THE LOUISIANA CODE OF GOVERNMENTAL ETHICS & THE LOBBYIST DISCLOSURE ACTS

Mandatory Training

LSA-R.S. 42:1170A(4)(a)

THE LOBBYIST DISCLOSURE ACTS

Legislative Lobbyist Disclosure Act
(La. R.S. 24:50 *et seq.*)

Executive Branch Lobbyist Disclosure Act (La. R.S. 49:71 *et seq.*)

Purpose:

- to maintain the integrity of the legislative process and executive branch action in state government; and,
- to disclose to the public the identity of persons who attempt to influence the legislative process as well as executive branch officials and to keep track of the expenditures made by those persons.

What is Legislative Lobbying?

"Lobbying" or **"to lobby"** means any of the following:

- (a) any direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation;
- (b) any preparation or research specifically intended, at the time it is performed, for use in or in support of any ongoing or planned direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation, and
- (c) conducting or attending a meeting the purpose of which is to discuss direct communication with a legislator to aid in influencing the passage or defeat of any legislation.

THE LOBBYIST DISCLOSURE ACTS

A Legislative Lobbyist

- (a) any person who is employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the principal duties of such employment or engagement; (b) any person who acts in a representative capacity and makes an expenditure.
- However, "lobbyist" **shall not mean** any person who does not make any direct act or have any direct communication with a legislator for the purpose of influencing the passage or defeat of any legislation.

"Principal duty"

- any duty which is expected to account for 20% or more of a person's time in fulfilling the terms of his engagement or any duty which is expected to account for 20% or more of a person's time in any given year in performing the responsibilities of his employment.

"Expenditure"

- The gift or payment of money or any thing of value for the purchase of food, drink, or refreshment for a
  - legislator, or an
  - executive branch official for the purpose of lobbying when the lobbyist or principal accounts, or would be expected to account,
  - for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist's, his employer's, or the principal's trade or business.
- Amounts spent on spouses or minor children are also reportable "Expenditures."
- Amounts spent for legislator's travel in accordance with **LA-RS 42:1123** are also reportable expenditures.

WHAT IS EXECUTIVE BRANCH LOBBYING?

"Lobbying" or "to Lobby": means any direct act or communication with an executive branch official, the purpose of which is to aid in influencing an executive branch action.

“Executive Branch Action”

- Any act by an executive branch agency or official to effectuate the public powers, function and duties of an executive branch official or an executive branch agency.
- Any act by a licensed healthcare professional, or a person acting under a licensed healthcare professional’s direction, to diagnose, treat, or provide medical advice to an individual patient, including prescribing a drug or device for use by the patient is not an executive branch action.
- Any action by the Medicaid Pharmaceutical and Therapeutics Committee is an executive branch action.

Who is Considered an "Executive Branch Official"

- An elected official, appointed official, or an employee of an Executive Branch Agency.
- Executive branch agency means the state, any state office, department, board, commission, institution or any quasi public entity created in the Executive Branch of State Government.
- The Board has a list of all Executive Branch Agencies located on its website

Who is an Executive Branch Lobbyist?

Any person who acts in a representative capacity

and

makes an expenditure.

THE RESPONSIBILITIES OF A "REGISTERED LOBBYIST"

Registration

- A lobbyist must register with the Board as soon as possible after employment as a lobbyist; or
- As soon as possible after the first action requiring registration as a lobbyist, but no later than 5 days.

Supplemental Registration Forms

- Must be filed within 10 days of termination of employment or representation of any person, or
- As soon as possible when adding additional representation or any other changes (such as contact information).

Reporting

- Lobbying Expenditure Reports <u>MUST</u> be filed monthly. Reports are due on the 25th of every subsequent month.

Penalties for Non-Compliance

Late fees of $50 per day, up to maximum of $1500:

~Failure to Register or timely Register, or failure to timely file any Expenditure Report:

A report is considered timely filed when it is hand-delivered, faxed, mailed, deposited for delivery with a commercial delivery service, or electronically filed on or before the due date. Failure to renew your lobbyist registration each year results in automatic termination.

~Penalties may also be imposed for the failure to accurately file

Up to $10,000 Penalty in addition to any late fee:

If the Registration or Report is filed 11 or more days late.

Censure by the Legislature and prohibited from lobbying for 30 days to 1 year

Void contract

LOUISIANA CODE OF GOVERNMENTAL ETHICS

- LSA – R.S. 42:1101 *et seq.* are the conflicts of interest provisions for public servants in Louisiana.
- Limits the 'expenditure' amount to be spent on a legislator or executive branch official.

THE ETHICS CODE APPLIES TO "PUBLIC SERVANTS"

Elected Officials

Public Employees

are persons in the furtherance of a governmental function whether compensated or not.

Legislators and Executive Branch Officials

are considered to be "Public Servants" and are bound by the restrictions contained in the Ethics Code.

"PROHIBITED SOURCE"

For Public Employees: (In addition to the prohibited sources listed below, the following two categories)

- A person who conducts activities which are regulated by the public employee's agency. [R.S. 42:1115B(1)]
- A person who has a substantial economic interest that can be affected by the performance or non-performance of the public employee's job duties. [R.S. 42:1115B(2)]

For Elected Officials:

- A person who has or is seeking a contractual, business, or financial arrangement with your agency. [R.S. 42:1115A(1)]
- Someone who, for compensation, attempts to influence any legislation or ordinance of the elected body.

SECTION 1115 – GIFTS

A public servant may NOT accept anything of economic value, directly or indirectly, as a gift from someone who is considered a **prohibited source**.

THING OF ECONOMIC VALUE

Means money or any *thing* having economic value.,

EXCEPT:

- Promotional items having no substantial resale value;
- Food and drink consumed while the guest of the giver;
  - $54 cap on food and drink purchased per event.
  - No cap for a gathering "in conjunction with" a meeting related to a national or regional organization or a meeting of a statewide organization of governmental officials or employees.
  - Pharmaceutical samples.
- Admission to a civic, non-profit, educational or political event if the public servant is a program honoree or speaker;
- For Legislators, food, refreshments, and lodging reasonably related to making a public speech reasonable transportation from his home, capitol, to the site of the speaking engagement. Section 1123(16).

The Giver of a Prohibited Gift
Section 1117

The giver of a prohibited gift to a public servant violates the Code of Governmental Ethics and may be subject to enforcement proceedings.

SECTION 1111 – PROHIBITED INCOME

A public employee may not render compensated services to or for a prohibited source as defined in §1115(a)(1) and (b). [R.S. 42:1111C(2)(d)]

PROHIBITIONS ON INCOME
SECTION 1111

A Public Servant may not receive:

- Anything of economic value for the performance of his official duties and responsibilities,
- other than his salary and related benefits from his governmental entity to which he is duly entitled.

Campaign Contributions:

- Campaign contributions to a legislator fall under the Campaign Finance Disclosure Act and are reportable by the candidate not the Lobbyist.
- Remember that Lobbyists may not make campaign contributions during a legislative session.

REPORTING

La. R.S. 24:50 *et seq.*

- A lobbyist must account for the name of each person by whom he is paid or is to be paid,
- the amount he is paid or is to be paid *(by category)* for the purpose of lobbying,
- and a characterization of such payment as *paid*, *earned but not received*, *or prospective* when registering with the online system.

A lobbyist must "**reasonably allocate**" his compensation and report only that amount paid to lobby.

REPORTING

- Indication of potential subject matters to be lobbied, by listed category when a lobbyist registers.
- The identity of each legislator, or executive branch official (from a list) or spouse with whom he or his employer has, or has had in the preceding 12 months, a business relationship.
  - "business relationship" means any transaction, contract, or activity that is conducted or undertaken for profit and which arises from a joint ownership interest, partnership, or common legal entity between a lobbyist or his employer and the public servant or spouse who owns 10% or more of such interest, partnership, or legal entity.

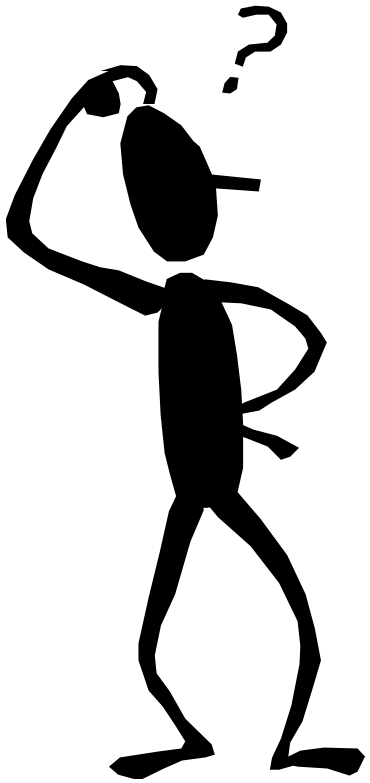
REPORTING

- Expenditure Reports include:
  - the aggregate amount of expenditures on legislators and executive branch officials by name,
  - *as well as expenditures made on the spouse and minor children of the public servant.*
- Expenditures on the staff of the legislature will also be disclosed on the reports.

REPORTING

- Filing an Expenditure Report with knowledge of its falsity is punishable by the DA as misdemeanor.
- The legislature shall publish the names of the lobbyists who have filed reports with knowledge of their falsity.
- Three year requirement for a Lobbyist to keep records that document all of the information in the reports filed.

WHERE TO GET MORE INFORMATION



- Ethics Website: www.ethics.state.la.us
- Informal Advice:

  (225) 219-5600 or (800) 842-6630