) Any contribution made by a member of the Council of State or
8 General Assembly to a political committee the principal purpose of
9 which is to assist himself; or
10 (4) Any contribution accepted with the intent that it be used to defray legal
11 or other expenses incurred in connection with the contesting of
12 election results.

13 (d) A violation of this section is a misdemeanor, but no individual or person shall
14 be prosecuted under this section for accepting a contribution unless the State Board of
15 Elections has notified the individual or person of the apparent violation in writing by
16 certified mail, has given the individual or person an opportunity to return or to request
17 the return of the contribution, and, within 10 days of the receipt of the notification, the
18 individual or person has failed to return or to request the return of the contribution.

19 (e) For purposes of this section, the General Assembly is in regular session from
20 the date set by law or resolution that the General Assembly convenes each year until the
21 General Assembly either:

- 22 (1) Adjourns **sine die**; or
23 (2) Recesses or adjourns for more than 10 days."

24 **PART III – ONE-YEAR WAIT BEFORE LOBBYING.**

25 Sec. 3. Article 9A of Chapter 120 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 120-47.5A. Waiting period before ex-officials may lobby.**

28 Notwithstanding the provisions of G.S. 120-47.8, no individual may be employed or
29 retained or may act as a lobbyist within one year after having served as a member or
30 presiding officer of either house of the General Assembly, as a member of the Council
31 of State, or as the principal head of any department listed in G.S. 143B-6(1) through
32 (9)."

33 Sec. 4. This act becomes effective January 1, 1993. Section 3 shall apply only
34 to individuals who leave office or State employment after January 1, 1993. This act
35 shall be implemented within funds available to the Secretary of State. Nothing in this
36 act shall be construed to obligate the General Assembly to appropriate funds to
37 implement the provisions of this act.