

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 262\*  
Committee Substitute Favorable 5/10/93

Short Title: Amend Lobbyist Law.

(Public)

Sponsors:

Referred to:

February 25, 1993

A BILL TO BE ENTITLED  
AN ACT TO REQUIRE REGISTERED LOBBYISTS TO REPORT EXPENDITURES  
MADE TO INFLUENCE OR SOLICIT OTHERS TO INFLUENCE ACTIONS OF  
EXECUTIVE BRANCH AGENCIES AT THE SAME TIME THAT THE  
LOBBYISTS REPORT EXPENDITURES TO INFLUENCE LEGISLATIVE  
ACTIONS, TO MAKE OTHER CLARIFYING AMENDMENTS TO THE  
LOBBYING LAW, AND TO MAKE AN APPROPRIATION THEREFOR.

The General Assembly of North Carolina enacts:

Section 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~~  
Contribution, compensation and expenditure. – 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, but those terms do not include prizes, awards, or  
compensation not exceeding one hundred dollars (\$100.00) in a  
calendar year.

- 1           (1a) Executive Action. – The proposal, drafting, development,  
2           consideration, amendment, adoption, approval, issuance, modification,  
3           rejection, or postponement of a rule or an executive order, except a  
4           memorializing, celebration, commendation executive order; or the  
5           proposal, drafting, development, consideration, amendment, approval,  
6           disapproval or support of a bill, resolution, amendment, motion, report,  
7           nomination, appointment, or other matter before the General Assembly  
8           or to be placed before the General Assembly by a State agency, or by  
9           an officer of a State agency.
- 10          (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 11          (4) ~~The term 'legislative action' means the~~ Legislative Action. – The  
12          preparation, research, drafting, introduction, consideration,  
13          modification, amendment, approval, passage, enactment, tabling,  
14          postponement, defeat, or rejection of a bill, resolution, amendment,  
15          motion, report, nomination, appointment, or other matter by the  
16          legislature or by a member or ~~employee of the legislature~~ a legislative  
17          employee acting or purporting to act in an official capacity.
- 18          (4a) Legislative Employee. – Employees and officers of the General  
19          Assembly, and the following individuals, if paid by State funds,  
20          consultants and counsel to members and committees of either house of  
21          the General Assembly or of legislative committees or commissions.
- 22          (5) ~~The term 'lobbying' means:~~ Lobbying. – The term includes:  
23          a.       Influencing or attempting to influence legislative action through  
24          ~~direct oral or written~~ oral, written, or electronic communication  
25          with a member of the ~~General Assembly;~~ Assembly or a  
26          legislative employee; or  
27          b.       Solicitation of others by lobbyists to influence legislative  
28          action.
- 29          (6) ~~The term 'lobbyist' means an~~ Lobbyist. – An individual who:  
30          a.       Is employed and receives compensation, or who contracts for  
31          ~~economic consideration,~~ compensation, for the purpose of  
32          lobbying; or  
33          b.       Represents another person and receives compensation for the  
34          purpose of lobbying.  
35          The term 'lobbyist' shall not include those individuals who are  
36          specifically exempted from this Article by G.S. 120-47.8. For  
37          the purpose of determining whether an individual is a lobbyist  
38          under this subdivision, reimbursement of actual travel and  
39          subsistence expenses shall not be considered compensation;  
40          provided, however, that reimbursement in the ordinary course  
41          of business of these expenses shall be considered compensation  
42          if a significant part of the individual's duties involve lobbying  
43          before the General Assembly.

- 1           (7)    ~~The terms 'lobbyist's principal' and 'principal' mean the entity in whose~~  
2           ~~behalf the lobbyist influences or attempts to influence legislative~~  
3           ~~action.~~ Principal. – The person whom the lobbyist represents or on  
4           whose behalf the lobbyist lobbies.
- 5           (8)    ~~The term 'person' means any~~ Person. – Any individual, firm, partnership,  
6           committee, association, corporation, or any other organization or group  
7           of persons.
- 8           (9)    ~~The General Assembly is in 'regular session' from the date set by law or~~  
9           ~~resolution that the General Assembly convenes~~ Regular Session. – The  
10           period of time between the date set by the General Assembly on which  
11           it shall convene until the General Assembly either:  
12           a.     Adjourns **sine die**; or  
13           b.     Recesses or adjourns for more than 10 days.
- 14          (10) Rule. – Any State agency regulation, standard, or statement of general  
15           applicability that implements or interprets an enactment of the General  
16           Assembly or Congress or a regulation adopted by a federal agency or  
17           that describes the procedure or practice requirements of an agency.  
18           The term includes the establishment of a fee and the amendment or  
19           repeal of a prior rule. The term does not include the following:  
20           a.     Statements concerning only the internal management of an  
21           agency or group of agencies within the same principal office or  
22           department enumerated in G.S. 143A-11 or G.S. 143B-6,  
23           including policies and procedures manuals, if the statement  
24           does not directly or substantially affect the procedural or  
25           substantive rights or duties of a person not employed by the  
26           agency or group of agencies.  
27           b.     Budgets and budget policies and procedures issued by the  
28           Director of the Budget, by the head of a department, as defined  
29           by G.S. 143A-2 or G.S. 143B-3, by an occupational licensing  
30           board, as defined by G.S. 93B-1, or by the State Board of  
31           Elections.  
32           c.     Nonbinding interpretative statements within the delegated  
33           authority of an agency that merely define, interpret, or explain  
34           the meaning of a statute or rule.  
35           d.     A form, the contents or substantive requirements of which are  
36           prescribed by rule or statute.  
37           e.     Statements of agency policy made in the context of another  
38           proceeding, including:  
39           1.     Declaratory rulings under G.S. 150B-4.  
40           2.     Orders establishing or fixing rates or tariffs.  
41           f.     Requirements, communicated to the public by the use of signs  
42           or symbols, concerning the use of public roads, bridges, ferries,  
43           buildings, or facilities.

- 1           g.     Statements that set forth criteria or guidelines to be used by the  
2                 staff of an agency in performing audits, investigations, or  
3                 inspections; in settling financial disputes or negotiating  
4                 financial arrangements; or in the defense, prosecution, or  
5                 settlement of cases.
- 6           h.     Scientific, architectural, or engineering standards, forms, or  
7                 procedures, including design criteria and construction standards  
8                 used to construct or maintain highways, bridges, or ferries.
- 9           i.     Job classification standards, job qualifications, and salaries  
10                established for positions under the jurisdiction of the State  
11                Personnel Commission.
- 12           j.     Establishment of the interest rate that applies to tax assessments  
13                under G.S. 105-241.1 and the variable component of the excise  
14                tax on motor fuel under G.S. 105-434.
- 15       (11) State Agency. – An agency, board, commission, committee,  
16            department, office, or other body of the executive branch of State  
17            government, but shall not include the Utilities Commission, its  
18            employees, or its Public Staff.

19 **"§ 120-47.2. Registration procedure.**

20       (a) A lobbyist shall file a registration statement with the Secretary of State before  
21 engaging in any lobbying. A separate registration statement is required for each  
22 lobbyist's principal.

23       (b) The form of the registration shall be prescribed by the Secretary of State and  
24 shall include the registrant's full name, firm, and complete address; the registrant's place  
25 of business; the full name and complete address of each person by whom the registrant  
26 is employed or retained; and a general description of the matters on which the registrant  
27 expects to act as a lobbyist.

28       (c) Each lobbyist shall register again with the Secretary of State no later than 10  
29 days after any change in the information supplied in his last registration under  
30 subsection ~~(b)~~-(b) of this section. Each supplementary registration shall include a  
31 complete statement of the information that has changed.

32       (d) Within 20 days after the convening of each session of the General Assembly,  
33 the Secretary of State shall furnish each member of the General Assembly and the State  
34 Legislative Library a list of all persons who have registered as lobbyists and whom they  
35 represent. A supplemental list shall be furnished periodically each 20 days thereafter as  
36 the session progresses.

37       (e) Each registration statement required under this Article shall be effective from  
38 the date of filing until January 1 of the following odd-numbered year. The lobbyist  
39 shall file a new registration statement after that date, and the applicable fee shall be due  
40 and payable.

41 **"§ 120-47.3. Registration fee.**

42       Every lobbyist's principal shall pay to the Secretary of State a fee of seventy-five  
43 dollars (\$75.00) which fee shall be due and payable by either the lobbyist or the  
44 lobbyist's principal at the time of registration.

1 A separate registration, together with a separate registration fee of seventy-five  
2 dollars (\$75.00), shall be required for each lobbyist's principal for which a person acts  
3 as a lobbyist. Fees so collected shall be deposited in the General Fund of the State.

4 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

5 Each lobbyist shall file with the Secretary of State within 10 days after his  
6 registration a written authorization to act as such, signed by the lobbyist's principal.

7 **"§ 120-47.5. Contingency lobbying and influencing fees, fees, and election influence**  
8 **prohibited.**

9 (a) No person shall act as a lobbyist for compensation which is dependent in any  
10 manner upon the passage or defeat of any proposed legislation or upon any other  
11 contingency connected with any action of the General Assembly, the House, the Senate  
12 or any ~~committee thereof~~ legislative standing committee or subcommittee, or legislative  
13 study commission or committee. No person shall agree to attempt or attempt to  
14 influence any executive action for compensation which is dependent in any manner  
15 upon the outcome of the executive action.

16 (b) No person shall attempt to influence the action of any member of the General  
17 Assembly or the executive action of any officer or employee of the executive branch of  
18 State government by the promise of financial support of the ~~member's~~ member's,  
19 officer's, or employee's candidacy, or by threat of financial contribution in opposition to  
20 the ~~member's~~ member's, officer's, or employee's candidacy in any future election.

21 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

22 (a) Each lobbyist shall file an expense report with the Secretary of State with  
23 respect to each principal ~~within 60 days after the last day of the regular session~~ no later than  
24 September 30 of each year. This expense report shall include all expenditures made  
25 between January 1 and ~~the last day of the regular session~~ July 31 of that year. The  
26 lobbyist shall file a supplemental report including all expenditures made ~~after the last day~~  
27 ~~of the regular session, but during the calendar year,~~ between August 1 and December 31 by  
28 February 28 of the following year. The lobbyist shall file both expense reports whether  
29 or not expenditures are made.

30 (a1) In addition to disclosure of lobbying expenditures, the lobbyist shall set forth  
31 in the expense reports required by subsection (b) of this section each expenditure, by the  
32 lobbyist and, in the case of the firm of a lobbyist, the partner, or employee of that firm,  
33 made influencing or attempting to influence or soliciting others to influence executive  
34 action through direct oral, written, or electronic communications with an officer of a  
35 State agency who is authorized by law to adopt a rule or amend a rule, or to participate  
36 in the adoption or amendment of a rule by vote of the body of which the officer is a  
37 member, or who is designated by the State agency head as an official legislative liaison  
38 authorized to represent the agency before the General Assembly.

39 (b) Each expense report shall set forth the date of each expenditure, to whom  
40 paid, the name of any legislator or any officer of a State agency who benefitted from  
41 each expenditure, and the amount of each expenditure made during the previous  
42 reporting period in connection with lobbying, in each of the following categories: (1)  
43 transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash  
44 equivalent value of more than ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00) and (6)

1 contributions made, ~~paid, incurred or promised,~~ directly or indirectly. It shall not be  
2 necessary to report ~~expenditures of twenty-five dollars (\$25.00) or less, nor shall it be~~  
3 ~~necessary to report any expenditures made in connection with the attendance of a~~  
4 legislator or an officer of a State agency at any fund-raising function ~~or event~~ sponsored  
5 by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more than 10  
6 members of the General Assembly benefitted or were invited to benefit from an  
7 expenditure, the lobbyist shall not be required to report the name of any legislator, but  
8 shall be required to report the number of legislators ~~or,~~ and, with particularity, the basis  
9 for their selection. The lobbyist shall retain the records corroborating the expenditures  
10 reported under this subsection for a period of three years after the filing deadline for  
11 each report.

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

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

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

25 (a) Each lobbyist's principal shall file an expense report with the Secretary of  
26 State ~~within 60 days after the last day of the regular session, no later than September 30 of~~  
27 each year. This expense report shall include all expenditures made between January 1  
28 and ~~the last day of the regular session, July 31 of that year.~~ The principal shall file a  
29 supplemental expense report, including all expenditures made ~~after the last day of the~~  
30 regular session, but during the calendar year, between August 1 and December 31 by  
31 February 28 of the following year. The principal shall file both expense reports whether  
32 or not expenditures are made during a reporting period.

33 (a1) In addition to disclosure of lobbying expenditures, the lobbyist's principal  
34 shall set forth in the expense reports required by subsection (b) of this section, each  
35 expenditure by the lobbyist and, in the case of the firm of a lobbyist, the partner, or  
36 employee of that firm, made influencing or attempting to influence or soliciting others  
37 to influence executive action through direct oral, written, or electronic communications  
38 with an officer of a State agency who is authorized by law to adopt a rule or amend a  
39 rule, or to participate in the adoption or amendment of a rule by vote of the body of  
40 which the officer is a member, or who is designated by the State agency head as an  
41 official legislative liaison authorized to represent the agency before the General  
42 Assembly.

43 (b) Each expense report shall set forth the name and address of each lobbyist  
44 employed, appointed, or retained by the lobbyist's principal, the date of each

1 expenditure made, to whom paid, name of any legislator or any officer of a State agency  
2 who benefitted from each expenditure, and amount of each expenditure made during the  
3 previous reporting period in connection with lobbying, in each of the following  
4 categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item  
5 having a cash equivalent value of more than ~~twenty-five dollars (\$25.00),~~ fifty dollars  
6 (\$50.00), (6) contributions made, ~~paid, incurred or promised,~~ directly or indirectly, and (7)  
7 compensation to lobbyists in connection with their lobbying ~~activities.~~ activities and  
8 their activities specified in subsection (a1) of this section. It shall not be necessary to  
9 report ~~expenditures of twenty-five dollars (\$25.00) or less, nor shall it be necessary to report~~  
10 any expenditures made in connection with the attendance of a legislator or an officer of  
11 a State agency at any fund-raising function ~~or event~~ sponsored by a nonprofit  
12 organization qualified under 26 U.S.C. § 501(c). When more than 10 members of the  
13 General Assembly benefitted or were invited to benefit from an expenditure, the  
14 principal shall not be required to report the name of any legislator, but shall be required  
15 to report the number of legislators ~~or and,~~ with particularity, the basis for their selection.  
16 In the category of compensation to lobbyists the principal shall estimate and report the  
17 compensation paid or promised directly or indirectly, to all lobbyists based on the  
18 estimated time, effort and expense in connection with lobbying activities on behalf of  
19 the principal. If a lobbyist is a full-time employee of the principal, or is compensated by  
20 means of an annual fee or retainer, the principal shall estimate and report the portion of  
21 all such lobbyists' salaries or retainers that compensate the lobbyists for ~~lobbying.~~  
22 lobbying activities and those activities specified in subsection (a1) of this section. The  
23 principal shall designate on the report the amounts paid in reimbursement of  
24 expenditures made on behalf of the principal by each lobbyist. The principal shall  
25 retain records corroborating the expenditures reported under this subsection for a period  
26 of three years after the filing deadline for each report.

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

29 (d) When a lobbyist's principal fails to file a lobbying expense report as required  
30 herein, the Secretary of State shall send a certified or registered letter advising the  
31 lobbyist's principal of the delinquency and the penalties provided by law. Within 20  
32 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United  
33 States mail to the Secretary of State the required report and a late filing fee of ten  
34 dollars (\$10.00). Filing of the required report and payment of the late fee within the  
35 time extended shall constitute compliance with this section.

36 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

38 (1) An individual, not acting as a lobbyist, solely engaged in expressing a  
39 personal opinion on legislative ~~matters to his own legislative delegation or~~  
40 ~~other members of the General Assembly.~~ action to members of the  
41 General Assembly or legislative employees.

42 (2) A person appearing before a legislative committee at the  
43 invitation or request of the committee or a member thereof and who

- 1 engages in no further activities as a lobbyist in connection with that  
2 or any other legislative ~~matter-action~~.
- 3 (3) a. A duly elected or appointed official or employee of the State, the  
4 United States, a county, municipality, school district or other  
5 governmental agency, when appearing solely in connection with  
6 matters pertaining to his office and public duties.
- 7 b. Notwithstanding the persons exempted in this Article, the  
8 Governor, Council of State, and all appointed heads of State  
9 departments, agencies and institutions, shall designate all  
10 authorized official legislative liaison personnel and shall file  
11 and maintain current lists of designated legislative liaison  
12 personnel with the Secretary of State ~~and shall likewise State~~.  
13 Each designated legislative liaison shall file with the Secretary  
14 of State a full and accurate accounting of all money expended on  
15 lobbying, other than the salaries of regular full-time employees, at  
16 the same times lobbyists are required to file expense reports under  
17 G.S. 120-47.5. expense reports, at the same times and for the  
18 same periods that a lobbyist is required to file expense reports  
19 under G.S.120-47.6. The expense report shall set forth the date  
20 of each expenditure made in connection in performing his or  
21 her duty as legislative liaison, to whom paid, the name of any  
22 legislator who benefited from each expenditure, and the amount  
23 of each expenditure made during the previous reporting period  
24 in connection with the duty of legislative liaison in each of the  
25 following categories (1) transportation, (2) lodging, (3)  
26 entertainment, (4) food, (5) any item having a cash equivalent  
27 value of more than fifty dollars (\$50.00), and (6) that portion of  
28 the legislative liaison's compensation attributable to the duties  
29 of legislative liaison. When more than 10 members of the  
30 General Assembly benefitted or were invited to benefit from an  
31 expenditure, the legislative liaison shall not be required to  
32 report the name of any legislator, but shall be required to report  
33 the number of legislators and, with particularity, the basis of  
34 their selection.
- 35 (4) A person performing professional services in drafting bills or in  
36 advising and rendering opinions to clients, or to legislators on behalf  
37 of clients, as to the construction and effect of proposed or pending  
38 legislation or executive action where the professional services are not  
39 otherwise, directly or indirectly, connected with legislative ~~action-~~  
40 action or executive action.
- 41 (5) A person who owns, publishes or is employed by any news medium  
42 while engaged in the acquisition or dissemination of news on behalf of  
43 the news medium.
- 44 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.



- 1 (7) Members of the General ~~Assembly.~~ Assembly and legislative  
2 employees.
- 3 (8) A person responding to inquiries from a member of the General  
4 Assembly or a legislative employee, and who engages in no further  
5 activities as a lobbyist in connection with that or any other legislative  
6 ~~matter.~~ action.
- 7 (9) An individual giving facts or recommendations pertaining to  
8 legislative ~~matters to his~~ action to the individual's own legislative  
9 delegation only.

10 **"§ 120-47.9. Punishment for violation.**

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

17 **"§ 120-47.10. Enforcement of Article by Attorney General.**

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

24 **"§ 120-47.11. Rules and forms.**

25 The Secretary of State shall make, amend, and rescind any rules, orders, forms, and  
26 definitions as are necessary to carry out ~~the provisions of this Article.~~ this Article to  
27 effectively protect the public interest from undue influence in the governmental  
28 processes of the State."

29 Sec. 2. In addition to other funds appropriated to the Office of the Secretary  
30 of State, there is appropriated from the General Fund to the Office of the Secretary of  
31 State for the 1993-94 fiscal year the sum of sixty-five thousand two hundred thirty-nine  
32 dollars (\$65,239); and for the 1994-95 fiscal year the sum of fifty-eight thousand five  
33 hundred thirty-nine dollars (\$58,539) to administer Article 9A, Lobbying, of Chapter  
34 120 of the General Statutes.

35 Sec. 3. This act becomes effective January 1, 1994.