Ethics & Elections Committee

Monday, December 5, 2005
5:00 PM – 6:00 PM
306 HOB

Allan G. Bense
Speaker

Ronald Reagan
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense **(AMENDED 12/5/2005 2:52:27PM)**

Amended(1)

Ethics & Elections Committee

Start Date and Time:	Monday, December 05, 2005 05:00 pm
End Date and Time:	Monday, December 05, 2005 06:00 pm
Location:	306 HOB
Duration:	1.00 hrs

Consideration of the following bill(s):

HB 61B Elections by Reagan
HB 63B Lobbying by Reagan
HB 65B Public Records and Public Meetings Exemptions for Lobbying by Reagan

NOTICE FINALIZED on 12/05/2005 14:52 by Morgan.Alyssa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 61B Elections
SPONSOR(S): Reagan
TIED BILLS: **IDEN./SIM. BILLS:** SB 8B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		Mitchell	Mitchell
2) State Administration Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 61B requires prior written notice to a state or county political party chairperson, or his or her designee(s) for in-kind contributions to the party. This represents a further clarification of the changes made in 2005 in HB 1567 with regard to in-kind contributions to political parties.

If enacted, the bill is effective February 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

Additional government regulation of in-kind contributions is contemplated in the bill. Specifically, the bill attempts to further regulate in-kind contributions made to state and county political parties through a prior notice requirement from the donor.

B. EFFECT OF PROPOSED CHANGES:

During the 2005 session, the Legislature amended section 106.08(6), Florida Statutes, to require that an in-kind contribution to a political party provide a "direct benefit" to the party. *See* ch. 2005-277, Laws of Fla. (HB 1567).[1] Direct benefit is defined as "fundraising or furthering the objectives of the political party." *See* s. 106.08(6), F.S.

The bill seeks to further regulate in-kind contributions to state and county political parties by requiring the chairperson of the party or his or her designee(s) to accept such contributions following written notice from the donor.

The written notice must be signed and dated, and may be provided through an electronic (e-mail) or facsimile message. The name of the party chairperson's designee(s) must be on file with the Secretary of State (state parties) or the county Supervisor of Elections (county parties), as the case may be. Acceptance by the party must be acknowledged in writing by the party chairperson or designee(s) *before* the contribution is made. The bill further provides that failure to obtain the written acknowledgement constitutes rejection of an in-kind contribution by the party.

The bill contains an exception from the prior notice requirement for food and beverages not exceeding $1,500 in the aggregate, if the contribution of such items is accepted by the party chairperson or designee(s).

The bill is effective on February 1, 2006.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

[1] This provision of HB 1567 is effective January 1, 2006.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to elections; amending s. 106.08, F.S.;
3 prescribing requirements for making in-kind contributions
4 to political parties; providing an effective date.
5
6 Be It Enacted by the Legislature of the State of Florida:
7
8 Section 1. Subsection (6) of section 106.08, Florida
9 Statutes, is amended to read:
10 106.08 Contributions; limitations on.--
11 (6)(a) A political party may not accept any contribution
12 that ~~which~~ has been specifically designated for the partial or
13 exclusive use of a particular candidate. Any contribution so
14 designated must be returned to the contributor and may not be
15 used or expended by or on behalf of the candidate.
16 (b)1. ~~Also,~~ A political party may not accept any in-kind
17 contribution that fails to provide a direct benefit to the
18 political party. A "direct benefit" includes, but is not limited
19 to, fundraising or furthering the objectives of the political
20 party.
21 2.a. An in-kind contribution to a state political party
22 may be accepted only by the chairperson of the state political
23 party or by the chairperson's designee or designees whose name
24 is on file with the Secretary of State prior to the date of the
25 written notice required in sub-subparagraph b. An in-kind
26 contribution to a county political party may be accepted only by
27 the chairperson of the county political party or by the county
28 chairperson's designee or designees whose name is on file with

29 the supervisor of elections of the respective county prior to
30 the date of the written notice required in sub-subparagraph b.
31 b. A person making an in-kind contribution to a state
32 political party or county political party must provide prior
33 written notice of the contribution to a person described in sub-
34 subparagraph a. The prior written notice must be signed and
35 dated and may be provided by an electronic or facsimile message.
36 However, prior written notice is not required for an in-kind
37 contribution that consists of food and beverage in an aggregate
38 amount not exceeding $1,500 which is consumed at a single
39 sitting or event if such in-kind contribution is accepted in
40 advance by a person specified in sub-subparagraph a.
41 c. A person described in sub-subparagraph a. may accept an
42 in-kind contribution requiring prior written notice only in a
43 writing that is signed and dated before the in-kind contribution
44 is made. Failure to obtain the required written acceptance of an
45 in-kind contribution to a state or county political party
46 constitutes a refusal of the contribution.
47 d. An in-kind contribution may not be given to a state or
48 county political party unless the in-kind contribution is made
49 as provided in this subparagraph.
50 Section 2. This act shall take effect February 1, 2006.

HB 63B

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 63B Lobbying
SPONSOR(S): Reagan
TIED BILLS: 65B **IDEN./SIM. BILLS:** SB 6B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		Mitchell	Mitchell
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 63B modifies the registration and reporting requirements that govern legislative lobbyists and lobbyists of the executive branch and the Constitution Revision Commission. The bill amends ss. 11.045, 11.40 and 112.3215, F.S., and creates ss. 11.0455 and 112.32155, F.S.

A similar bill, HB 1849 by the Ethics and Elections Committee and Representative Reagan, was filed in the 2005 session and passed all House committees of reference. The Senate version of the bill, CS/SB 2646, was taken up in the House, amended and passed by a vote of 96-14, but died in the Senate (as a message from the House) on May 6, 2005.

Except as otherwise expressly provided, the bill is effective January 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

Requiring more detailed financial disclosure by lobbyists makes the government more responsive and open to the public.

B. EFFECT OF PROPOSED CHANGES:

Current Situation -

In 2004, there were 2,041 legislative lobbyists registered in Florida to represent 2,845 principals. The total number of registrations for the year was 7,915, as a single lobbyist often registers to represent multiple principals and must file a separate registration for each principal. Florida's legislative lobbyists (and principals through their designated lobbyists) must register annually[1] and report lobbying "expenditures" twice per year.[2]

Lobbying "expenditures," essentially payments, distributions, or anything of value made by a lobbyist or principal for the purpose of lobbying, are reported *in the aggregate* in ten broad categories to the Division of Legislative Information Services' Lobbying Registration Office (LRO).[3] Individual expenditures are not reported to the LRO. Legislative lobbyists filed 7,445 expenditure reports for activities in the first half of 2004, and 7,543 for the second half.

Florida does not offer electronic filing for registration or semi-annual expenditure reports; paper registration and reports are currently required. Consequently, the LRO manually aggregates the expenditures for each reporting period, for each principal with multiple lobbyists; and each principal's total annual lobbying expenditures.[4]

This aggregate expenditure information, as well as monetary information contained in the expenditure reports, are available from the LRO in hard-copy form upon request, but are not currently available on-line. The only tangible on-line information with respect to providing public notice of special interest activities is the name and address of principals and lobbyists, along with the affiliation between lobbyists and principals.[5]

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[1] Each lobbyist registration must include a free-form, general description of the lobbyist's area of legislative interest on behalf of the principal. No categories of interest are prescribed for the lobbyist. As a result, descriptions tend to be generic (i.e., issues pertaining to clients) and mostly without any practical value in providing notice to the public of the general lobbying interests of each principal.

[2] Expenditure reports are due 45 days after the end of each semi-annual reporting period. s. 11.045(3)(d), F.S. Reporting for the period January 1 through June 30 is due no later than August 14; reporting for the period July 1 through December 31 is due no later than February 14.

[3] Sections 11.045(1)(c), 11.045 (3)(a), F.S. Categories of expenditures on the report are: (1) Food & Beverage; (2) Entertainment; (3) Research; (4) Communication; (5) Media Advertising; (6) Publications; (7) Travel; (8) Lodging; (9) Special Events; (10) Other. s. 11.045(3)(a), F.S.

[4] Florida law directs the Division to perform these calculations. s. 11.045(3)(c), F.S.

[5] The web site also contains instructional materials such as forms, guides to filing, and applicable laws and rules.

Current law does not require reporting of compensation by registered lobbyists

Proposed Situation -

Filing of Compensation Reports

- The bill requires quarterly reporting of compensation received by lobbying firms.
- Compensation reporting would be by total compensation received by the lobbying firm from all principals in the aggregate.
- Quarterly increments for total compensation begin in $50,000 increments, up to $1 million or more.
- Compensation reporting would also be reported by the lobbying firm as received from each principal.
- Quarterly increments for individual principals compensation would begin in $20,000 increments, up to $60,000. Any compensation in excess of $60,000 would be reported to the nearest $1,000 increment.

No Expenditure Reports

- The bill would prohibit lobbyists and their principals from making *any lobbying expenditures including food and beverages to members or legislative staff.*
- The sole exception would be for floral arrangements and other celebratory items given to members on opening day of the regular session and displayed in chambers.
- Because lobbying expenditures are prohibited under this bill, no lobbyists expenditure reports will be needed, and none will be filed.

Audits and Enforcement

- Lobbying firm compensation reports will be subject to random audits, beginning May 2007.
- 3% of compensation reports will be randomly selected for audit on an annual basis.
- The Joint Legislative Auditing Committee (JLAC) will establish the procedures for random selection.
- The JLAC will also approve a list of no less than 10 state-licensed certified public accountants who will be available to conduct random audits.
- A lobbying firm selected for random audit may choose an auditor from the approved list or the JLAC will appoint one.
- All random audits will be forwarded to the Speaker of the House and Senate President.
- The rules of each house will govern the procedures for review of random audits.
- Any complaints against a lobbyist will be governed by the rules of each house.

Electronic Filing of Compensation Reports

HB 63B creates s. 112.32155, F.S., *effective April 1, 2006,* to provide for electronic filing of compensation reports. The system will be Internet-based and accessible to anyone with Internet access using standard web browsing software. The electronic filing system appears to be modeled after the system used by candidates, committees and political parties for filing campaign treasurer's reports, pursuant to s. 106.0705, F.S.

The first compensation reports subject to the bill must be filed by May 15, 2006, for the reporting period January 1, 2006 through March 31, 2006.

Miscellaneous Issues

- The bill provides the same reporting and enforcement for executive branch lobbyists, except that the random audit reports for these lobbyists are forwarded to the Commission on Ethics.
- There is also a tied public records bill, **HB 65B**, that exempts the private business records of the randomly selected lobbying firms for purposes of conducting the random audits.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

There will be additional costs associated with the creation and maintenance of an on-line, electronic filing system for lobbying reports. The Office of Legislative Information Technology Services (OLITS) estimated during the 2005 session that the cost of a joint electronic filing system meeting the requirements of CS/SB 2646, if the program were outsourced, at $488,625.[6] However, this bill contemplated filing of expenditure reports *which are not required under this bill.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

[6] Information contained in Staff Analysis of CS/SB 2646 by Senate Ways and Means Committee, dated March 31, 2005.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to lobbying; amending ss. 11.045 and
3 112.3215, F.S., relating to registration and reporting
4 requirements for legislative lobbyists and lobbyists of
5 the executive branch and Constitution Revision Commission;
6 providing and amending definitions; requiring each
7 principal upon the registration of the principal's
8 designated lobbyist to identify the principal's main
9 business; requiring each lobbying firm and principal to
10 maintain certain records and documents for a specified
11 period; specifying judicial jurisdiction for enforcing the
12 right to subpoena certain documents and records for audit;
13 deleting the requirement for lobbyists to file expenditure
14 reports; requiring each lobbying firm to file quarterly
15 compensation reports; requiring each lobbying firm to
16 report certain compensation information in dollar
17 categories and specific dollar amounts; requiring certain
18 lobbying firms to report the name and address of the
19 principal originating lobbying work; providing for
20 certification of compensation reports; requiring the
21 Division of Legislative Information Services and the
22 Commission on Ethics to aggregate certain compensation
23 information; revising the periods for filing compensation
24 reporting statements; prescribing procedures for
25 determining late-filing fines for compensation reports;
26 prescribing fines and penalties for compensation-reporting
27 violations; providing exceptions; prohibiting lobbying
28 expenditures, except for certain floral arrangements and

29 celebratory items; prohibiting principals from providing
30 lobbying compensation to any individual or business entity
31 other than a lobbying firm; providing for the Legislature
32 to adopt rules to maintain and make publicly available all
33 advisory opinions and reports relating to lobbying firms,
34 to conform; providing for the Legislature to adopt rules
35 authorizing legislative committees to investigate certain
36 persons and entities engaged in legislative lobbying;
37 providing for the commission to investigate certain
38 lobbying firms for lobbying report violations; providing
39 procedures for disposing of lobbying report investigations
40 and proceedings; providing penalties; providing for public
41 access to certain records; authorizing the commission to
42 adopt administration rules and forms relating to
43 compensation reporting; requiring compensation reports to
44 be filed electronically; creating ss. 11.0455 and
45 112.32155, F.S.; defining the term "electronic filing
46 system"; providing requirements for lobbying firms filing
47 reports with the Division of Legislative Information
48 Services and the Commission on Ethics by means of the
49 division's and the commission's electronic filing systems;
50 providing that such reports are considered to be certified
51 as accurate and complete; providing requirements for the
52 electronic filing system; providing for the Legislature
53 and the commission to adopt rules to administer the
54 electronic filing system; requiring alternate filing
55 procedures; requiring the issuance of electronic receipts;
56 requiring that the division and the commission provide for

57 public access to certain data; amending s. 11.40, F.S.;
58 requiring that the Legislative Auditing Committee conduct
59 random audits of the compensation reports filed by
60 legislative branch and executive branch lobbying firms;
61 providing definitions; prescribing conditions for the
62 random selection; directing the committee to provide for a
63 system to select lobbying firms to be audited; requiring
64 the committee to create and maintain a list of approved
65 auditors; authorizing certain lobbying firms the ability
66 to select an auditor from an approved list; prohibiting an
67 auditor to audit lobbying firms under specified
68 circumstances; requiring a sworn certification from the
69 auditor and the lobbying firm being audited; providing for
70 certain auditors to be solely engaged and compensated by
71 the state; providing the required contents of the audit
72 report; providing for the determination of violations of
73 law to be made by Legislative rule; prescribing a standard
74 of cooperation by lobbying firms being audited; providing
75 guidelines for the committee to establish procedures for
76 the selection of independent contractors; requiring the
77 committee to adopt guidelines that govern random audits
78 and field investigations; requiring that legislative
79 lobbying audit reports be forwarded to the Legislature and
80 executive lobbying audit reports be sent to the Commission
81 on Ethics; specifying the initial reporting period that is
82 subject to the requirements of the act; providing
83 effective dates.
84

85 Be It Enacted by the Legislature of the State of Florida:
86
87 Section 1. Section 11.045, Florida Statutes, is amended to
88 read:
89 11.045 Lobbying before the Legislature ~~Lobbyists~~;
90 registration and reporting; exemptions; penalties.--
91 (1) As used in this section, unless the context otherwise
92 requires:
93 (a) "Committee" means the committee of each house charged
94 by the presiding officer with responsibility for ethical conduct
95 of lobbyists.
96 (b) "Compensation" means a payment, distribution, loan,
97 advance, reimbursement, deposit, salary, fee, retainer, or
98 anything of value provided or owed to a lobbying firm, directly
99 or indirectly, by a principal for any lobbying activity.
100 (c) ~~(b)~~ "Division" means the Division of Legislative
101 Information Services within the Office of Legislative Services.
102 (d) ~~(c)~~ "Expenditure" means a payment, distribution, loan,
103 advance, reimbursement, deposit, or anything of value made by a
104 lobbyist or principal for the purpose of lobbying. A
105 contribution made to a political party regulated under chapter
106 103 is not deemed an expenditure for purposes of this section.
107 (e) ~~(d)~~ "Legislative action" means introduction,
108 sponsorship, testimony, debate, voting, or any other official
109 action on any measure, resolution, amendment, nomination,
110 appointment, or report of, or any matter which may be the
111 subject of action by, either house of the Legislature or any
112 committee thereof.

113 (f) ~~(e)~~ "Lobbying" means influencing or attempting to
114 influence legislative action or nonaction through oral or
115 written communication or an attempt to obtain the goodwill of a
116 member or employee of the Legislature.
117 (g) "Lobbying firm" means any business entity, including
118 an individual contract lobbyist, that receives or becomes
119 entitled to receive any compensation for the purpose of
120 lobbying, where any partner, owner, officer, or employee of the
121 business entity is a lobbyist.
122 (h) ~~(f)~~ "Lobbyist" means a person who is employed and
123 receives payment, or who contracts for economic consideration,
124 for the purpose of lobbying, or a person who is principally
125 employed for governmental affairs by another person or
126 governmental entity to lobby on behalf of that other person or
127 governmental entity.
128 (i) ~~(g)~~ "Principal" means the person, firm, corporation, or
129 other entity which has employed or retained a lobbyist.
130 (2) Each house of the Legislature shall provide by rule,
131 or may provide by a joint rule adopted by both houses, for the
132 registration of lobbyists who lobby the Legislature. The rule
133 may provide for the payment of a registration fee. The rule may
134 provide for exemptions from registration or registration fees.
135 The rule shall provide that:
136 (a) Registration is required for each principal
137 represented.
138 (b) Registration shall include a statement signed by the
139 principal or principal's representative that the registrant is
140 authorized to represent the principal. The principal shall also

141 identify and designate its main business on the statement
142 authorizing that lobbyist pursuant to a classification system
143 approved by the Office of Legislative Services.
144 (c) A registrant shall promptly send a written statement
145 to the division canceling the registration for a principal upon
146 termination of the lobbyist's representation of that principal.
147 Notwithstanding this requirement, the division may remove the
148 name of a registrant from the list of registered lobbyists if
149 the principal notifies the office that a person is no longer
150 authorized to represent that principal.
151 (d) Every registrant shall be required to state the extent
152 of any direct business association or partnership with any
153 current member of the Legislature.
154 (e) Each lobbying firm ~~lobbyist~~ and each principal shall
155 preserve for a period of 4 years all accounts, bills, receipts,
156 computer records, books, papers, and other documents and records
157 necessary to substantiate compensation ~~lobbying expenditures~~.
158 Any documents and records retained pursuant to this section may
159 be subpoenaed for audit by legislative subpoena of either house
160 of the Legislature, and the subpoena ~~inspected under reasonable~~
161 ~~circumstances by any authorized representative of the~~
162 ~~Legislature. The right of inspection~~ may be enforced in circuit
163 court ~~by appropriate writ issued by any court of competent~~
164 ~~jurisdiction~~.
165 (f) All registrations shall be open to the public.
166 (g) Any person who is exempt from registration under the
167 rule shall not be considered a lobbyist for any purpose.
168 (3) Each house of the Legislature shall provide by rule

169 the following reporting requirements:
170 (a)1. Each lobbying firm shall file a compensation report
171 with the division for each calendar quarter during any portion
172 of which one or more of the firm's lobbyists were registered to
173 represent a principal. The report shall include the:
174 a. Full name, business address, and telephone number of
175 the lobbying firm;
176 b. Name of each of the firm's lobbyists; and
177 c. Total compensation provided or owed to the lobbying
178 firm from all principals for the reporting period, reported in
179 one of the following categories: $0; $1 to $49,999; $50,000 to
180 $99,999; $100,000 to $249,999; $250,000 to $499,999; $500,000 to
181 $999,999; $1 million or more.
182 2. For each principal represented by one or more of the
183 firm's lobbyists, the lobbying firm's compensation report shall
184 also include the:
185 a. Full name, business address, and telephone number of
186 the principal; and
187 b. Total compensation provided or owed to the lobbying
188 firm for the reporting period, reported in one of the following
189 categories: $0; $1 to $19,999; $20,000 to $39,999; $40,000 to
190 $59,999; and $60,000 or more. If the category "$60,000 or more"
191 is selected, the specific dollar amount of compensation must be
192 reported, rounded up or down to the nearest $1,000.
193 3. If the lobbying firm subcontracts work from another
194 lobbying firm and not from the original principal:
195 a. The lobbying firm providing the work to be
196 subcontracted shall be treated as the reporting lobbying firm's

197 principal for reporting purposes under this paragraph; and
198 b. The reporting lobbying firm shall, for each lobbying
199 firm identified under subparagraph 2., identify the name and
200 address of the principal originating the lobbying work.
201 4. The senior partner, officer, or owner of the lobbying
202 firm shall certify to the veracity and completeness of the
203 information submitted pursuant to this paragraph.
204 (b) For each principal represented by more than one
205 lobbying firm, the division shall aggregate the reporting-period
206 and calendar-year compensation reported as provided or owed by
207 the principal.
208 ~~(a) Statements shall be filed by all registered lobbyists~~
209 ~~two times per year, which must disclose all lobbying~~
210 ~~expenditures by the lobbyist and the principal and the source of~~
211 ~~funds for such expenditures. All expenditures made by the~~
212 ~~lobbyist and the principal for the purpose of lobbying must be~~
213 ~~reported. Reporting of expenditures shall be made on an accrual~~
214 ~~basis. The report of such expenditures must identify whether the~~
215 ~~expenditure was made directly by the lobbyist, directly by the~~
216 ~~principal, initiated or expended by the lobbyist and paid for by~~
217 ~~the principal, or initiated or expended by the principal and~~
218 ~~paid for by the lobbyist. The principal is responsible for the~~
219 ~~accuracy of the expenditures reported as lobbying expenditures~~
220 ~~made by the principal. The lobbyist is responsible for the~~
221 ~~accuracy of the expenditures reported as lobbying expenditures~~
222 ~~made by the lobbyist. Expenditures made must be reported by the~~
223 ~~category of the expenditure, including, but not limited to, the~~
224 ~~categories of food and beverages, entertainment, research,~~

225 ~~communication, media advertising, publications, travel, and~~
226 ~~lodging. Lobbying expenditures do not include a lobbyist's or~~
227 ~~principal's salary, office expenses, and personal expenses for~~
228 ~~lodging, meals, and travel.~~
229 ~~(b) If a principal is represented by two or more~~
230 ~~lobbyists, the first lobbyist who registers to represent that~~
231 ~~principal shall be the designated lobbyist. The designated~~
232 ~~lobbyist's expenditure report shall include all lobbying~~
233 ~~expenditures made directly by the principal and those~~
234 ~~expenditures of the designated lobbyist on behalf of that~~
235 ~~principal as required by paragraph (a). All other lobbyists~~
236 ~~registered to represent that principal shall file a report~~
237 ~~pursuant to paragraph (a). The report of lobbying expenditures~~
238 ~~by the principal shall be made pursuant to the requirements of~~
239 ~~paragraph (a). The principal is responsible for the accuracy of~~
240 ~~figures reported by the designated lobbyist as lobbying~~
241 ~~expenditures made directly by the principal. The designated~~
242 ~~lobbyist is responsible for the accuracy of the figures reported~~
243 ~~as lobbying expenditures made by that lobbyist. Each lobbyist~~
244 ~~shall file an expenditure report for each period during any~~
245 ~~portion of which he or she was registered, and each principal~~
246 ~~shall ensure that an expenditure report is filed for each period~~
247 ~~during any portion of which the principal was represented by a~~
248 ~~registered lobbyist.~~
249 ~~(c) For each reporting period the division shall aggregate~~
250 ~~the expenditures reported by all of the lobbyists for a~~
251 ~~principal represented by more than one lobbyist. Further, the~~
252 ~~division shall aggregate figures that provide a cumulative total~~

253 ~~of expenditures reported as spent by and on behalf of each~~
254 ~~principal for the calendar year.~~
255 (c) ~~(d)~~ The reporting statements shall be filed no later
256 than 45 days after the end of each ~~the~~ reporting period. The
257 four reporting periods are ~~The first report shall include the~~
258 ~~expenditures for the period~~ from January 1 through March 31,
259 April 1 through June 30, July 1 through September 30, and
260 October 1 through December 31, respectively ~~June 30. The second~~
261 ~~report shall disclose expenditures for the period from July 1~~
262 ~~through December 31~~. The statements shall be rendered in the
263 identical form provided by the respective houses and shall be
264 open to public inspection. Reporting statements may be filed by
265 electronic means, when feasible.
266 (d) ~~(e)~~ Reports shall be filed not later than 5 p.m. of the
267 report due date. However, any report that is postmarked by the
268 United States Postal Service no later than midnight of the due
269 date shall be deemed to have been filed in a timely manner, and
270 a certificate of mailing obtained from and dated by the United
271 States Postal Service at the time of the mailing, or a receipt
272 from an established courier company which bears a date on or
273 before the due date, shall be proof of mailing in a timely
274 manner.
275 (e) ~~(f)~~ Each house of the Legislature shall provide by
276 rule, or both houses may provide by joint rule, a procedure by
277 which a lobbying firm that ~~lobbyist who~~ fails to timely file a
278 report shall be notified and assessed fines. The rule shall
279 provide for the following:
280 1. Upon determining that the report is late, the person

281 designated to review the timeliness of reports shall immediately
282 notify the lobbying firm ~~lobbyist~~ as to the failure to timely
283 file the report and that a fine is being assessed for each late
284 day. The fine shall be $50 per day per report for each late day,
285 not to exceed $5,000 per report.
286 2. Upon receipt of the report, the person designated to
287 review the timeliness of reports shall determine the amount of
288 the fine due based upon the earliest of the following:
289 a. When a report is actually received by the lobbyist
290 registration and reporting office.
291 b. When the report is postmarked.
292 c. When the certificate of mailing is dated.
293 d. When the receipt from an established courier company is
294 dated.
295 3. Such fine shall be paid within 30 days after the notice
296 of payment due is transmitted by the Lobbyist Registration
297 Office, unless appeal is made to the division. The moneys shall
298 be deposited into the Legislative Lobbyist Registration Trust
299 Fund.
300 4. A fine shall not be assessed against a lobbying firm
301 ~~lobbyist~~ the first time any reports for which the lobbying firm
302 ~~lobbyist~~ is responsible are not timely filed. However, to
303 receive the one-time fine waiver, all reports for which the
304 lobbying firm ~~lobbyist~~ is responsible must be filed within 30
305 days after notice that any reports have not been timely filed is
306 transmitted by the Lobbyist Registration Office. A fine shall be
307 assessed for any subsequent late-filed reports.
308 5. Any lobbying firm ~~lobbyist~~ may appeal or dispute a

309 fine, based upon unusual circumstances surrounding the failure
310 to file on the designated due date, and may request and shall be
311 entitled to a hearing before the General Counsel of the Office
312 of Legislative Services, who shall recommend to the President of
313 the Senate and the Speaker of the House of Representatives, or
314 their respective designees, that the fine be waived in whole or
315 in part for good cause shown. The President of the Senate and
316 the Speaker of the House of Representatives, or their respective
317 designees, may concur in the recommendation and waive the fine
318 in whole or in part. Any such request shall be made within 30
319 days after the notice of payment due is transmitted by the
320 Lobbyist Registration Office. In such case, the lobbying firm
321 ~~lobbyist~~ shall, within the 30-day period, notify the person
322 designated to review the timeliness of reports in writing of his
323 or her intention to request a hearing.
324 6. A lobbying firm ~~lobbyist, a lobbyist's legal~~
325 ~~representative, or the principal of a lobbyist~~ may request that
326 the filing of a ~~an expenditure~~ report be waived upon good cause
327 shown, based on unusual circumstances. The request must be filed
328 with the General Counsel of the Office of Legislative Services,
329 who shall make a recommendation concerning the waiver request to
330 the President of the Senate and the Speaker of the House of
331 Representatives. The President of the Senate and the Speaker of
332 the House of Representatives may grant or deny the request.
333 7. All lobbyist registrations for lobbyists who are
334 partners, owners, officers, or employees of a lobbying firm that
335 fails to timely pay a fine are automatically suspended until the
336 fine is paid or waived, and the division shall promptly notify

337 all affected principals of any suspension or reinstatement. ~~The~~
338 ~~registration of a lobbyist who fails to timely pay a fine is~~
339 ~~automatically suspended until the fine is paid or waived.~~
340 8.~~7.~~ 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 ~~lobbyist~~ to file a report after notice or of
343 the failure of a lobbying firm ~~lobbyist~~ to pay the fine imposed.
344 (4)(a) Notwithstanding s. 112.3148, s. 112.3149, or any
345 other provision of law to the contrary, no lobbyist or principal
346 shall make, directly or indirectly, and no member or employee of
347 the Legislature shall knowingly accept, directly or indirectly,
348 any lobbying expenditure, except floral arrangements or other
349 celebratory items given to legislators and displayed in chambers
350 the opening day of a regular session.
351 (b) No person shall provide compensation for lobbying to
352 any individual or business entity that is not a lobbying firm.
353 (5)~~(4)~~ Each house of the Legislature shall provide by rule
354 a procedure by which a person, when in doubt about the
355 applicability and interpretation of this section in a particular
356 context, may submit in writing the facts for an advisory opinion
357 to the committee of either house and may appear in person before
358 the committee. The rule shall provide a procedure by which:
359 (a) The committee shall render advisory opinions to any
360 person who seeks advice as to whether the facts in a particular
361 case would constitute a violation of this section.
362 (b) The committee shall make sufficient deletions to
363 prevent disclosing the identity of persons in the decisions or
364 opinions.

365 (c) All advisory opinions of the committee shall be
366 numbered, dated, and open to public inspection.
367 (6)~~(5)~~ Each house of the Legislature shall provide by rule
368 for keeping ~~keep~~ all advisory opinions of the committees
369 relating to lobbying firms, lobbyists, and lobbying activities.~~,~~
370 ~~as well as~~ The rule shall also provide that each house keep a
371 current list of registered lobbyists along with ~~and their~~
372 ~~respective~~ reports required of lobbying firms under this
373 section, all of which shall be open for public inspection.
374 (7)~~(6)~~ Each house of the Legislature shall provide by rule
375 that a ~~the~~ committee of either house ~~shall~~ investigate any
376 person ~~engaged in legislative lobbying~~ upon receipt of a sworn
377 complaint alleging a violation of this section, s. 112.3148, or
378 s. 112.3149 by such person; also, the rule shall provide that a
379 committee of either house investigate any lobbying firm upon
380 receipt of audit information indicating a possible violation
381 other than a late-filed report. Such proceedings shall be
382 conducted pursuant to the rules of the respective houses. If the
383 committee finds that there has been a violation of this section,
384 s. 112.3148, or s. 112.3149, it shall report its findings to the
385 President of the Senate or the Speaker of the House of
386 Representatives, as appropriate, together with a recommended
387 penalty, to include a fine of not more than $5,000, reprimand,
388 censure, probation, or prohibition from lobbying for a period of
389 time not to exceed 24 months. Upon the receipt of such report,
390 the President of the Senate or the Speaker of the House of
391 Representatives shall cause the committee report and
392 recommendations to be brought before the respective house and a

393 final determination shall be made by a majority of said house.
394 (8) ~~(7)~~ Any person required to be registered or to provide
395 information pursuant to this section or pursuant to rules
396 established in conformity with this section who knowingly fails
397 to disclose any material fact required by this section or by
398 rules established in conformity with this section, or who
399 knowingly provides false information on any report required by
400 this section or by rules established in conformity with this
401 section, commits a noncriminal infraction, punishable by a fine
402 not to exceed $5,000. Such penalty shall be in addition to any
403 other penalty assessed by a house of the Legislature pursuant to
404 subsection (7) ~~(6)~~.
405 (9) ~~(8)~~ There is hereby created the Legislative Lobbyist
406 Registration Trust Fund, to be used for the purpose of funding
407 any office established for the administration of the
408 registration of lobbyist lobbying the Legislature, including the
409 payment of salaries and other expenses, and for the purpose of
410 paying the expenses incurred by the Legislature in providing
411 services to lobbyists. The trust fund is not subject to the
412 service charge to general revenue provisions of chapter 215.
413 Fees collected pursuant to rules established in accordance with
414 subsection (2) shall be deposited into the Legislative Lobbyist
415 Registration Trust Fund.
416 Section 2. Effective April 1, 2006, subsection (3) of
417 section 11.045, Florida Statutes, as amended by this act, is
418 amended to read:
419 11.045 Lobbying before the Legislature; registration and
420 reporting; exemptions; penalties.--

421 (3) Each house of the Legislature shall provide by rule
422 the following reporting requirements:
423 (a)1. Each lobbying firm shall file a compensation report
424 with the division for each calendar quarter during any portion
425 of which one or more of the firm's lobbyists were registered to
426 represent a principal. The report shall include the:
427 a. Full name, business address, and telephone number of
428 the lobbying firm;
429 b. Name of each of the firm's lobbyists; and
430 c. Total compensation provided or owed to the lobbying
431 firm from all principals for the reporting period, reported in
432 one of the following categories: $0; $1 to $49,999; $50,000 to
433 $99,999; $100,000 to $249,999; $250,000 to $499,999; $500,000 to
434 $999,999; $1 million or more.
435 2. For each principal represented by one or more of the
436 firm's lobbyists, the lobbying firm's compensation report shall
437 also include the:
438 a. Full name, business address, and telephone number of
439 the principal; and
440 b. Total compensation provided or owed to the lobbying
441 firm for the reporting period, reported in one of the following
442 categories: $0; $1 to $19,999; $20,000 to $39,999; $40,000 to
443 $59,999; and $60,000 or more. If the category "$60,000 or more"
444 is selected, the specific dollar amount of compensation must be
445 reported, rounded up or down to the nearest $1,000.
446 3. If the lobbying firm subcontracts work from another
447 lobbying firm and not from the original principal:
448 a. The lobbying firm providing the work to be

449 subcontracted shall be treated as the reporting lobbying firm's
450 principal for reporting purposes under this paragraph; and
451 b. The reporting lobbying firm shall, for each lobbying
452 firm identified under subparagraph 2., identify the name and
453 address of the principal originating the lobbying work.
454 4. The senior partner, officer, or owner of the lobbying
455 firm shall certify to the veracity and completeness of the
456 information submitted pursuant to this paragraph.
457 (b) For each principal represented by more than one
458 lobbying firm, the division shall aggregate the reporting-period
459 and calendar-year compensation reported as provided or owed by
460 the principal.
461 (c) The reporting statements shall be filed no later than
462 45 days after the end of each reporting period. The four
463 reporting periods are from January 1 through March 31, April 1
464 through June 30, July 1 through September 30, and October 1
465 through December 31, respectively. The statements shall be
466 rendered in the identical form provided by the respective houses
467 and shall be open to public inspection. Reporting statements
468 must ~~may~~ be filed by electronic means as provided in s. 11.0455~~,~~
469 ~~when feasible~~.
470 ~~(d) Reports shall be filed not later than 5 p.m. of the~~
471 ~~report due date. However, any report that is postmarked by the~~
472 ~~United States Postal Service no later than midnight of the due~~
473 ~~date shall be deemed to have been filed in a timely manner, and~~
474 ~~a certificate of mailing obtained from and dated by the United~~
475 ~~States Postal Service at the time of the mailing, or a receipt~~
476 ~~from an established courier company which bears a date on or~~

477 ~~before the due date, shall be proof of mailing in a timely~~
478 ~~manner.~~
479 (d) ~~(e)~~ Each house of the Legislature shall provide by
480 rule, or both houses may provide by joint rule, a procedure by
481 which a lobbying firm that fails to timely file a report shall
482 be notified and assessed fines. The rule shall provide for the
483 following:
484 1. Upon determining that the report is late, the person
485 designated to review the timeliness of reports shall immediately
486 notify the lobbying firm as to the failure to timely file the
487 report and that a fine is being assessed for each late day. The
488 fine shall be $50 per day per report for each late day, not to
489 exceed $5,000 per report.
490 2. Upon receipt of the report, the person designated to
491 review the timeliness of reports shall determine the amount of
492 the fine due based upon the earliest of the following:
493 a. When a report is actually received by the lobbyist
494 registration and reporting office.
495 b. When the electronic receipt issued pursuant to s.
496 11.0455 is dated. ~~When the report is postmarked.~~
497 ~~c. When the certificate of mailing is dated.~~
498 ~~d. When the receipt from an established courier company is~~
499 ~~dated.~~
500 3. Such fine shall be paid within 30 days after the notice
501 of payment due is transmitted by the Lobbyist Registration
502 Office, unless appeal is made to the division. The moneys shall
503 be deposited into the Legislative Lobbyist Registration Trust
504 Fund.

505 4. A fine shall not be assessed against a lobbying firm
506 the first time any reports for which the lobbying firm is
507 responsible are not timely filed. However, to receive the one-
508 time fine waiver, all reports for which the lobbying firm is
509 responsible must be filed within 30 days after notice that any
510 reports have not been timely filed is transmitted by the
511 Lobbyist Registration Office. A fine shall be assessed for any
512 subsequent late-filed reports.
513 5. Any lobbying firm may appeal or dispute a fine, based
514 upon unusual circumstances surrounding the failure to file on
515 the designated due date, and may request and shall be entitled
516 to a hearing before the General Counsel of the Office of
517 Legislative Services, who shall recommend to the President of
518 the Senate and the Speaker of the House of Representatives, or
519 their respective designees, that the fine be waived in whole or
520 in part for good cause shown. The President of the Senate and
521 the Speaker of the House of Representatives, or their respective
522 designees, may concur in the recommendation and waive the fine
523 in whole or in part. Any such request shall be made within 30
524 days after the notice of payment due is transmitted by the
525 Lobbyist Registration Office. In such case, the lobbying firm
526 shall, within the 30-day period, notify the person designated to
527 review the timeliness of reports in writing of his or her
528 intention to request a hearing.
529 6. A lobbying firm may request that the filing of a report
530 be waived upon good cause shown, based on unusual circumstances.
531 The request must be filed with the General Counsel of the Office
532 of Legislative Services, who shall make a recommendation

533 concerning the waiver request to the President of the Senate and
534 the Speaker of the House of Representatives. The President of
535 the Senate and the Speaker of the House of Representatives may
536 grant or deny the request.
537 7. All lobbyist registrations for lobbyists who are
538 partners, owners, officers, or employees of a lobbying firm that
539 fails to timely pay a fine are automatically suspended until the
540 fine is paid or waived, and the division shall promptly notify
541 all affected principals of any suspension or reinstatement.
542 8. The person designated to review the timeliness of
543 reports shall notify the director of the division of the failure
544 of a lobbying firm to file a report after notice or of the
545 failure of a lobbying firm to pay the fine imposed.
546 Section 3. Effective April 1, 2006, section 11.0455,
547 Florida Statutes, is created to read:
548 11.0455 Electronic filing of compensation reports and
549 other information.--
550 (1) As used in this section, the term "electronic filing
551 system" means an Internet system for recording and reporting
552 lobbying compensation and other required information by
553 reporting period.
554 (2) Each lobbying firm that is required to file reports
555 with the Division of Legislative Information Services pursuant
556 to s. 11.045 must file such reports with the division by means
557 of the division's electronic filing system.
558 (3) A report filed pursuant to this section must be
559 completed and filed through the electronic filing system not
560 later than 11:59 p.m. of the day designated in s. 11.045. A

561 report not filed by 11:59 p.m. of the day designated is a late-
562 filed report and is subject to the penalties under s. 11.045(3).
563 (4) Each report filed pursuant to this section is
564 considered to be certified as accurate and complete by the
565 lobbying firm, and such firm is subject to the provisions of ss.
566 11.045(7) and (8). Persons given a secure sign-on to the
567 electronic filing system are responsible for protecting it from
568 disclosure and are responsible for all filings using such
569 credentials, unless they have notified the division that their
570 credentials have been compromised.
571 (5) The electronic filing system developed by the division
572 must:
573 (a) Be based on access by means of the Internet.
574 (b) Be accessible by anyone with Internet access using
575 standard web-browsing software.
576 (c) Provide for direct entry of compensation-report
577 information as well as upload of such information from software
578 authorized by the division.
579 (d) Provide a method that prevents unauthorized access to
580 electronic filing system functions.
581 (6) Each house of the Legislature shall provide by rule,
582 or may provide by a joint rule adopted by both houses,
583 procedures to implement and administer this section, including,
584 but not limited to:
585 (a) Alternate filing procedures in case the division's
586 electronic filing system is not operable.
587 (b) The issuance of an electronic receipt to the person
588 submitting the report indicating and verifying the date and time

589 that the report was filed.
590 (7) Each house of the Legislature shall provide by rule
591 that the division make all the data filed available on the
592 Internet in an easily understood and accessible format. The
593 Internet website shall also include, but not be limited to, the
594 names and business addresses of lobbyists, lobbying firms, and
595 principals, the affiliations between lobbyists and principals,
596 and the classification system designated and identified by each
597 principal pursuant to s. 11.045(2).
598 Section 4. Effective January 1, 2007, subsection (6) is
599 added to section 11.40, Florida Statutes, to read:
600 11.40 Legislative Auditing Committee.--
601 (6)(a) As used in this subsection, "independent contract
602 auditor" means a state-licensed certified public accountant or
603 firm with which a state-licensed certified public accountant is
604 currently employed or associated who is actively engaged in the
605 accounting profession.
606 (b) Audits specified in this subsection cover the
607 quarterly compensation reports for the previous calendar year
608 for a random sample of 3 percent of all legislative branch
609 lobbying firms and a random sample of 3 percent of all executive
610 branch lobbying firms calculated using as the total number of
611 such lobbying firms those that were registered as of April 1 of
612 the preceding calendar year. The committee shall provide for a
613 system of random selection of the lobbying firms to be audited.
614 (c) The committee shall create and maintain a list of not
615 less than 10 independent contract auditors approved to conduct
616 the required audits. Each lobbying firm selected for audit in

617 the random audit process may designate one of the independent
618 contract auditors from the committee's approved list. Upon
619 failure for any reason of a lobbying firm selected in the random
620 selection process to designate an independent contract auditor
621 from the committee's list within 30 calendar days after being
622 notified by the committee of its selection, the committee shall
623 assign one of the available independent contract auditors from
624 the approved list to perform the required audit. No independent
625 contract auditor, whether designated by the lobbying firm or by
626 the committee, may perform the audit of a lobbying firm where
627 the auditor and lobbying firm have ever had a direct personal
628 relationship or any professional accounting, auditing, tax
629 advisory, or tax preparing relationship with each other. The
630 committee shall obtain a written, sworn certification subject to
631 s. 837.06, both from the randomly selected lobbying firm and
632 from the proposed independent contract auditor, that no such
633 relationship has ever existed.
634 (d) Each independent contract auditor shall be engaged by
635 and compensated solely by the state for the work performed in
636 accomplishing an audit under this subsection.
637 (e) Any violations of law, deficiencies, or material
638 misstatements discovered and noted in an audit report shall be
639 clearly identified in the audit report and be determined under
640 the rules of either house of the Legislature or under the joint
641 rules, as applicable.
642 (f) If any lobbying firm fails to give full, frank, and
643 prompt cooperation and access to books, records, and associated
644 backup documents as requested in writing by the auditor, that

645 failure shall be clearly noted by the independent contract
646 auditor in the report of audit.
647 (g) The committee shall establish procedures for the
648 selection of independent contract auditors desiring to enter
649 into audit contracts pursuant to this subsection. Such
650 procedures shall include, but not be limited to, a rating system
651 that takes into account pertinent information, including the
652 independent contract auditor's fee proposals for participating
653 in the process. All contracts under this subsection between an
654 independent contract auditor and the Speaker of the House of
655 Representatives and the President of the Senate shall be
656 terminable by either party at any time upon written notice to
657 the other, and such contracts may contain such other terms and
658 conditions as the Speaker of the House of Representatives and
659 the President of the Senate deem appropriate under the
660 circumstances.
661 (h) The committee shall adopt guidelines that govern
662 random audits and field investigations conducted pursuant to
663 this subsection. The guidelines shall ensure that similarly
664 situated compensation reports are audited in a uniform manner.
665 The guidelines shall also be formulated to encourage compliance
666 and detect violations of the legislative and executive lobbying
667 compensation reporting requirements in ss. 11.045 and 112.3215
668 and to ensure that each audit is conducted with maximum
669 efficiency in a cost-effective manner. In adopting the
670 guidelines, the committee shall consider relevant guidelines and
671 standards of the American Institute of Certified Public
672 Accountants to the extent that such guidelines and standards are

673 applicable and consistent with the purposes set forth in this
674 subsection.
675 (i) All audit reports of legislative lobbying firms shall,
676 upon completion by an independent contract auditor, be delivered
677 to the President of the Senate and the Speaker of the House of
678 Representatives for their respective review and handling. All
679 audit reports of executive branch lobbyists, upon completion by
680 an independent contract auditor, shall be delivered by the
681 auditor to the Commission on Ethics for handling under the Code
682 of Ethics.
683 Section 5. Section 112.3215, Florida Statutes, is amended
684 to read:
685 112.3215 Lobbying ~~Lobbyists~~ before the executive branch or
686 the Constitution Revision Commission; registration and
687 reporting; investigation by commission.--
688 (1) For the purposes of this section:
689 (a) "Agency" means the Governor, Governor and Cabinet, or
690 any department, division, bureau, board, commission, or
691 authority of the executive branch. In addition, "agency" shall
692 mean the Constitution Revision Commission as provided by s. 2,
693 Art. XI of the State Constitution.
694 (b) "Agency official" or "employee" means any individual
695 who is required by law to file full or limited public disclosure
696 of his or her financial interests.
697 (c) "Compensation" means a payment, distribution, loan,
698 advance, reimbursement, deposit, salary, fee, retainer, or
699 anything of value provided or owed to a lobbying firm, directly
700 or indirectly, by a principal for any lobbying activity.

701 (d) ~~(b)~~ "Expenditure" means a payment, distribution, loan,
702 advance, reimbursement, deposit, or anything of value made by a
703 lobbyist or principal for the purpose of lobbying. A
704 contribution made to a political party regulated under chapter
705 103 is not deemed an expenditure for purposes of this section.
706 (e) ~~(c)~~ "Fund" means the Executive Branch Lobby
707 Registration Trust Fund.
708 (f) ~~(d)~~ "Lobbies" means seeking, on behalf of another
709 person, to influence an agency with respect to a decision of the
710 agency in the area of policy or procurement or an attempt to
711 obtain the goodwill of an agency official or employee. "Lobbies"
712 also means influencing or attempting to influence, on behalf of
713 another, the Constitution Revision Commission's action or
714 nonaction through oral or written communication or an attempt to
715 obtain the goodwill of a member or employee of the Constitution
716 Revision Commission.
717 (g) "Lobbying firm" means a business entity, including an
718 individual contract lobbyist, that receives or becomes entitled
719 to receive any compensation for the purpose of lobbying, where
720 any partner, owner, officer, or employee of the business entity
721 is a lobbyist.
722 (h) ~~(e)~~ "Lobbyist" means a person who is employed and
723 receives payment, or who contracts for economic consideration,
724 for the purpose of lobbying, or a person who is principally
725 employed for governmental affairs by another person or
726 governmental entity to lobby on behalf of that other person or
727 governmental entity. "Lobbyist" does not include a person who
728 is:

729 1. An attorney, or any person, who represents a client in
730 a judicial proceeding or in a formal administrative proceeding
731 conducted pursuant to chapter 120 or any other formal hearing
732 before an agency, board, commission, or authority of this state.
733 2. An employee of an agency or of a legislative or
734 judicial branch entity acting in the normal course of his or her
735 duties.
736 3. A confidential informant who is providing, or wishes to
737 provide, confidential information to be used for law enforcement
738 purposes.
739 4. A person who lobbies to procure a contract pursuant to
740 chapter 287 which contract is less than the threshold for
741 CATEGORY ONE as provided in s. 287.017(1)(a).
742 (i) ~~(f)~~ "Principal" means the person, firm, corporation, or
743 other entity which has employed or retained a lobbyist.
744 (2) The Executive Branch Lobby Registration Trust Fund is
745 hereby created within the commission to be used for the purpose
746 of funding any office established to administer the registration
747 of lobbyists lobbying an agency, including the payment of
748 salaries and other expenses. The trust fund is not subject to
749 the service charge to General Revenue provisions of chapter 215.
750 All annual registration fees collected pursuant to this section
751 shall be deposited into such fund.
752 (3) A person may not lobby an agency until such person has
753 registered as a lobbyist with the commission. Such registration
754 shall be due upon initially being retained to lobby and is
755 renewable on a calendar year basis thereafter. Upon registration
756 the person shall provide a statement signed by the principal or

757 principal's representative that the registrant is authorized to
758 represent the principal. The principal shall also identify and
759 designate its main business on the statement authorizing that
760 lobbyist pursuant to a classification system approved by the
761 commission. The registration shall require each ~~the~~ lobbyist to
762 disclose, under oath, the following information:
763 (a) Name and business address;
764 (b) The name and business address of each principal
765 represented;
766 (c) His or her area of interest;
767 (d) The agencies before which he or she will appear; and
768 (e) The existence of any direct or indirect business
769 association, partnership, or financial relationship with any
770 employee of an agency with which he or she lobbies, or intends
771 to lobby, as disclosed in the registration.
772 (4) The annual lobbyist registration fee shall be set by
773 the commission by rule, not to exceed $40 for each principal
774 represented.
775 (5)(a)1. Each lobbying firm shall file a compensation
776 report with the commission for each calendar quarter during any
777 portion of which one or more of the firm's lobbyists were
778 registered to represent a principal. The report shall include
779 the:
780 a. Full name, business address, and telephone number of
781 the lobbying firm;
782 b. Name of each of the firm's lobbyists; and
783 c. Total compensation provided or owed to the lobbying
784 firm from all principals for the reporting period, reported in

785 one of the following categories: $0; $1 to $49,999; $50,000 to
786 $99,999; $100,000 to $249,999; $250,000 to $499,999; $500,000 to
787 $999,999; $1 million or more.
788 2. For each principal represented by one or more of the
789 firm's lobbyists, the lobbying firm's compensation report shall
790 also include the:
791 a. Full name, business address, and telephone number of
792 the principal; and
793 b. Total compensation provided or owed to the lobbying
794 firm for the reporting period, reported in one of the following
795 categories: $0; $1 to $19,999; $20,000 to $39,999; $40,000 to
796 $59,999; and $60,000 or more. If the category "$60,000 or more"
797 is selected, the specific dollar amount of compensation must be
798 reported, rounded up or down to the nearest $1,000.
799 3. If the lobbying firm subcontracts work from another
800 lobbying firm and not from the original principal:
801 a. The lobbying firm providing the work to be
802 subcontracted shall be treated as the reporting lobbying firm's
803 principal for reporting purposes under this paragraph; and
804 b. The reporting lobbying firm shall, for each lobbying
805 firm identified under subparagraph 2., identify the name and
806 address of the principal originating the lobbying work.
807 4. The senior partner, officer, or owner of the lobbying
808 firm shall certify to the veracity and completeness of the
809 information submitted pursuant to this paragraph.
810 (b) For each principal represented by more than one
811 lobbying firm, the commission shall aggregate the reporting-
812 period and calendar-year compensation reported as provided or

813 owed by the principal.
814 ~~(a) A registered lobbyist must also submit to the~~
815 ~~commission, biannually, a signed expenditure report summarizing~~
816 ~~all lobbying expenditures by the lobbyist and the principal for~~
817 ~~each 6-month period during any portion of which the lobbyist is~~
818 ~~registered. All expenditures made by the lobbyist and the~~
819 ~~principal for the purpose of lobbying must be reported.~~
820 ~~Reporting of expenditures shall be on an accrual basis. The~~
821 ~~report of such expenditures must identify whether the~~
822 ~~expenditure was made directly by the lobbyist, directly by the~~
823 ~~principal, initiated or expended by the lobbyist and paid for by~~
824 ~~the principal, or initiated or expended by the principal and~~
825 ~~paid for by the lobbyist. The principal is responsible for the~~
826 ~~accuracy of the expenditures reported as lobbying expenditures~~
827 ~~made by the principal. The lobbyist is responsible for the~~
828 ~~accuracy of the expenditures reported as lobbying expenditures~~
829 ~~made by the lobbyist. Expenditures made must be reported by the~~
830 ~~category of the expenditure, including, but not limited to, the~~
831 ~~categories of food and beverages, entertainment, research,~~
832 ~~communication, media advertising, publications, travel, and~~
833 ~~lodging. Lobby expenditures do not include a lobbyist's or~~
834 ~~principal's salary, office expenses, and personal expenses for~~
835 ~~lodging, meals, and travel.~~
836 ~~(b) A principal who is represented by two or more~~
837 ~~lobbyists shall designate one lobbyist whose expenditure report~~
838 ~~shall include all lobbying expenditures made directly by the~~
839 ~~principal and those expenditures of the designated lobbyist on~~
840 ~~behalf of that principal as required by paragraph (a). All other~~

841 ~~lobbyists registered to represent that principal shall file a~~
842 ~~report pursuant to paragraph (a). The report of lobbying~~
843 ~~expenditures by the principal shall be made pursuant to the~~
844 ~~requirements of paragraph (a). The principal is responsible for~~
845 ~~the accuracy of figures reported by the designated lobbyist as~~
846 ~~lobbying expenditures made directly by the principal. The~~
847 ~~designated lobbyist is responsible for the accuracy of the~~
848 ~~figures reported as lobbying expenditures made by that lobbyist.~~
849 ~~(c) For each reporting period the commission shall~~
850 ~~aggregate the expenditures of all lobbyists for a principal~~
851 ~~represented by more than one lobbyist. Further, the commission~~
852 ~~shall aggregate figures that provide a cumulative total of~~
853 ~~expenditures reported as spent by and on behalf of each~~
854 ~~principal for the calendar year.~~
855 (c)~~(d)~~ The reporting statements shall be filed no later
856 than 45 days after the end of each reporting period. ~~and shall~~
857 ~~include the expenditures for the period~~ The four reporting
858 periods are from January 1 through March 31 ~~June 30~~, April 1
859 through June 30, ~~and~~ July 1 through September 30, and October 1
860 through December 31, respectively.
861 (d)~~(e)~~ Reports shall be filed not later than 5 p.m. of the
862 report due date. However, any report that is postmarked by the
863 United States Postal Service no later than midnight of the due
864 date shall be deemed to have been filed in a timely manner, and
865 a certificate of mailing obtained from and dated by the United
866 States Postal Service at the time of the mailing, or a receipt
867 from an established courier company which bears a date on or
868 before the due date, shall be proof of mailing in a timely

869 manner.
870 (e) ~~(f)~~ The commission shall provide by rule a procedure by
871 which a lobbying firm that ~~lobbyist who~~ fails to timely file a
872 report shall be notified and assessed fines. The rule shall
873 provide for the following:
874 1. Upon determining that the report is late, the person
875 designated to review the timeliness of reports shall immediately
876 notify the lobbying firm ~~lobbyist~~ as to the failure to timely
877 file the report and that a fine is being assessed for each late
878 day. The fine shall be $50 per day per report for each late day
879 up to a maximum of $5,000 per late report.
880 2. Upon receipt of the report, the person designated to
881 review the timeliness of reports shall determine the amount of
882 the fine due based upon the earliest of the following:
883 a. When a report is actually received by the lobbyist
884 registration and reporting office.
885 b. When the report is postmarked.
886 c. When the certificate of mailing is dated.
887 d. When the receipt from an established courier company is
888 dated.
889 3. Such fine shall be paid within 30 days after the notice
890 of payment due is transmitted by the Lobbyist Registration
891 Office, unless appeal is made to the commission. The moneys
892 shall be deposited into the Executive Branch Lobby Registration
893 Trust Fund.
894 4. A fine shall not be assessed against a lobbying firm
895 ~~lobbyist~~ the first time any reports for which the lobbying firm
896 ~~lobbyist~~ is responsible are not timely filed. However, to

897 receive the one-time fine waiver, all reports for which the
898 lobbying firm ~~lobbyist~~ is responsible must be filed within 30
899 days after the notice that any reports have not been timely
900 filed is transmitted by the Lobbyist Registration Office. A fine
901 shall be assessed for any subsequent late-filed reports.
902 5. Any lobbying firm ~~lobbyist~~ may appeal or dispute a
903 fine, based upon unusual circumstances surrounding the failure
904 to file on the designated due date, and may request and shall be
905 entitled to a hearing before the commission, which shall have
906 the authority to waive the fine in whole or in part for good
907 cause shown. Any such request shall be made within 30 days after
908 the notice of payment due is transmitted by the Lobbyist
909 Registration Office. In such case, the lobbying firm ~~lobbyist~~
910 shall, within the 30-day period, notify the person designated to
911 review the timeliness of reports in writing of his or her
912 intention to bring the matter before the commission.
913 6. The person designated to review the timeliness of
914 reports shall notify the commission of the failure of a lobbying
915 firm ~~lobbyist~~ to file a report after notice or of the failure of
916 a lobbying firm ~~lobbyist~~ to pay the fine imposed.
917 7. Notwithstanding any provision of chapter 120, any fine
918 imposed under this subsection that is not waived by final order
919 of the commission and that remains unpaid more than 60 days
920 after the notice of payment due or more than 60 days after the
921 commission renders a final order on the lobbying firm's
922 ~~lobbyist's~~ appeal shall be collected by the Department of
923 Financial Services as a claim, debt, or other obligation owed to
924 the state, and the department may assign the collection of such

925 fine to a collection agent as provided in s. 17.20.
926 (f) ~~(g)~~ The commission shall adopt a rule which allows
927 reporting statements to be filed by electronic means, when
928 feasible.
929 (g) ~~(h)~~ Each lobbying firm ~~lobbyist~~ and each principal
930 shall preserve for a period of 4 years all accounts, bills,
931 receipts, computer records, books, papers, and other documents
932 and records necessary to substantiate compensation ~~lobbying~~
933 ~~expenditures~~. Any documents and records retained pursuant to
934 this section may be subpoenaed for audit by the Legislative
935 Auditing Committee pursuant to s. 11.40, and such subpoena
936 ~~inspected under reasonable circumstances by any authorized~~
937 ~~representative of the commission. The right of inspection~~ may be
938 enforced in circuit court ~~by appropriate writ issued by any~~
939 ~~court of competent jurisdiction~~.
940 (6)(a) Notwithstanding s. 112.3148, s. 112.3149, or any
941 other provision of law to the contrary, no lobbyist or principal
942 shall make, directly or indirectly, and no agency official,
943 member, or employee shall knowingly accept, directly or
944 indirectly, any lobbying expenditure.
945 (b) No person shall provide compensation for lobbying to
946 any individual or business entity that is not a lobbying firm.
947 (7) ~~(6)~~ A lobbyist shall promptly send a written statement
948 to the commission canceling the registration for a principal
949 upon termination of the lobbyist's representation of that
950 principal. Notwithstanding this requirement, the commission may
951 remove the name of a lobbyist from the list of registered
952 lobbyists if the principal notifies the office that a person is

953 no longer authorized to represent that principal. ~~Each lobbyist~~
954 ~~is responsible for filing an expenditure report for each period~~
955 ~~during any portion of which he or she was registered, and each~~
956 ~~principal is responsible for seeing that an expenditure report~~
957 ~~is filed for each period during any portion of which the~~
958 ~~principal was represented by a registered lobbyist.~~
959 (8)(a)~~(7)~~ The commission shall investigate every sworn
960 complaint that is filed with it alleging that a person covered
961 by this section has failed to register, has failed to submit a
962 compensation ~~an expenditure~~ report, or has knowingly submitted
963 false information in any report or registration required in this
964 section.
965 (b) All proceedings, the complaint, and other records
966 relating to the investigation are confidential and exempt from
967 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
968 Constitution, and any meetings held pursuant to an investigation
969 are exempt from the provisions of s. 286.011(1) and s. 24(b),
970 Art. I of the State Constitution either until the alleged
971 violator requests in writing that such investigation and
972 associated records and meetings be made public or until the
973 commission determines, based on the investigation, whether
974 probable cause exists to believe that a violation has occurred.
975 (c) The commission shall investigate any lobbying firm,
976 agency, officer, or employee upon receipt of information from a
977 sworn complaint or from a random audit of lobbying reports
978 indicating a possible violation other than a late-filed report.
979 (9)~~(8)~~ If the commission finds no probable cause to
980 believe that a violation of this section occurred, it shall

981 dismiss the complaint, whereupon the complaint, together with a
982 written statement of the findings of the investigation and a
983 summary of the facts, shall become a matter of public record,
984 and the commission shall send a copy of the complaint, findings,
985 and summary to the complainant and the alleged violator. If,
986 after investigating information from a random audit of lobbying
987 reports, the commission finds no probable cause to believe that
988 a violation of this section occurred, a written statement of the
989 findings of the investigation and a summary of the facts shall
990 become a matter of public record, and the commission shall send
991 a copy of the findings and summary to the alleged violator. If
992 the commission finds probable cause to believe that a violation
993 occurred, it shall report the results of its investigation to
994 the Governor and Cabinet and send a copy of the report to the
995 alleged violator by certified mail. Such notification and all
996 documents made or received in the disposition of the complaint
997 shall then become public records. Upon request submitted to the
998 Governor and Cabinet in writing, any person whom the commission
999 finds probable cause to believe has violated any provision of
1000 this section shall be entitled to a public hearing. Such person
1001 shall be deemed to have waived the right to a public hearing if
1002 the request is not received within 14 days following the mailing
1003 of the probable cause notification. However, the Governor and
1004 Cabinet may on its own motion require a public hearing and may
1005 conduct such further investigation as it deems necessary.
1006 (10) ~~(9)~~ If the Governor and Cabinet finds that a violation
1007 occurred, it may reprimand the violator, censure the violator,
1008 or prohibit the violator from lobbying all agencies for a period

1009 not to exceed 2 years. If the violator is a lobbying firm, the
1010 Governor and Cabinet may also assess a fine of not more than
1011 $5,000 to be deposited in the Executive Branch Lobby
1012 Registration Trust Fund.
1013 (11) ~~(10)~~ Any person, when in doubt about the applicability
1014 and interpretation of this section to himself or herself in a
1015 particular context, may submit in writing the facts of the
1016 situation to the commission with a request for an advisory
1017 opinion to establish the standard of duty. An advisory opinion
1018 shall be rendered by the commission and, until amended or
1019 revoked, shall be binding on the conduct of the person who
1020 sought the opinion, unless material facts were omitted or
1021 misstated in the request.
1022 (12) ~~(11)~~ Agencies shall be diligent to ascertain whether
1023 persons required to register pursuant to this section have
1024 complied. An agency may not knowingly permit a person who is not
1025 registered pursuant to this section to lobby the agency.
1026 (13) ~~(12)~~ Upon discovery of violations of this section an
1027 agency or any person may file a sworn complaint with the
1028 commission.
1029 (14) ~~(13)~~ The commission shall adopt rules to administer
1030 this section, which shall prescribe forms for registration and
1031 compensation ~~expenditure~~ reports, procedures for registration,
1032 and procedures that will prevent disclosure of information that
1033 is confidential as provided in this section.
1034 Section 6. Effective April 1, 2006, subsection (5) of
1035 section 112.3215, Florida Statutes, as amended by this act, is
1036 amended to read:

1037 112.3215 Lobbying before the executive branch or the
1038 Constitution Revision Commission; registration and reporting;
1039 investigation by commission.--
1040 (5)(a)1. Each lobbying firm shall file a compensation
1041 report with the commission for each calendar quarter during any
1042 portion of which one or more of the firm's lobbyists were
1043 registered to represent a principal. The report shall include
1044 the:
1045 a. Full name, business address, and telephone number of
1046 the lobbying firm;
1047 b. Name of each of the firm's lobbyists; and
1048 c. Total compensation provided or owed to the lobbying
1049 firm from all principals for the reporting period, reported in
1050 one of the following categories: $0; $1 to $49,999; $50,000 to
1051 $99,999; $100,000 to $249,999; $250,000 to $499,999; $500,000 to
1052 $999,999; $1 million or more.
1053 2. For each principal represented by one or more of the
1054 firm's lobbyists, the lobbying firm's compensation report shall
1055 also include the:
1056 a. Full name, business address, and telephone number of
1057 the principal; and
1058 b. Total compensation provided or owed to the lobbying
1059 firm for the reporting period, reported in one of the following
1060 categories: $0; $1 to $19,999; $20,000 to $39,999; $40,000 to
1061 $59,999; and $60,000 or more. If the category "$60,000 or more"
1062 is selected, the specific dollar amount of compensation must be
1063 reported, rounded up or down to the nearest $1,000.
1064 3. If the lobbying firm subcontracts work from another

1065 lobbying firm and not from the original principal:
1066 a. The lobbying firm providing the work to be
1067 subcontracted shall be treated as the reporting lobbying firm's
1068 principal for reporting purposes under this paragraph; and
1069 b. The reporting lobbying firm shall, for each lobbying
1070 firm identified under subparagraph 2., identify the name and
1071 address of the principal originating the lobbying work.
1072 4. The senior partner, officer, or owner of the lobbying
1073 firm shall certify to the veracity and completeness of the
1074 information submitted pursuant to this paragraph.
1075 (b) For each principal represented by more than one
1076 lobbying firm, the commission shall aggregate the reporting-
1077 period and calendar-year compensation reported as provided or
1078 owed by the principal.
1079 (c) The reporting statements shall be filed no later than
1080 45 days after the end of each reporting period. The four
1081 reporting periods are from January 1 through March 31, April 1
1082 through June 30, July 1 through September 30, and October 1
1083 through December 31, respectively. Reporting statements must be
1084 filed by electronic means as provided in s. 112.32155.
1085 ~~(d) Reports shall be filed not later than 5 p.m. of the~~
1086 ~~report due date. However, any report that is postmarked by the~~
1087 ~~United States Postal Service no later than midnight of the due~~
1088 ~~date shall be deemed to have been filed in a timely manner, and~~
1089 ~~a certificate of mailing obtained from and dated by the United~~
1090 ~~States Postal Service at the time of the mailing, or a receipt~~
1091 ~~from an established courier company which bears a date on or~~
1092 ~~before the due date, shall be proof of mailing in a timely~~

1093 ~~manner.~~
1094 (d) ~~(c)~~ The commission shall provide by rule a procedure by
1095 which a lobbying firm that fails to timely file a report shall
1096 be notified and assessed fines. The rule shall provide for the
1097 following:
1098 1. Upon determining that the report is late, the person
1099 designated to review the timeliness of reports shall immediately
1100 notify the lobbying firm as to the failure to timely file the
1101 report and that a fine is being assessed for each late day. The
1102 fine shall be $50 per day per report for each late day up to a
1103 maximum of $5,000 per late report.
1104 2. Upon receipt of the report, the person designated to
1105 review the timeliness of reports shall determine the amount of
1106 the fine due based upon the earliest of the following:
1107 a. When a report is actually received by the lobbyist
1108 registration and reporting office.
1109 b. When the electronic receipt issued pursuant to s.
1110 112.32155 is dated. ~~When the report is postmarked.~~
1111 ~~c. When the certificate of mailing is dated.~~
1112 ~~d. When the receipt from an established courier company is~~
1113 ~~dated.~~
1114 3. Such fine shall be paid within 30 days after the notice
1115 of payment due is transmitted by the Lobbyist Registration
1116 Office, unless appeal is made to the commission. The moneys
1117 shall be deposited into the Executive Branch Lobby Registration
1118 Trust Fund.
1119 4. A fine shall not be assessed against a lobbying firm
1120 the first time any reports for which the lobbying firm is

1121 responsible are not timely filed. However, to receive the one-
1122 time fine waiver, all reports for which the lobbying firm is
1123 responsible must be filed within 30 days after the notice that
1124 any reports have not been timely filed is transmitted by the
1125 Lobbyist Registration Office. A fine shall be assessed for any
1126 subsequent late-filed reports.
1127 5. Any lobbying firm may appeal or dispute a fine, based
1128 upon unusual circumstances surrounding the failure to file on
1129 the designated due date, and may request and shall be entitled
1130 to a hearing before the commission, which shall have the
1131 authority to waive the fine in whole or in part for good cause
1132 shown. Any such request shall be made within 30 days after the
1133 notice of payment due is transmitted by the Lobbyist
1134 Registration Office. In such case, the lobbying firm shall,
1135 within the 30-day period, notify the person designated to review
1136 the timeliness of reports in writing of his or her intention to
1137 bring the matter before the commission.
1138 6. The person designated to review the timeliness of
1139 reports shall notify the commission of the failure of a lobbying
1140 firm to file a report after notice or of the failure of a
1141 lobbying firm to pay the fine imposed.
1142 7. Notwithstanding any provision of chapter 120, any fine
1143 imposed under this subsection that is not waived by final order
1144 of the commission and that remains unpaid more than 60 days
1145 after the notice of payment due or more than 60 days after the
1146 commission renders a final order on the lobbying firm's appeal
1147 shall be collected by the Department of Financial Services as a
1148 claim, debt, or other obligation owed to the state, and the

1149 department may assign the collection of such fine to a
1150 collection agent as provided in s. 17.20.
1151 ~~(f) The commission shall adopt a rule which allows~~
1152 ~~reporting statements to be filed by electronic means, when~~
1153 ~~feasible.~~
1154 (e)~~(g)~~ Each lobbying firm and each principal shall
1155 preserve for a period of 4 years all accounts, bills, receipts,
1156 computer records, books, papers, and other documents and records
1157 necessary to substantiate compensation. Any documents and
1158 records retained pursuant to this section may be subpoenaed for
1159 audit by the Legislative Auditing Committee pursuant to s.
1160 11.40, and such subpoena may be enforced in circuit court.
1161 Section 7. Effective April 1, 2006, section 112.32155,
1162 Florida Statutes, is created to read:
1163 112.32155 Electronic filing of compensation reports and
1164 other information.--
1165 (1) As used in this section, the term "electronic filing
1166 system" means an Internet system for recording and reporting
1167 lobbying compensation and other required information by
1168 reporting period.
1169 (2) Each lobbying firm who is required to file reports
1170 with the Commission on Ethics pursuant to s. 112.3215 must file
1171 such reports with the commission by means of the electronic
1172 filing system.
1173 (3) A report filed pursuant to this section must be
1174 completed and filed through the electronic filing system not
1175 later than 11:59 p.m. of the day designated in s. 112.3215. A
1176 report not filed by 11:59 p.m. of the day designated is a late-

1177 filed report and is subject to the penalties under s.
1178 112.3215(5).
1179 (4) Each report filed pursuant to this section is
1180 considered to be certified as accurate and complete by the
1181 lobbying firm. Persons given a secure sign-on to the electronic
1182 filing system are responsible for protecting it from disclosure
1183 and are responsible for all filings using such credentials,
1184 unless they have notified the commission that their credentials
1185 have been compromised.
1186 (5) The electronic filing system must:
1187 (a) Be based on access by means of the Internet.
1188 (b) Be accessible by anyone with Internet access using
1189 standard web-browsing software.
1190 (c) Provide for direct entry of compensation-report
1191 information as well as upload of such information from software
1192 authorized by the commission.
1193 (d) Provide a method that prevents unauthorized access to
1194 electronic filing system functions.
1195 (6) The commission shall provide by rule procedures to
1196 implement and administer this section, including, but not
1197 limited to:
1198 (a) Alternate filing procedures in case the electronic
1199 filing system is not operable.
1200 (b) The issuance of an electronic receipt to the person
1201 submitting the report indicating and verifying the date and time
1202 that the report was filed.
1203 (7) The commission shall make all the data filed available
1204 on the Internet in an easily understood and accessible format.

1205 The Internet web site shall also include, but not be limited to,
1206 the names and business addresses of lobbyists, lobbying firms,
1207 and principals, affiliations between lobbyists and principals,
1208 and the classification system designated and identified by each
1209 principal pursuant to s. 112.3215(3).
1210 Section 8. The first compensation reports subject to the
1211 amended reporting requirements in this act must be filed by May
1212 15, 2006, and encompass the reporting period from January 1,
1213 2006, through March 31, 2006.
1214 Section 9. Except as otherwise expressly provided in this
1215 act, this act shall take effect January 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 65B Public Records and Public Meetings Exemptions for Lobbying
SPONSOR(S): Reagan
TIED BILLS: HB 63B **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		Williamson	Mitchell
2) State Administration Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill creates a public records exemption for records relating to an audit of a lobbying firm or an investigation of violations of the lobbying compensation reporting laws. It creates a public meetings exemption for meetings of the Commission on Ethics at which confidential and exempt audit or investigative information is discussed. Such records and meetings are open to the public under certain circumstances. The bill provides for future review and repeal of the exemptions and provides a statement of public necessity and a contingent effective date.

The bill appears to have a minimal fiscal impact on state government. See FISCAL COMMENTS section for further details. It does not appear to have a fiscal impact on local governments.

The bill requires a two-thirds vote of the members present and voting for passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill decreases public access to records and meetings of the Commission on Ethics.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

HB 63B authorizes the Legislative Auditing Committee to conduct random audits and field investigations of lobbying firms. It also authorizes the Commission on Ethics to investigate any lobbying firm upon receipt of information from a sworn complaint or random audit of lobbying reports indicating a possible violation other than a late-filed report.

EFFECT OF BILL

HB 65B creates a public records exemption for records relating to an audit of a lobbying firm lobbying the executive branch or the Constitution Revision Commission. It also creates a public records exemption for records relating to an investigation of violations of the lobbying compensation reporting laws for the executive branch or the Constitution Revision Commission.

Current law provides a public records exemption for records held by the legislative branch of government which, if held by an agency would be confidential or exempt from public records requirements.[1] As such, the public records exemption created by this bill also applies to the same type of record held by the Legislature. Therefore, similar records of the Legislative Auditing Committee are exempt from public records requirements.

HB 65B creates a public meetings exemption for meetings of the Commission on Ethics at which confidential and exempt audit or investigative information regarding a lobbying firm is discussed.

Such records and meetings are closed to the public until the:

- Lobbying firm requests in writing that the records or meetings be made public; or
- Commission on Ethics determines there is probable cause that the audit reflects a substantial violation of the reporting laws.

The bill provides for repeal of the exemption on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity and a contingent effective date.

C. SECTION DIRECTORY:

Section 1 amends s. 112.3215, F.S., creating a public records and public meetings exemption for audit and investigative information regarding a lobbying firm.

Section 2 provides a statement of public necessity.

Section 3 provides a contingent effective date.

[1] Section 11.0431(2)(a), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. The bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

   The public records law in general creates an increase in government spending. Government employees must locate requested records, and must examine every requested record to determine if a public records exemption prohibits release of the record. There is likely no marginal fiscal impact to a single public records exemption; the location and examination process remains whether or not a particular public records exemption exists.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None. The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   None. The bill does not create, modify, amend, or eliminate a local expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. This bill does not affect persons in the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenue.

2. Other:

   Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, the bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records and Public Meetings Laws

Article I, s. 24(a), Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record

of the legislative, executive, and judicial branches of government. Article I, s. 24(b), Florida Constitution sets forth the state's public policy regarding access to government meetings. The section requires all meetings of the executive branch and local government be open and noticed to the public.

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24, Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records and meetings also is addressed in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record, and s. 286.011, F.S., requires that all state, county, or municipal meetings be open and noticed to the public. Furthermore, the Open Government Sunset Review Act[2] provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes: 1. Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption; 2. Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or, 3. Protecting trade or business secrets.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.

[2] Section 119.15, F.S.

1 A bill to be entitled
2 An act relating to public records and public meetings
3 exemptions for lobbying; amending s. 112.3215, F.S.;
4 creating a public records exemption for records relating
5 to an audit of a lobbying firm lobbying the executive
6 branch or the Constitution Revision Commission or an
7 investigation of violations of the lobbying compensation
8 reporting laws for the executive branch or the
9 Constitution Revision Commission; creating a public
10 meetings exemption for discussions of such records;
11 providing for release of the records under specified
12 conditions; providing for future legislative review and
13 repeal of the exemptions; providing a statement of public
14 necessity; providing a contingent effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Paragraph (d) is added to subsection (8) of
19 section 112.3215, Florida Statutes, as amended by House Bill
20 63B, 2005 Special Session B, or similar legislation adopted in
21 the same legislative session or an extension thereof, to read:
22 112.3215 Lobbying before the executive branch or the
23 Constitution Revision Commission; registration and reporting;
24 investigation by commission.--
25 (8)
26 <u>(d) Records relating to an audit conducted pursuant to</u>
27 <u>this section or an investigation conducted pursuant to this</u>
28 <u>section or s. 112.32155 are confidential and exempt from s.</u>

29 119.07(1) and s. 24(a), Art. I of the State Constitution, and
30 any meetings held pursuant to such an investigation or at which
31 such an audit is discussed are exempt from s. 286.011(1) and s.
32 24(b), Art. I of the State Constitution either until the
33 lobbying firm requests in writing that such investigation and
34 associated records and meetings be made public or until the
35 commission determines there is probable cause that the audit
36 reflects a substantial violation of the reporting laws. This
37 paragraph is subject to the Open Government Sunset Review Act in
38 accordance with s. 119.15 and shall stand repealed on October 2,
39 2011, unless reviewed and saved from repeal through reenactment
40 by the Legislature.
41 Section 2. The Legislature finds that it is a public
42 necessity that records relating to an audit of a lobbying firm
43 lobbying the executive branch or the Constitution Revision
44 Commission or an investigation of violations of the lobbying
45 compensation reporting laws for the executive branch or the
46 Constitution Revision Commission be made confidential and exempt
47 from public records requirements and that meetings held pursuant
48 to such an investigation or at which such an audit is discussed
49 be made exempt from public meetings requirements until the
50 alleged violator requests in writing that such associated
51 records be made public or the Commission on Ethics determines
52 that the audit reflects a substantial violation of the reporting
53 laws. The disclosure of such records could substantially injure
54 a lobbying firm in the marketplace by providing its competitors
55 with detailed insights into the financial status of the firm,
56 thereby diminishing the advantage that the lobbying firm

57 maintains over those who do not possess such records. Disclosure
58 would create an economic disadvantage for the lobbying firm. In
59 addition, the public release of such records through either a
60 public records request or a public meeting could cause
61 unwarranted damage to the good name and business reputation of a
62 lobbying firm if a substantial violation of the reporting laws
63 is found not to exist. Further, making such records available to
64 the public could encumber the commission's ongoing investigation
65 and its ability to gather pertinent information crucial to
66 determining whether a violation of the executive lobbying
67 compensation reporting laws exists. The harm to a lobbying firm
68 in the marketplace and to the effective administration of the
69 investigation and audit processes caused by the public
70 disclosure of such records far outweighs the public benefits
71 derived from its release.
72 Section 3. This act shall take effect on January 1, 2006,
73 if House Bill 63B or similar legislation is adopted in the same
74 legislative session or an extension thereof and becomes law.