

First Extraordinary Session, 2008

HOUSE BILL NO. 57

BY REPRESENTATIVES TUCKER, PETERSON, AND GALLOT

LOBBYING: Provides relative to lobbyist registration and expenditure report requirements
(Item #3)

1 AN ACT

2 To amend and reenact R.S. 24:51(2), 53(A), (G), and (H), 54(A)(2), 55(B), (C), (D)(1), (E),
3 and (F)(1) and R.S. 49:72(5), 74(A), (E), and (F), 75(A)(2), and 76(B), (C), (D)(1),
4 and (E) and to enact R.S. 24:55(H), 56(H), and 58(D)(3) and (4) and R.S. 49:74(H),
5 76(H), 77(4), 78(D)(3) and (4), and 78.1(E), relative to lobbying; to provide relative
6 to the regulation of lobbyists; to provide relative to the registration of lobbyists; to
7 provide relative to the reporting requirements of lobbyists; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 24:51(2), 53(A), (G), and (H), 54(A)(2), 55(B), (C), (D)(1), (E), and
11 (F)(1) are hereby amended and reenacted and R.S. 24:55(H), 56(H), and 58(D)(3) and (4)
12 are hereby enacted to read as follows:

13 §51. Definitions

14 When used in this Part:

15 * * *

16 (2)(a) "Expenditure" means the gift or payment of money or anything of
17 value when the amount of value exceeds ten dollars for the purchase of food, drink,
18 or refreshment for a legislator and any gift or payment as permitted by R.S.
19 42:1123(13) and (16) when the value exceeds ten dollars for the purpose of lobbying
20 when the lobbyist or principal accounts or would be expected to account for the

1 expenditure as an ordinary and necessary expense directly related to the active
2 conduct of the lobbyist's, his employer's, or the principal's trade or business.

3 (b) “Expenditure” includes the gift or payment of money or anything of
4 value when the amount exceeds ten dollars for the spouse or minor child of a
5 legislator made in connection with lobbying when the lobbyist or principal accounts
6 or would be expected to account for the expenditure as an ordinary and necessary
7 expense directly related to the active conduct of the lobbyist's, his employer's, or the
8 principal's trade or business.

9 * * *

10 §53. Registration of lobbyists with the board; compilation of information

11 A. Each lobbyist shall register with the board within five days of
12 employment as a lobbyist or within five days after the first action requiring his
13 registration as a lobbyist. He shall ~~give to~~ electronically file with the board ~~in~~
14 ~~writing, or~~ using forms provided by it, the following information:

15 (1) His name and business address.

16 (2) The name and address of each person by whom he is employed and, if
17 different, whose interests he represents, including the business in which that person
18 is engaged.

19 (3) The name of each person by whom he is paid or is to be paid, the amount
20 he is paid or is to be paid by such person, and a characterization of such payment as
21 paid, earned but not received, or prospective.

22 (a) The amount required to be disclosed pursuant to this Paragraph shall be
23 reported by category of value. The categories shall be:

24 (i) Category I, less than five thousand dollars.

25 (ii) Category II, \$5,000-\$24,999.

26 (iii) Category III, \$25,000-\$49,999.

27 (iv) Category IV, \$50,000- \$99,999.

28 (v) Category V, \$100,000-\$199,999.

29 (vi) Category VI, \$200,000 or more.

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H.(1) No lobbyist shall make an expenditure for any one person of more than the expenditure limit provided in Paragraph (2) of this Subsection per meal.

(2) The expenditure limit shall be fifty dollars. The expenditure limit shall be adjusted annually based upon the rate of inflation as measured by the consumer price index, U.S. city average for all urban consumers (CPI-U), food and beverages, as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, in January each year. Beginning on March 1, 2009, and annually thereafter the expenditure limit shall be increased by the same percentage as the percentage by which that price index is increased. The amount of the increase shall be rounded off to the nearest dollar. The expenditure limit shall be adjusted by the Board of Ethics according to the consumer price index, U.S. city average for all urban consumers (CPI-U), food and beverages, and adopted and promulgated as a rule or regulation by the board in accordance with the provisions of R.S. 42:1134(A).

* * *

§58. Enforcement

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D. In addition to any other applicable penalties:

* * *

(3) Any person who files a registration or report as required by this Part that is inaccurate or incomplete may be assessed a late fee as provided in Paragraph (1) of this Subsection for each day until such inaccuracy is corrected or such missing information is provided by amendment to the appropriate registration or report. Any such person who files a registration or report as required by this Part that is inaccurate or incomplete may be assessed a civil penalty as provided in Paragraph (2) of this Subsection.

(4) Any person who files with the board, with knowledge of its falsity, a registration or report required by this Part which contains a false statement or false representation of a material fact shall upon conviction by a court of competent

1 jurisdiction be guilty of the crime of filing a false public record and subject to the
2 penalty set forth in R.S. 14:133.

3 * * *

4 Section 2. R.S. 49:72(5), 74(A), (E), and (F), 75(A)(2), and 76(B), (C), (D)(1), and
5 (E) are hereby amended and reenacted and R.S. 49:74(H), 76(H), 77(4), 78(D)(3) and (4),
6 and 78.1(E) are hereby enacted to read as follows:

7 §72. Definitions

8 When used in this Part:

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10 (5)(a) "Expenditure" means the gift or payment of money or anything of
11 value when the amount of value exceeds ten dollars for the purchase of food, drink,
12 or refreshment for an executive branch official and any gift or payment permitted by
13 R.S. 42:1123(13) when the value exceeds ten dollars for the purpose of lobbying
14 when the lobbyist or principal accounts, or would be expected to account, for the
15 expenditure as an ordinary and necessary expense directly related to the active
16 conduct of the lobbyist's, his employer's, or the principal's trade or business.

17 (b) "Expenditure" includes the gift or payment of money or anything of value
18 when the amount exceeds ten dollars for the spouse of an elected official or
19 appointed official in the executive branch of state government or the minor child of
20 an elected official or appointed official in the executive branch of state government
21 made in connection with lobbying when the lobbyist or principal accounts, or would
22 be expected to account, for the expenditure as an ordinary and necessary expense
23 directly related to the active conduct of the lobbyist's, his employer's, or the
24 principal's trade or business.

25 * * *

26 §74. Registration of lobbyists with the ethics board; compilation of information

27 A. Each lobbyist shall register with the ethics board within five days of
28 employment as a lobbyist or within five days after the first action requiring his

1 registration as a lobbyist. He shall ~~give to~~ electronically file with the ethics board
2 ~~in writing, on~~ using forms provided by it, the following information:

3 (1) His name and business address.

4 (2) The name and address of each person by whom he is employed and, if
5 different, whose interests he represents, including the business in which that person
6 is engaged.

7 (3) The name of each person by whom he is paid or is to be paid, the amount
8 he is paid or is to be paid by such person, and a characterization of such payment as
9 paid, earned but not received, or prospective.

10 (a) The amount required to be disclosed pursuant to this Paragraph shall be
11 reported by category of value. The categories shall be:

12 (i) Category I, less than five thousand dollars.

13 (ii) Category II, \$5,000-\$24,999.

14 (iii) Category III, \$25,000-\$49,999.

15 (iv) Category IV, \$50,000- \$99,999.

16 (v) Category V, \$100,000-\$199,999.

17 (vi) Category VI, \$200,000 or more.

18 (4) A list of the subject matters about which he anticipates lobbying.

19 (5) The identity of each statewide elected official or person included in
20 Subsection H of this Section or spouse of a statewide elected official or person
21 included in Subsection H of this Section with whom he or his employer or principal
22 has or has had in the preceding twelve months a business relationship. For purposes
23 of this Section, "business relationship" shall mean any transaction, contract, or
24 activity that is conducted, entered into, or undertaken for profit and which arises
25 from the common ownership in any association, partnership, corporation, or other
26 legal entity between a lobbyist or his employer or principal and any elected official
27 or appointed official in the executive branch of state government or spouse of an
28 elected official or appointed official in the executive branch of state government
29 when the elected official or appointed official in the executive branch of state

1 government or spouse of an elected official or appointed official in the executive
2 branch of state government owns ten percent or more of such association,
3 partnership, corporation, or other legal entity.

4 ~~(4)~~ (6) One copy of a two-inch-by-two-inch recent photograph of the
5 registrant made within the prior six months shall be filed with the initial registration
6 form.

7 * * *

8 E. The forms shall be published electronically by the ethics board.
9 Registrations which have been filed shall be maintained ~~in the office of~~ by the ethics
10 board and made available to the public via the Internet in a searchable format. The
11 electronic filing by a lobbyist of any information required by this Section shall
12 constitute a certification that the information is true and correct to the best of his
13 knowledge, information, and belief and that no information required by this Part has
14 been deliberately omitted.

15 F. Whenever any information contained in his registration changes, or the
16 lobbyist begins representing an additional person, a supplemental electronic
17 registration shall be filed with the ethics board within five days of such change ~~on~~
18 using forms provided by the ethics board.

19 * * *

20 H. Paragraph (5) of Subsection A of this Section shall apply to persons
21 holding the following offices or positions:

22 (1) The members of the State Civil Service Commission and the director of
23 state civil service.

24 (2) The secretary of the Department of Economic Development.

25 (3) The secretary of the Department of Culture, Recreation and Tourism.

26 (4) The secretary of the Department of Environmental Quality.

27 (5) The secretary of the Department of Health and Hospitals.

28 (6) The secretary of the Department of Labor.

29 (7) The secretary of the Department of Natural Resources.

- 1 (8) The secretary of the Department of Public Safety and Corrections.
- 2 (9) The secretary of the Department of Revenue.
- 3 (10) The secretary of the Department of Social Services.
- 4 (11) The secretary of the Department of Transportation and Development.
- 5 (12) The secretary of the Department of Wildlife and Fisheries.
- 6 (13) The secretary of the Department of Veterans Affairs.
- 7 (14) The superintendent of education.
- 8 (15) The executive secretary of the Public Service Commission.
- 9 (16) The commissioner of the division of administration.

§75. Reports and statements under oath

A.

* * *

(2) ~~All~~ Except as otherwise specifically provided in this Part, reports, registrations, and statements required under this Part shall be filed by mailing said documents through the United States Postal Service, delivering by hand or through a commercial delivery service, or by transmitting by facsimile or electronic transfer.

* * *

§76. Lobbyist expenditure reports

* * *

B. A report shall be filed ~~semiannually, and shall be filed, or if mailed shall be postmarked, as follows:~~

~~(1) By August fifteenth for the period from January first through June thirtieth.~~

~~(2) By February fifteenth for the period from July first through December thirty-first.~~ monthly. The report for each month shall be filed by the fifteenth of the following month.

C. The report shall be electronically filed on using forms provided by the ethics board, ~~shall be signed by the person filing, and shall include a certification of accuracy by the person responsible for filing the report.~~ The electronic filing by a

1 lobbyist of any report required under this Section shall constitute a certification that
2 the information contained in the report is true and correct to the best of his
3 knowledge, information, and belief; that no reportable expenditures have been made
4 that are not included therein as required by law; and that no information required by
5 this Part has been deliberately omitted.

6 D.(1) Each report shall include the following:

7 (a) A listing of each subject matter about which an executive branch official
8 was lobbied during each reporting period.

9 (b) The total of all expenditures made during each reporting period
10 aggregated in the manner prescribed by the ethics board by rule.

11 ~~(b)~~ (c) The aggregate total of expenditures attributable to an individual
12 executive branch official as provided in Subsection E of this Section during each
13 reporting period, including the name of the executive branch official and his
14 executive branch agency.

15 ~~(c)~~ (d) The aggregate total of expenditures for all reporting periods during
16 the same calendar year, aggregated in the manner prescribed by the ethics board by
17 rule.

18 ~~(d)~~ (e) The aggregate total of all expenditures attributable to an individual
19 executive branch official as provided in Subsection E of this Section for all reporting
20 periods during the same calendar year, including the name of the executive branch
21 official and his executive branch agency.

22 * * *

23 E. When the aggregate expenditure for any one executive branch official
24 exceeds the sum of fifty dollars ~~on any one occasion, or when the aggregate~~
25 ~~expenditure for any one executive branch official exceeds the sum of two hundred~~
26 ~~fifty dollars~~ in a reporting period, then the total amount of expenditures for the
27 executive branch official during the reporting period shall be attributable to an
28 individual executive branch official.

29 * * *

1 E. (1) No lobbyist shall make an expenditure for any one person of more
2 than the expenditure limit provided in Paragraph (2) of this Subsection per meal.

3 (2) The expenditure limit shall be fifty dollars. The expenditure limit shall
4 be adjusted annually based upon the rate of inflation as measured by the consumer
5 price index, U.S. city average for all urban consumers (CPI-U), food and beverages,
6 as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, in January
7 each year. Beginning on March 1, 2009, and annually thereafter the expenditure
8 limit shall be increased by the same percentage as the percentage by which that price
9 index is increased. The amount of the increase shall be rounded off to the nearest
10 dollar. The expenditure limit shall be adjusted by the Board of Ethics according to
11 the consumer price index, U.S. city average for all urban consumers (CPI-U), food
12 and beverages, and adopted and promulgated as a rule or regulation by the board in
13 accordance with the provisions of R.S. 42:1134(A).

14 Section 3. Prior to the effective date of this Act, the Board of Ethics the Board of
15 Ethics shall promulgate the forms required by this Act in accordance with the Administrative
16 Procedure Act.

17 Section 4. This Act shall become effective on January 1, 2009.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law [R.S. 1:13(B)] and do not constitute proof or indicia of legislative intent. [R.S. 24:177(E)]

Tucker

HB No. 57

Abstract: ABSTRACT

Present law (R.S. 24:50 et seq.) regulates lobbying of the legislature. Present law (R.S. 49:71 et seq.) regulates lobbying of the executive branch.

Present law (R.S. 24:51) provides that in the context of legislative lobbying “expenditure” means the gift or payment of money or anything of value when the amount of value exceeds ten dollars for the purchase of food, drink, or refreshment for a legislator and any gift or payment as permitted by the Code of Governmental Ethics when the value exceeds \$10 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.

Proposed law retains present law and adds that “expenditure” includes the gift or payment of money or anything of value when the amount exceeds ten dollars for the spouse or minor child of a legislator made in connection with 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.

Present law (R.S. 49:72) provides that in the context of executive branch lobbying “expenditure” means the gift or payment of money or anything of value when the amount of value exceeds ten dollars for the purchase of food, drink, or refreshment for an executive branch official and any gift or payment permitted by the Code of Governmental Ethics when the value exceeds ten dollars 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.

Proposed law retains present law adds that “expenditure” includes the gift or payment of money or anything of value when the amount exceeds ten dollars for the spouse or minor child of a legislator made in connection with 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.

Present law (R.S. 24:53 and R.S. 49:74) provides that each lobbyist shall register with the board within five days of employment as a lobbyist or within five days after the first action requiring his registration as a lobbyist. Provides that he shall give to the board in writing, on forms provided by it, the following information:

- (1) His name and business address.
- (2) The name and address of each person by whom he is employed and, if different, whose interests he represents, including the business in which that person is engaged.
- (3) The name of each person by whom he is paid or is to be paid.
- (4) One copy of a two inch by two inch recent photograph of the registrant made within the prior six months shall be filed with the initial registration form (legislative rules require this submission of a photograph for a legislative term).

Provides that whenever any information contained in his registration changes, or the lobbyist begins representing an additional person, a supplemental registration shall be filed with the board within five days of such change, on forms provided by the board.

Proposed law retains present law and provides that the following additional information be included:

- (1) The amount he is paid or is to be paid (by category of value) and a characterization of such payment as paid, earned but not received, or prospective.
- (2) A list of subject matters about which he anticipates lobbying.
- (3)(a) For legislative lobbyists, the identity of each legislator or spouse of a legislator with whom he or his employer or principal has or has had in the preceding twelve months a business relationship. Defines "business relationship" as any transaction, contract, or activity that is conducted, entered into, or undertaken for profit and which arises from the common ownership in any association, partnership, corporation, or other legal entity between a lobbyist or his employer or principal and a legislator or the

spouse of a legislator when the legislator or spouse owns ten percent or more of such association, partnership, corporation, or other legal entity.

- (b) For executive branch lobbyists, the identity of each statewide elected official or person holding one of certain enumerated offices or positions as the head of an executive branch department or spouse of such an official or person with whom he or his employer or principal has or has had in the preceding twelve months such a business relationship.

Present law (R.S. 24:55 and R.S. 49:76) provides for the filing of lobbyist expenditure reports. Provides that a report shall be filed semi-annually. Provides that the report shall be filed on forms provided by the board, shall be signed by the person filing, and shall include a certification of accuracy by the person responsible for filing the report. Provides for the content of expenditure reports.

Proposed law revises present law by providing that reports shall be filed monthly.

Present law (R.S. 24:54 and R.S. 49:75) provides that all reports, registrations, notices, and statements required to be filed under present law shall be filed by mailing the documents through the U.S. Postal Service, delivering by hand or through a commercial delivery service, or by transmitting by facsimile or electronic transfer. Proposed law retains present law and additionally provides an exception for cases that are specifically provided for, as proposed law.

Proposed law provides that the report shall be filed electronically with the board. Provides that the electronic filing of any report by a lobbyist shall constitute a certification that the information contained in the report is true and correct to the best of his knowledge, information, and belief; that no reportable expenditures have been made that are not included therein as required by law; and that no information required by present law and proposed law has been deliberately omitted.

Present law (R.S. 24:55 and R.S. 49:76) provides that expenditure reports must include:

- (1) The total of all expenditures made during each reporting period.
- (2) The aggregate total of expenditures attributable to an individual official as provided by present law (see below) during each reporting period, including the name of the official.
- (3) The aggregate total of expenditures for all reporting periods during the same calendar year.
- (4) The aggregate total of all expenditures attributable to an individual official provided by present law (see below) for all reporting periods during the same calendar year, including the name of the official.

Proposed law adds to the required information a listing of each subject matter about which he lobbied during each reporting period.

Present law provides that when the aggregate expenditure for any one official exceeds the sum of fifty dollars on any one occasion, or when the aggregate expenditure for any one official exceeds the sum of two hundred fifty dollars in a reporting period, then the total amount of expenditures for the official during the reporting period shall be attributable to an individual official.

Proposed law revises present law by providing that the total amount of expenditures for an official shall be attributable to such official when the aggregate expenditure exceeds \$50.

Present law provides that the aggregate amount or any per occasion amount attributable to an official shall not include expenditures for certain functions for events to which certain groups of officials are invited (for legislators: events to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof) and events involving certain national and regional organizations, or expenditures made in connection with certain speeches by an official.

Proposed law revises the list of legislative groups invited to events by removing standing committee, select committees, committees created by resolution of either house, subcommittees, recognized caucuses, and delegations and replacing these enumerated groups with the general term “committee established pursuant to the rules of either house.”

Present law (R.S. 24:56 and 49:78.1) prohibit certain conduct by lobbyists.

Proposed law retains present law and additionally prohibits making an expenditure for any one person of more than an established expenditure limit. Provides that on the effective date of the act, the expenditure limit shall be fifty dollars. Provides that the expenditure limit shall be adjusted annually based upon the rate of inflation as measured by the consumer price index, U.S. city average for all urban consumers (CPI-U), food and beverages, as prepared by the U.S. Department of Labor, Bureau of Labor Statistics, in January each year. Provides that beginning on March 1, 2009, and annually thereafter the expenditure limit shall be increased by the same percentage as the percentage by which that price index is increased. Provides that the amount of the increase shall be rounded off to the nearest dollar. Provides that the expenditure limit shall be adjusted by the Board of Ethics according to the consumer price index, U.S. city average for all urban consumers (CPI-U), food and beverages, and adopted and promulgated as a rule or regulation by the board in accordance with the provisions of R.S. 42:1134(A).

Effective January 1, 2009.

(CITE)