

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1606 Session of 2021

INTRODUCED BY GROVE, CUTLER, KERWIN, B. MILLER, PENNYCUICK, HAMM, KEEFER, LEWIS, C. WILLIAMS, STAMBAUGH, DIAMOND, DOWLING, SMITH, FEE, RYAN, SCHMITT, ROZZI, HELM, MIZGORSKI, HERSHEY, OWLETT, MENTZER, BERNSTINE, THOMAS, ROWE, GLEIM, SCHLEGEL CULVER, HICKERNELL AND WHEELAND, JUNE 10, 2021

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 25, 2021

AN ACT

1 Amending Title 65 (Public Officers) of the Pennsylvania
2 Consolidated Statutes, in lobbying disclosure, further
3 providing for registration, for reporting, for exemption from
4 registration and reporting, AND for administration and for <--
5 registration fees, fund established, system and regulations;
6 and making editorial changes.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definitions of "fund" and DEFINITION OF <--
10 "personnel expense" in section 13A03 of Title 65 of the
11 Pennsylvania Consolidated Statutes are IS amended to read: <--
12 § 13A03. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 * * *

17 "Fund." The Lobbying Disclosure Fund established in section <--
18 13A10(b) (relating to [redacted] fees and fund-

1 ~~established; system; regulations).~~

2 * * *

3 "Personnel expense." An expenditure for salaries or other
4 forms of compensation, benefits, vehicle allowances, bonuses and
5 reimbursable expenses paid to lobbyists, lobbying staff,
6 research and monitoring staff, consultants, publications and
7 public relations staff, technical staff, clerical and
8 administrative support staff and includes individuals who engage
9 in lobbying but are exempt from reporting under section 13A06
10 (relating to exemption from [registration and] reporting). For
11 an individual for whom lobbying is incidental to regular
12 employment, the term means a good faith prorated estimate based
13 on the value of the time devoted to lobbying.

14 * * *

15 ~~Section 2. Sections 13A04(a), 13A05, 13A06 and 13A08(f) and <--~~
16 ~~(j) of Title 65 are amended to read:~~

17 SECTION 2. SECTION 13A04(A) OF TITLE 65 IS AMENDED AND <--
18 SUBSECTION (E) IS AMENDED BY ADDING A PARAGRAPH TO READ:

19 § 13A04. Registration.

20 (a) General rule.--[Unless excluded under section 13A06
21 (relating to exemption from registration and reporting), a
22 lobbyist, lobbying firm or a principal must register with the
23 department electronically using the computerized filing system
24 developed by the department that is consistent with the purposes
25 of this chapter within ten days of acting in any capacity as a
26 lobbyist, lobbying firm or principal.] Registration shall be
27 biennial and shall begin January 1, 2007. Unless excluded under
28 section 13A06 (relating to exemption from reporting), the
29 following shall apply:

30 (1) A lobbyist, lobbying firm or a principal that is

1 registered at the end of a biennial term shall be
2 automatically registered for the next biennial term, unless a
3 notice of termination under subsection (e) is filed with the
4 department by January 10 of the next biennial term.

5 (2) A lobbyist, lobbying firm or a principal that is not
6 registered at the end of a biennial term or which has filed a
7 notice of termination under paragraph (1) or previously, must
8 register within 10 days of acting in any capacity as a
9 lobbyist, lobbying firm or a principal.

10 * * *

11 (E) TERMINATION.--

<--

12 * * *

13 (5) A LOBBYIST, LOBBYING FIRM OR PRINCIPAL MAY FILE A
14 NOTICE OF TERMINATION AT THE CONCLUSION OF THE RELATIONSHIP
15 BETWEEN A PRINCIPAL AND A LOBBYIST OR LOBBYING FIRM.

16 SECTION 3. SECTION 13A05(D) OF TITLE 65 IS AMENDED AND THE
17 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

18 § 13A05. Reporting.

19 ~~(a) General rule. A registered [principal] lobbying firm or~~ <--
20 ~~lobbyist who is not affiliated with a lobbying firm shall,~~
21 ~~subject to the penalties under 18 Pa.C.S. § 4904 (relating to~~
22 ~~unsworn falsification to authorities), file quarterly expense~~
23 ~~reports with the department electronically using the~~
24 ~~computerized filing system developed by the department that is~~
25 ~~consistent with the purpose of this chapter no later than 30~~
26 ~~days after the last day of the quarter.~~

27 ~~(b) Content.--~~

28 ~~(1) Each expense report must list the names and~~
29 ~~registration numbers when available of all [lobbyists by~~
30 ~~whom] principals on whose behalf lobbying is conducted on~~

1 ~~behalf of the principal and the general subject matter or~~
2 ~~issue being lobbied.~~

3 ~~(2) Each expense report shall include the total costs~~
4 ~~incurred by the lobbying firm or lobbyist of all lobbying for~~
5 ~~the period. The total shall include all office expenses,~~
6 ~~personnel expenses, expenditures related to gifts,~~
7 ~~hospitality, transportation and lodging to State officials or~~
8 ~~employees, and any other lobbying costs. The total amount~~
9 ~~reported under this paragraph shall be allocated in its~~
10 ~~entirety among the following categories:~~

11 ~~(i) The costs for gifts, hospitality, transportation~~
12 ~~and lodging given to or provided to State officials or~~
13 ~~employees or their immediate families.~~

14 ~~(ii) The costs for direct communication.~~

15 ~~(iii) The costs for indirect communication.~~

16 ~~(iv) Expenses required to be reported under this~~
17 ~~subsection shall be allocated to one of the three~~
18 ~~categories listed under this section and shall not be~~
19 ~~included in more than one category.~~

20 ~~(2.1) For purposes of filing an expense report under~~
21 ~~this subsection, a registrant may use any reasonable methods~~
22 ~~of estimation and allocation.~~

23 ~~(2.2) The expense report shall identify the amount of~~
24 ~~the total reported expenditures that the reporting party or~~
25 ~~entity charged to the account of each principal and allocate~~
26 ~~the amount attributable to each category listed in paragraph~~
27 ~~(2) (i), (ii) and (iii).~~

28 ~~(3) The following apply:~~

29 ~~(i) In addition to reporting the totals required~~
30 ~~under this subsection, the expense report must identify,~~

1 ~~by name, position and each occurrence, a State official~~
2 ~~or employee who receives from a principal or lobbyist~~
3 ~~anything of value which must be included in the statement~~
4 ~~under section 1105(b) (6) or (7) (relating to statement of~~
5 ~~financial interests) as implemented by section 1105(d).~~

6 ~~(ii) For purposes of this chapter, the amount~~
7 ~~referred to in section 1105(b) (7) shall be considered an~~
8 ~~aggregate amount per year.~~

9 ~~(iii) For purposes of this chapter, the amount~~
10 ~~referred to in section 1105(b) (7) shall not include the~~
11 ~~cost of a reception which the State official or employee~~
12 ~~attends in connection with public office or employment.~~

13 ~~(iv) Written notice must be given to each State~~
14 ~~official or employee who is listed in an expense report~~
15 ~~under this paragraph at least seven days prior to the~~
16 ~~report's submission to the department. Notice under this~~
17 ~~subparagraph shall include the information which will~~
18 ~~enable the State official or employee to comply with~~
19 ~~section 1105(b) (6) and (7). For purposes of this chapter~~
20 ~~and Chapter 11 (relating to ethics standards and~~
21 ~~financial disclosure), section 1105(b) (6) and (7) shall~~
22 ~~constitute mutually exclusive categories. For each~~
23 ~~category enumerated in paragraph (2) (i), each notice~~
24 ~~shall include both the amount incurred during the quarter~~
25 ~~and the cumulative amount incurred from January 1 through~~
26 ~~the end of the applicable quarter.~~

27 ~~(v) This paragraph shall not apply to anything of~~
28 ~~value received from immediate family when the~~
29 ~~circumstances make it clear that motivation for the~~
30 ~~action was the personal or family relationship.~~

1 ~~(vi) In determining whether an expense must identify~~
2 ~~the State official or employee as required by~~
3 ~~subparagraph (i), the total amount expended shall be~~
4 ~~considered, regardless of whether the cost or expenditure~~
5 ~~was allocated among one or more principals, or whether~~
6 ~~all or any portion of the total is paid directly by one~~
7 ~~or more of the reporting party's principals.~~

8 ~~(4) A [lobbying firm or a lobbyist not associated with a~~
9 ~~lobbying firm] principal shall sign the reports~~
10 ~~electronically submitted by each [principal] lobbying firm or~~
11 ~~lobbyist for whom the [lobbying firm or lobbyist] principal~~
12 ~~is registered to attest to the validity and accuracy of the~~
13 ~~cost attributed in the report to the principal to the best of~~
14 ~~the attester's knowledge. A [lobbying firm or lobbyist]~~
15 ~~principal may attach a statement to the electronic report of~~
16 ~~[a principal] the lobbying firm or a lobbyist, describing the~~
17 ~~limits of the knowledge of the [lobbying firm or lobbyist]~~
18 ~~principal concerning the information contained in the expense~~
19 ~~report.~~

20 ~~(5) The [expense report] attestation of the principal~~
21 ~~shall also include the name, permanent business address and~~
22 ~~daytime telephone number of any individual, association,~~
23 ~~corporation, partnership, business trust or other business~~
24 ~~entity which contributed more than 10% of the total resources~~
25 ~~received by the lobbying firm or lobbyist from the principal~~
26 ~~during the reporting period.~~

27 ~~(6) A [lobbying firm or a lobbyist not associated with a~~
28 ~~lobbying firm] principal shall submit an expense report~~
29 ~~electronically using the computerized filing system developed~~
30 ~~by the department that is consistent with the purpose of this~~

1 ~~chapter if during the reporting period the [lobbying firm or~~
2 ~~lobbyist] principal engaged in lobbying which was not~~
3 ~~contained in any expense report filed by a [principal or~~
4 ~~principals represented] lobbying firm or lobbyist not~~
5 ~~associated with a lobbying firm that represented the~~
6 ~~principal.~~

7 ~~(7) A registered principal that attempts or that retains~~
8 ~~a lobbying firm or lobbyist to attempt to influence an~~
9 ~~agency's preparing, bidding, entering into or approving a~~
10 ~~contract shall ensure that the related expenses are included~~
11 ~~under paragraph (2).~~

12 ~~(8) A lobbying firm or a lobbyist not associated with a~~
13 ~~lobbying firm shall [submit a report] include in its report~~
14 ~~filed electronically using the computerized filing system~~
15 ~~developed by the department that is consistent with the~~
16 ~~purpose of this chapter if the lobbying firm or lobbyist~~
17 ~~engaged in lobbying on behalf of any entity that is exempt~~
18 ~~under section 13A06(7), (8), (9) or (10) (relating to~~
19 ~~exemption from [registration and] reporting).~~

20 ~~(c) Records retention. A registrant shall retain all~~
21 ~~documents reasonably necessary to substantiate the reports to be~~
22 ~~made under this section for four years from the date of filing~~
23 ~~the subject report. Upon request by the Office of Attorney~~
24 ~~General, the board, the commission or the department, these~~
25 ~~materials shall be made available for inspection within a~~
26 ~~reasonable period of time. * * *~~

<--

27 ~~(d) Thresholds for reporting.--An expense report required~~
28 ~~under this section shall be filed electronically using the~~
29 ~~computerized filing system developed by the department that is~~
30 ~~consistent with the purpose of this chapter when total expenses~~

1 for lobbying exceed **[\$2,500]** \$1 for a registered ~~principal~~ <--
2 ~~lobbying firm or a lobbyist not associated with a lobbying firm~~
3 in a reporting period. **[In a reporting period in which total** <--
4 **expenses are \$2,500 or less, a statement to that effect shall be**
5 **filed electronically using the computerized filing system**
6 **developed by the department that is consistent with the purpose**
7 **of this chapter.]** <--

8 (D.1) ADDITIONAL REPORTING THRESHOLDS.--AN EXPENSE REPORT
9 REQUIRED UNDER THIS SECTION SHALL BE FILED ELECTRONICALLY USING
10 THE COMPUTERIZED FILING SYSTEM DEVELOPED BY THE DEPARTMENT THAT
11 IS CONSISTENT WITH THE PURPOSE OF THIS CHAPTER WHEN THE ECONOMIC
12 CONSIDERATION FOR CAMPAIGN CONSULTING EXCEEDS \$2,500 FOR A
13 REGISTERED CAMPAIGN CONSULTANT.

14 ~~(e) Indirect communication disclosure. Whenever any person~~ <--
15 ~~makes an expenditure for indirect communication under this~~
16 ~~chapter, for the purpose of disseminating or initiating a~~
17 ~~communication, such as a mailing, telephone bank, print or~~
18 ~~electronic media advertisement, billboard, publication or~~
19 ~~education campaign, the communication shall clearly and~~
20 ~~conspicuously state the name of the person who made or financed~~
21 ~~the expenditure for the communication.~~

22 * * * <--

23 SECTION 4. SECTIONS 13A06 AND 13A08 (F) OF TITLE 65 ARE <--
24 AMENDED TO READ:

25 § 13A06. Exemption from **[registration and]** reporting.

26 The following persons and activities shall be exempt from
27 **[registration under section 13A04 (relating to registration)**
28 **and]** reporting under section 13A05 (relating to reporting):

- 29 (1) An individual who limits lobbying to preparing
30 testimony and testifying before a committee of the General

1 Assembly or participating in an administrative proceeding of
2 an agency.

3 (2) An individual who is an employee of an entity
4 engaged in the business of publishing or broadcasting while
5 engaged in the gathering and dissemination of news and
6 comment on the news to the general public in the ordinary
7 course of business.

8 (3) An individual who does not receive economic
9 consideration for lobbying.

10 [(4) An individual whose economic consideration for
11 lobbying, from all principals represented, does not exceed
12 \$2,500 in the aggregate during any reporting period.]

13 (5) An individual who engages in lobbying on behalf of
14 the individual's employer if the lobbying represents less
15 than 20 hours during any reporting period.

16 (6) Except as required under section 13A05(d), a
17 principal whose total expenses for lobbying purposes do not
18 exceed \$2,500 during any reporting period.]

19 (4.1) AN INDIVIDUAL WHOSE ECONOMIC CONSIDERATION FOR <--
20 CAMPAIGN CONSULTING DOES NOT EXCEED \$2,500 IN THE AGGREGATE
21 DURING ANY REPORTING PERIOD.

22 (7) An elected State official who acts in an official
23 capacity.

24 (8) An appointed State official acting in an official
25 capacity.

26 (9) An elected or appointed official of a political
27 subdivision who is acting in an official capacity for the
28 political subdivision.

29 (10) An employee of the Commonwealth or an agency of the
30 Commonwealth who is acting in an official capacity for the

1 Commonwealth or agency.

2 (11) An individual representing a bona fide church or
3 bona fide religious body of which the individual is a member
4 where the lobbying is solely for the purpose of protecting
5 the constitutional right to the free exercise of religion.

6 (12) An individual who is not a registered lobbyist and
7 who serves on an advisory board, working group or task force
8 at the request of an agency or the General Assembly.

9 (13) Participating as a party or as an attorney at law
10 or representative of a party, case or controversy in any
11 administrative adjudication pursuant to 2 Pa.C.S. (relating
12 to administrative law and procedure).

13 (14) Expenditures and other transactions subject to
14 reporting under Article XVI of the act of June 3, 1937
15 (P.L.1333, No.320), known as the Pennsylvania Election Code.

16 (15) Vendor activities under 62 Pa.C.S. §§ 514 (relating
17 to small procurements), 516 (relating to emergency
18 procurements) and efforts directly related to responding to
19 publicly advertised invitations to bid and requests for
20 proposals.

21 § 13A08. Administration.

22 * * *

23 (f) Audits.--The following shall apply:

24 (1) Every two years the Secretary of the Commonwealth
25 shall contract for the services of one or more certified
26 public accountants or certified public accounting firms. The
27 contract shall be awarded in a manner consistent with the
28 provisions of 62 Pa.C.S. Pt. I (relating to Commonwealth
29 Procurement Code), and no certified public accountant or
30 certified public accounting firm shall be eligible to obtain

1 a contract for more than two successive contract periods.

2 (2) The secretary shall randomly select, at a public <--
3 drawing 60 days following the close of each fourth quarter
4 reporting period, 3% of all] ~~establish a process for~~ <--
5 ~~selecting~~ completed registrations and expense reports filed
6 with the department under this chapter ~~based on factors that~~ <--
7 ~~focus on risk of noncompliance and shall select audit~~
8 ~~candidates consistent with that process.~~

9 (3) The certified public accountant shall conduct [the]
10 financial and performance audits in accordance with generally
11 accepted auditing standards and shall test as to whether each
12 registration or expense report is materially correct.

13 [(4) The audit report and findings shall be
14 confidential, except that the department shall make an audit
15 report and findings available to the commission if the
16 commission is investigating an alleged violation of this
17 chapter involving the audited registration or expense report.
18 The commission shall include the relevant portion of an audit
19 as part of its findings of fact in a commission order which
20 results from an investigation arising out of an audit.]

21 (4.1) The audit reports and findings shall be made
22 public. The commission shall determine whether a report of
23 adverse findings warrants enforcement or remedial action
24 under the provisions of this chapter.

25 (5) Nothing in this subsection shall limit the authority
26 of the Department of Revenue under Article IV of the act of
27 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971, to conduct audits to determine compliance with
29 applicable tax laws.

30 * * *

1 ~~(j) Inflation adjustment. On a biennial basis commencing in~~
2 ~~January 2009, the department shall review the threshold under~~
3 ~~section 13A06 (relating to exemption from [registration and]~~
4 ~~reporting) for registration under section 13A04 (relating to~~
5 ~~registration) and the threshold for reporting under section~~
6 ~~13A05(d) (relating to reporting) and shall increase these~~
7 ~~amounts to rates deemed reasonable for assuring appropriate~~
8 ~~disclosure. [On a biennial basis commencing in January 2009, the~~
9 ~~department shall review the filing fee established under section~~
10 ~~13A10 (relating to registration fees; fund established; system;~~
11 ~~regulations) and may by regulation adjust this amount if the~~
12 ~~department determines that a higher fee is needed to cover the~~
13 ~~costs of carrying out the provisions of this chapter. The~~
14 ~~department shall publish adjusted amounts in the Pennsylvania~~
15 ~~Bulletin by June 1, 2009, and by June 1 every two years~~
16 ~~thereafter as necessary.]~~

17 * * *

18 Section 3. ~~Section 13A10 heading, (a) and (b) of Title 65~~
19 ~~are amended and the section is amended by adding a subsection to~~
20 ~~read:~~

21 ~~§ 13A10. [Registration fees;] Fees and fund established;~~
22 ~~system; regulations.~~

23 ~~{(a) Registration fees. At the time of registration, a~~
24 ~~person required to be registered under this chapter shall pay a~~
25 ~~biennial registration fee of \$100 to the department.~~

26 ~~(b) Fund.~~

27 ~~(1) The Lobbying Disclosure Fund is established as a~~
28 ~~special fund in the State Treasury.~~

29 ~~(2) Money received from registration fees under~~
30 ~~subsection (a) shall be deposited in the fund. Money~~

1 ~~remaining in the fund established under former 65 Pa.C.S. §~~
2 ~~1310(b) shall be transferred to the fund.~~

3 ~~(3) Money deposited in the fund is appropriated to the~~
4 ~~department as a continuing appropriation for the exclusive~~
5 ~~purpose of carrying out this chapter.]~~

6 ~~(a.1) Fund. The following shall apply:~~

7 ~~(1) The Lobbying Disclosure Fund is established as a~~
8 ~~special fund in the State Treasury.~~

9 ~~(2) The following shall apply:~~

10 ~~(i) Each individual or entity required to report and~~
11 ~~remit sales and use tax for lobbying service, as defined~~
12 ~~in section 201(k)(11) of the act of March 4, 1971 (P.L.6,~~
13 ~~No.2), known as the Tax Reform Code of 1971, shall~~
14 ~~concurrently pay an additional 1.8% fee on the amount~~
15 ~~subject to the tax under Article II of the Tax Reform~~
16 ~~Code of 1971.~~

17 ~~(ii) The fee shall be separately reported and paid~~
18 ~~to the Department of Revenue on forms established by the~~
19 ~~Department of Revenue at the same time the tax under~~
20 ~~Article II of the Tax Reform Code of 1971 is due.~~

21 ~~(iii) The Department of Revenue shall submit a~~
22 ~~report to the department identifying any individual or~~
23 ~~entity which has failed to file the report or to remit~~
24 ~~the fee established under subparagraph (i), within 14~~
25 ~~days of the due date.~~

26 ~~(3) Money received from fees under paragraph (2) (i)~~
27 ~~shall be deposited into the fund. Money remaining in the fund~~
28 ~~established under former subsection (b) shall be transferred~~
29 ~~to the fund.~~

30 ~~(4) Money deposited into the fund is appropriated to the~~

1 ~~department as a continuing appropriation for the exclusive~~
2 ~~purpose of carrying out this chapter.~~

3 ~~* * *~~

4 Section 4 5. This act shall take effect in 60 180 days. <--