

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 89

Short Title: Ethics/Lobbying.

(Public)

Sponsors: Representatives Jones; Black, Bowman, Cooper, J.W. Crawford, Creech, Diamont, Fletcher, Gist, Gottovi, Grady, Green, Greenwood, Hensley, Howard, Hurley, Jordan, Luebke, Michaux, Payne, Pope, Privette, Russell, Stamey, Warner, Wicker, Withrow, and Wood.

Referred to: Ethics.

February 18, 1991

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

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

PART II .....NO FUND-RAISING IN SESSION FROM LOBBYISTS.

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

11 The General Assembly of North Carolina enacts:

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

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

**"ARTICLE 9A.  
"LOBBYING.**

**"§ 120-47.1. Definitions.**

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

- (1) The terms 'contribution,' 'compensation' and 'expenditure' mean any advance, conveyance, deposit, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge or anything of value and any contract, agreement, promise or other obligation whether or not legally enforceable.
- (2) ~~The term "legislative agent" shall mean any person who is employed or retained, with compensation, by another person to give facts or arguments to any member of the General Assembly during any regular or special session thereof upon or concerning any bill, resolution, amendment, report or claim pending or to be introduced. The term "legislative agent" shall include, but not be limited to, corporate officers and directors and other individuals who are full or part time employees of other persons and whose duties or activities as legislative agents, as hereinbefore defined, are incidental to the principal purposes for which they are employed or retained. The reimbursement of actual personal travel and subsistence expenses reasonably necessary to communicate with a member or members of the General Assembly shall not be considered compensation for purposes of determining whether a person is a legislative agent under this subdivision. The term 'legislative action' means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature or by a member or employee of the legislature acting or purporting to act in an official capacity.~~
- (3) The term 'legislative official' includes:
  - a. A member or member-elect of either house of the General Assembly;
  - b. A member of a commission or other entity established by and responsible to either house, or both houses, of the General Assembly; or
  - c. A legislative employee.
- (4) The term 'lobbying' means:
  - a. Influencing or attempting to influence legislative action through oral or written communication;

- 1                   b.     Solicitation of others to influence legislative action; or  
 2                   c.     An attempt to obtain the goodwill of a legislative official.  
 3           (5)     The term 'lobbyist' means a person who:  
 4                   a.     Is employed and receives compensation, or who contracts for  
 5                         economic consideration, including reimbursement for  
 6                         reasonable travel and living expenses, for the purpose of  
 7                         lobbying;  
 8                   b.     Represents an organization, association, or other group and  
 9                         receives compensation, including reimbursement for reasonable  
 10                         travel and living expenses, for the purpose of lobbying;  
 11                   c.     Is a person who has a pecuniary interest in legislative action; or  
 12                   d.     Is a public official or public employee who lobbies.  
 13           (6)     The term 'lobbyist's principal' means the entity in whose behalf the  
 14                         lobbyist influences or attempts to influence legislative action.  
 15           (3)(7)    The term 'person' means any individual, firm, partnership, committee,  
 16                         association, corporation or any other organization or group of persons.

17 **"§ 120-47.2. Registration procedure.**

18     (a)   ~~In each General Assembly session and for each employer, or retainer, every~~  
 19 ~~person employed or retained as a legislative agent in this State shall, before engaging in~~  
 20 ~~any activities as a legislative agent, register with the Secretary of State. A lobbyist shall~~  
 21 ~~file a registration statement with the Secretary of State before engaging in any lobbying,~~  
 22 ~~but no later than 30 days after being employed, appointed, or retained as a lobbyist. A~~  
 23 ~~separate registration statement is required for each lobbyist's principal. If a corporation,~~  
 24 ~~or partnership, committee, association, or any other organization or group of persons~~  
 25 ~~registers as a lobbyist, then it shall identify each person who will act as a lobbyist on its~~  
 26 ~~behalf is employed or retained as a legislative counsel and more than one partner,~~  
 27 ~~employee or officer of the corporation or partnership, shall act as a legislative agent on~~  
 28 ~~behalf of the client, then the additional individuals shall be separately listed on the~~  
 29 ~~registration under subsection (b), and a fee in the same amount as imposed by G.S. 120-~~  
 30 ~~47.3 shall be due for each such individual person in excess of one.~~

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

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

40     (d)   Within 20 days after the convening of each session of the General Assembly,  
 41 the Secretary of State shall furnish each member of the General Assembly and the State  
 42 Legislative Library a list of all persons who have registered as a ~~legislative agent~~  
 43 lobbyists and whom they represent. A supplemental list shall be furnished periodically  
 44 each 20 days thereafter as the session progresses.

1 (e) Each lobbyist who ceases to engage in lobbying requiring him to register  
2 under this section shall file a written statement with the Secretary of State  
3 acknowledging the termination of lobbying. The written statement of termination is  
4 effective immediately. Each lobbyist who files a written statement of termination shall  
5 file reports required by this Article for any reporting period during which he was  
6 registered as a lobbyist.

7 (f) After his initial registration, a lobbyist shall register annually with the  
8 Secretary of State by January fifteenth of each year.

9 **"§ 120-47.3. Registration fee.**

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

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

22 **"§ 120-47.4. Written authority from employer lobbyist's principal to be filed; copy**  
23 **for legislative committee.**

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

27 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

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

32 (b) No person shall attempt to influence the action of any member of the General  
33 Assembly by the promise of financial support of his candidacy, or by threat of financial  
34 contribution in opposition to his candidacy in any future election.

35 **"§ 120-47.6. Statements of legislative agent's lobbyist's lobbying expenses required.**

36 (a) ~~Each legislative agent shall file annually, within 30 days after the final~~  
37 ~~adjournment of the regular session of the General Assembly held in a calendar year, a~~  
38 ~~report~~ Each lobbyist shall file quarterly expense reports on March 31, June 30,  
39 September 30, and December 31 with respect to each person represented. In addition to  
40 the quarterly expense reports, each lobbyist shall file monthly expense reports for each  
41 month or portion of a month that the General Assembly is in session with respect to  
42 each lobbyist's principal.

43 (b) Each expense report shall set setting forth the date, to whom paid, name of  
44 any legislator who benefitted from, and amount of each expenditure made during the

1 previous ~~year-reporting period~~ in connection with ~~promoting or opposing any legislation in~~  
2 ~~any manner covered by this Article~~ lobbying, in each of the following categories: (1)  
3 transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash  
4 equivalent value of more than twenty-five dollars (\$25.00) and (6) contributions made,  
5 paid, incurred or promised, directly or indirectly. It shall not be necessary to report  
6 expenditures in a particular category if the total amount expended during the reporting  
7 period in the particular category on behalf of a ~~person represented~~ lobbyist's principal is  
8 twenty-five dollars (\$25.00) or less. A report shall be filed ~~annually~~ quarterly and  
9 monthly when the General Assembly is in session whether or not contributions or  
10 expenditures are made during the reporting period.

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

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

24 "**§ 120-47.7. Statements of ~~employer~~ lobbyist's principal lobbying expenses**  
25 **required.**

26 (a) ~~Each person who employs or retains a legislative agent shall file annually,~~  
27 ~~within 30 days after the final adjournment of the regular session of the General~~  
28 ~~Assembly held in a calendar year, a report~~ Each lobbyist's principal shall file quarterly  
29 expense reports on March 31, June 30, September 30, and December 31 with respect to  
30 each ~~agent~~ lobbyist employed or retained. In addition to the quarterly expense reports,  
31 each lobbyist's principal shall file monthly expense reports for each month or portion of  
32 a month that the General Assembly is in session with respect to each lobbyist employed  
33 or retained.

34 (b) Each expense report shall set ~~setting~~ forth the date, to whom paid, name of  
35 any legislator who benefitted from, and amount of each expenditure made during the  
36 previous ~~year-reporting period~~ in connection with ~~promoting or opposing any legislation in~~  
37 ~~any manner covered by this Article~~ lobbying, in each of the following categories: (1)  
38 transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash  
39 equivalent value of more than twenty-five dollars (\$25.00), (6) contributions made,  
40 paid, incurred or promised, directly or indirectly, and (7) compensation to ~~legislative~~  
41 ~~agents~~ lobbyists. It shall not be necessary to report expenditures in any particular  
42 category if the total amount expended during the reporting period in the particular  
43 category on behalf of a ~~person represented~~ lobbyist's principal is twenty-five dollars  
44 (\$25.00) or less. In the category of compensation to ~~legislative agents~~ it shall not be

1 ~~necessary to report the full salary, or any portion thereof, of a legislative agent who is a full-~~  
2 ~~time employee of or is annually retained by the reporting employer a lobbyist, it shall be~~  
3 ~~necessary to report the portion of compensation made in connection with the lobbyist's~~  
4 ~~lobbying activities.~~ A report shall be filed ~~annually~~ whether or not payments are made  
5 ~~during the reporting period.~~

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

8 (d) ~~When an employer or retainer of a legislative agent a lobbyist's principal fails to~~  
9 ~~file a lobbying expense report as required herein, the Secretary of State shall send a~~  
10 ~~certified or registered letter advising the employer or retainer lobbyist's principal of his~~  
11 ~~delinquency and the penalties provided by law. Within 20 days of the receipt of such~~  
12 ~~letter, the employer or retainer lobbyist's principal shall deliver or post by United States~~  
13 ~~mail to the Secretary of State the required report and a late filing fee of ten dollars~~  
14 ~~(\$10.00). Filing of the required report and payment of the late fee within the time~~  
15 ~~extended shall constitute compliance with this section.~~

16 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

- 18 (1) ~~An individual, not acting as a legislative agent, solely engaged in~~  
19 ~~expressing a personal opinion on legislative matters to his own~~  
20 ~~legislative delegation or other members of the General Assembly. An~~  
21 ~~individual:~~  
22 a. Who represents only the individual;  
23 b. Who purports to represent only the individual; and  
24 c. Who receives no compensation or anything of value for  
25 lobbying.
- 26 (2) A person appearing before a legislative committee at the invitation or  
27 request of the committee or a member thereof and who engages in no  
28 further activities as a ~~legislative agent lobbyist~~ in connection with that  
29 or any other legislative matter.
- 30 (3) A duly elected or appointed official or employee of the State, the  
31 United States, a county, municipality, school district or other  
32 governmental agency, when appearing solely in connection with  
33 matters pertaining to his office and public duties.
- 34 (4) A person performing professional services in drafting bills or in  
35 advising and rendering opinions to clients as to the construction and  
36 effect of proposed or pending legislation where such professional  
37 services are not otherwise, directly or indirectly, connected with  
38 legislative action.
- 39 (5) A person who owns, publishes or is employed by any news medium  
40 while engaged in the acquisition or dissemination of news on behalf of  
41 such news medium.
- 42 (6) Notwithstanding the persons exempted in this section, the Governor,  
43 Council of State, and all appointed heads of State departments,  
44 agencies and institutions, shall designate all authorized official

1 legislative liaison personnel and shall file and maintain current lists of  
 2 designated legislative liaison personnel with the Secretary of State and  
 3 shall likewise file with the Secretary of State a full and accurate  
 4 accounting of all money expended in influencing or attempting to  
 5 influence legislation, other than the salaries of regular full-time  
 6 employees.

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

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

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

13 **"§ 120-47.9. Punishment for violation.**

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

20 **"§ 120-47.10. Enforcement of Article by Attorney General.**

21 The Secretary of State shall report apparent violations of this Article to the Attorney  
 22 General. The Attorney General shall, upon complaint made to him of violations of this  
 23 Article, make an appropriate investigation thereof, and he shall forward a copy of the  
 24 investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-  
 25 60 of which Wake County is a part, who shall prosecute any person who violates any  
 26 provisions of this Article."

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

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

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

31 **"§ 163-278.13A. No fund-raising from lobbyists for legislators or Council of State**  
 32 **members while General Assembly is in regular session.**

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

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

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

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

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

43 (c) This section does not apply to:

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

13          (d) A violation of this section is a misdemeanor, but no individual or person shall  
14          be prosecuted under this section for accepting a contribution unless that individual or  
15          person has been notified by the State Board of Elections of the apparent violation and  
16          been given an opportunity to return a contribution or to request that it be returned.

17          (e) For purposes of this section, the General Assembly is not in regular session:

- 18               (1) After it has adjourned **sine die**; or  
19               (2) After it has recessed or adjourned for more than 10 days but before it  
20               has reconvened."

### 21                       **PART III – TWO-YEAR WAIT BEFORE LOBBYING.**

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

24               "**§ 120-47.5A. Waiting period before ex-officials may lobby.**

25               Notwithstanding the provisions of G.S. 120-47.8, no individual may be employed or  
26               retained or may act as a lobbyist within two years after having served as a member or  
27               presiding officer of either house of the General Assembly, as a member of the Council  
28               of State, as the principal head of any department listed in G.S. 143B-6(1) through (9),  
29               or as a State employee whose annual compensation exceeds twenty-five thousand  
30               dollars (\$25,000)."

31               Sec. 4. This act becomes effective January 1, 1993. Section 3 shall apply only  
32               to individuals who leave office or State employment after January 1, 1993.