

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

S

D

SENATE DRS35129-LB-37A\* (1/21)

Short Title: Amend Lobbying Laws.

(Public)

Sponsors: Senator Rand.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE  
INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES  
AND BY REQUIRING REGISTRATION AND REPORTING OF LOBBYING  
ACTIVITIES OF EXECUTIVE BRANCH AGENCIES AND EMPLOYEES, AND  
TO APPROPRIATE FUNDS TO IMPLEMENT THE ACT.

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  
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.enforceable.~~

- (1a) The term "executive action" means the preparation, research, drafting,  
introduction, consideration, modification, amendment, approval,  
passage, adoption, tabling, postponement, defeat, or rejection of a rule,  
regulation, executive order, policy, resolution, contract, request for  
proposal, amendment, motion, report, nomination, or appointment by  
the executive branch or by a member or employee of the executive

1 branch acting or purporting to act in an official capacity. This term  
2 shall not include any action by an attorney in connection with litigation  
3 involving a State official or State agency.

4 (1b) The term "executive lobbyist" means any lobbyist for or against  
5 executive action.

6 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

7 (4) The term "legislative action" means the preparation, research, drafting,  
8 introduction, consideration, modification, amendment, approval,  
9 passage, enactment, tabling, postponement, defeat, or rejection of a  
10 bill, resolution, amendment, motion, report, nomination, appointment,  
11 or other matter by the legislature or by a member or employee of the  
12 legislature acting or purporting to act in an official capacity. It also  
13 includes the consideration of any bill by the Governor for the  
14 Governor's approval or veto.

15 (4a) The term "legislative liaison personnel" means any State officer or  
16 employee whose principal duties in practice or as set forth in that  
17 person's job description involve lobbying the General Assembly.

18 (4b) The term "legislative lobbyist" means any lobbyist for or against  
19 legislative action.

20 (5) The term "lobbying" ~~means~~means any of the following:

21 a. Influencing or attempting to influence legislative action through  
22 direct oral or written communication with a member of the  
23 ~~General Assembly; or~~Assembly, or the staff or an employee of  
24 the General Assembly.

25 a1. Influencing or attempting to influence executive action through  
26 direct oral or written communication with an officer or  
27 employee of the executive branch authorized to take such  
28 action, including members of boards, commissions, councils, or  
29 other collective bodies.

30 b. Solicitation of others by lobbyists to influence legislative or  
31 executive action.

32 (6) The term "lobbyist" means an individual who:

33 a. Is employed and receives compensation, or who contracts for  
34 economic consideration, for the purpose of lobbying; or

35 b. Represents another person and receives compensation for the  
36 purpose of lobbying.

37 The term "lobbyist" shall not include those individuals who are  
38 specifically exempted from this Article by G.S. 120-47.8. For the  
39 purpose of determining whether an individual is a lobbyist under this  
40 subdivision, reimbursement of actual travel and subsistence expenses  
41 shall not be considered compensation; provided, however, that  
42 reimbursement in the ordinary course of business of these expenses  
43 shall be considered compensation if a significant part of the  
44 individual's duties involve lobbying before the Executive Branch or

1           the General Assembly. The term "lobbyist" includes both executive  
2           lobbyist and legislative lobbyist.

3           (7)    The terms "lobbyist's principal" and "principal" mean the entity in  
4           whose behalf the lobbyist influences or attempts to influence executive  
5           or legislative action.

6           (8)    The term "person" means any individual, firm, partnership, committee,  
7           association, corporation, or any other organization or group of persons.

8           (9)    The General Assembly is in "regular session" from the date set by law  
9           or resolution that the General Assembly convenes until the General  
10          Assembly either:

11          a.     Adjourns sine die; or

12          b.     Recesses or adjourns for more than 10 days.

13   **"§ 120-47.2. Registration procedure.**

14          (a)    A lobbyist shall file a registration statement with the Secretary of ~~State~~ State,  
15          in a manner prescribed by the Secretary of State including electronically, before  
16          engaging in any lobbying. A separate registration statement is required for each  
17          lobbyist's principal. The registration shall indicate whether it is for executive action,  
18          legislative action, or both.

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

24          (c)    Each lobbyist shall register again with the Secretary of State no later than 10  
25          days after any change in the information supplied in his last registration under  
26          subsection (b). Each supplementary registration shall include a complete statement of  
27          the information that has changed.

28          (d)    Within 20 days after the convening of each session of the General Assembly,  
29          the Secretary of State shall furnish each member of the General Assembly and the State  
30          Legislative Library a list of all persons who have registered as executive or legislative  
31          lobbyists and whom they represent. Within 20 days after the beginning of the term of a  
32          Governor, the Secretary of State shall furnish the Governor, each other member of the  
33          Council of State, and the head of each principal department of the Executive Branch,  
34          and the State Legislative Library a list of all persons who have registered as executive  
35          or legislative lobbyists and whom they represent. A supplemental list of legislative  
36          lobbyists shall be furnished periodically each 20 days thereafter as the session  
37          progresses. A supplemental list of executive lobbyists shall be furnished periodically  
38          each 60 days thereafter.

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

43          (f)    Each registration statement of an executive lobbyist required under this  
44          Article shall be effective from the date of filing until January 1 of the following

1 odd-numbered year when the term of the Governor commences. The lobbyist shall file a  
2 new registration statement after that date, and the applicable fee shall be due and  
3 payable.

4 **"§ 120-47.3. Registration fee.**

5 (a) Every lobbyist's principal shall pay to the Secretary of State a fee of two  
6 hundred dollars (\$200.00) that is due and payable by either the lobbyist or the lobbyist's  
7 principal at the time of registration.

8 (b) A separate registration, together with a separate registration fee of two  
9 hundred dollars (\$200.00) is required for each lobbyist's principal for which a person  
10 acts as a lobbyist. Fees so collected shall be deposited in the General Fund of the State.

11 (c) A separate registration and fee is required for each of legislative and  
12 executive branch lobbying.

13 (d) The Secretary of State may prescribe that fees required under this section be  
14 paid electronically.

15 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

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

18 **"§ 120-47.4A. Certain expenditures prohibited.**

19 It shall be a violation under this Article for any lobbyist or lobbyist principal to give  
20 or pay for any of the following to any legislator, a member of the legislator's immediate  
21 family, legislative staff person, legislative employee, or any other person elected or  
22 appointed a legislator prior to taking office:

23 (1) Gifts in excess of twenty-five dollars (\$25.00) in value.

24 (2) Gifts valued twenty-five dollars (\$25.00) or less, unless the same types  
25 of gifts are given to every member of the General Assembly.

26 (3) Meals.

27 (4) Transportation expenses except actual reasonable expenses permitted  
28 under subdivision (5) of this section.

29 (5) Tickets, fees, or expenses for or to any sporting, recreational, or  
30 entertainment events.

31 (6) Speaking fees or honoraria except for reimbursement of actual  
32 reasonable travel expenses incurred in connection with the speech.

33 (7) Loans, other than commercially available loans made on terms not  
34 more favorable than generally available to the public in the normal  
35 course of business.

36 (8) Contributions, other than lawful campaign contributions.

37 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

38 (a) No person shall act as a lobbyist for compensation which is dependent in any  
39 manner upon the passage or defeat of any proposed legislation or upon any other  
40 contingency connected with any action of the General Assembly, the House, the Senate  
41 or any committee thereof.

42 (b) No person shall attempt to influence the action of any member of the General  
43 Assembly by the promise of financial support of the member's candidacy, or by threat of  
44 financial contribution in opposition to the member's candidacy in any future election.

1       (c) No person shall act as a lobbyist for compensation that is dependent in any  
2 manner upon any executive action.

3       (d) No person shall attempt to influence the action of the Governor or any other  
4 member of the Council of State by the promise of financial support of the member's  
5 candidacy, or by threat of financial contribution in opposition to the member's  
6 candidacy in any future election.

7 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

8       (a) Each legislative lobbyist shall file an expense report under oath with the  
9 Secretary of State~~State~~, in a manner prescribed by the Secretary of State including  
10 electronically, with respect to each principal within 60 days after the last day of ~~the each~~  
11 annual regular session. This expense report shall include all expenditures made between  
12 January 1 and the last day of ~~the each annual~~ regular session. The lobbyist shall file a  
13 supplemental report including all expenditures made after the last day of ~~the each~~  
14 annual regular session, but during the calendar year, by February 28 of the following  
15 year. The lobbyist shall file both expense reports whether or not expenditures are made.

16       (a1) Each executive lobbyist shall file semiannual expense reports with the  
17 Secretary of State with respect to each principal within 45 days after the end of the  
18 reporting periods ending on June 30 and December 31 of each year. The expense report  
19 shall include all expenditures during the prior six-month reporting period. The lobbyist  
20 shall file an expense report whether or not expenditures are made.

21       (b) Each expense report shall set forth the date of each expenditure, to whom  
22 paid, the name of any legislator or executive branch official who benefitted from each  
23 expenditure, and the amount of each expenditure made during the previous reporting  
24 period in connection with lobbying, in each of the following categories: (1)  
25 transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash  
26 equivalent value of ~~more than twenty five dollars (\$25.00)~~ and (6) contributions made,  
27 paid, incurred or promised, directly or indirectly. ~~It shall not be necessary to report~~  
28 ~~expenditures of twenty five dollars (\$25.00) or less, nor shall it be necessary to report~~  
29 ~~any expenditures made in connection with the attendance of a legislator at any~~  
30 ~~fund raising function or event sponsored by a nonprofit organization qualified under 26~~  
31 ~~U.S.C. § 501(c). When more than 10 members of the General Assembly benefitted or~~  
32 ~~were invited to benefit from an expenditure, the lobbyist shall not be required to report~~  
33 ~~the name of any legislator, but shall be required to report the number of legislators or,~~  
34 ~~with particularity, the basis for their selection.~~

35       (b1) In addition to the expenditures required to be reported under subsection (b) of  
36 this section, the expense report shall also include information concerning contractual  
37 arrangements in excess of one hundred dollars (\$100.00) per year or direct business  
38 relationships between the legislator, the legislator's spouse, or the legislator's dependent  
39 household members and the lobbyist, currently in existence or entered into within the  
40 previous 12 months.

41       (c) All reports shall be in the form prescribed by the Secretary of State and shall  
42 be open to public ~~inspection.~~inspection upon filing.

43       (d) When a lobbyist fails to file a lobbying expense report as required herein, the  
44 Secretary of State shall send a certified or registered letter advising the lobbyist of the

1 delinquency and the penalties provided by law. Within 20 days of the receipt of the  
2 letter, the lobbyist shall deliver or post by United States mail to the Secretary of State  
3 the required report and an additional late filing fee in an amount equal to the late filing  
4 fee under G.S. 163-278.34(a)(2).

5 (e) Filing of the required report and payment of the additional fee within the time  
6 extended shall constitute compliance with this section. Failure to file an expense report  
7 in one of the manners prescribed herein shall result in revocation of any and all  
8 registrations of a lobbyist under this Article. No lobbyist may register or reregister  
9 under this Article until he has fully complied with this section. Appeal of a decision by  
10 the Secretary of State shall be in accordance with Chapter 150B of the General Statutes.

11 (f) The oath required under this section shall attest to the truthfulness and  
12 completeness of the report.

13 **"§ 120-47.7. Statements of lobbyist's principal lobbying expenses required.**

14 (a) Each legislative lobbyist's principal shall file an expense report under oath  
15 with the Secretary of State~~State~~, in a manner prescribed by the Secretary of State  
16 including electronically, within 60 days after the last day of ~~the each annual~~ regular  
17 session. This expense report shall include all expenditures made between January 1 and  
18 the last day of ~~the each annual~~ regular session. The principal shall file a supplemental  
19 expense report, including all expenditures made after the last day of ~~the each annual~~  
20 regular session, but during the calendar year, by February 28 of the following year. The  
21 principal shall file both expense reports whether or not expenditures are made during a  
22 reporting period.

23 (a1) Each executive lobbyist's principal shall file semiannual expense reports with  
24 the Secretary of State within 45 days after the end of the reporting periods ending on  
25 June 30 and December 31 of each year. The expense report shall include all  
26 expenditures made during the prior six-month reporting period. The principal shall file  
27 an expense report whether or not expenditures are made during a reporting period.

28 (b) Each expense report shall set forth the name and address of each lobbyist  
29 employed, appointed, or retained by the lobbyist's principal, the date of each  
30 expenditure made, to whom paid, name of any legislator or executive branch official  
31 who benefitted from each expenditure, and amount of each expenditure made during the  
32 previous reporting period in connection with lobbying, in each of the following  
33 categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item  
34 having a cash equivalent ~~value of more than twenty five dollars (\$25.00),~~value, (6)  
35 contributions made, paid, incurred or promised, directly or indirectly, and (7)  
36 compensation to lobbyists in connection with their lobbying activities. ~~It shall not be~~  
37 ~~necessary to report expenditures of twenty five dollars (\$25.00) or less, nor shall it be~~  
38 ~~necessary to report any expenditures made in connection with the attendance of a~~  
39 ~~legislator at any fund raising function or event sponsored by a nonprofit organization~~  
40 ~~qualified under 26 U.S.C. § 501(c). When more than 10 members of the General~~  
41 ~~Assembly benefitted or were invited to benefit from an expenditure, the principal shall~~  
42 ~~not be required to report the name of any legislator, but shall be required to report the~~  
43 ~~number of legislators or the basis for their selection.~~In the category of compensation to  
44 lobbyists the principal shall estimate and report the compensation paid or promised

1 directly or indirectly, to all lobbyists based on the estimated time, effort and expense in  
2 connection with lobbying activities on behalf of the principal. If a lobbyist is a full-time  
3 employee of the principal, or is compensated by means of an annual fee or retainer, the  
4 principal shall estimate and report the portion of all such lobbyists' salaries or retainers  
5 that compensate the lobbyists for lobbying.

6 (b1) In addition to the expenditures required to be reported under subsection (b) of  
7 this section, the expense report shall also include information concerning contractual  
8 arrangements in excess of one hundred dollars (\$100.00) per year or direct business  
9 relationships between the legislator, the legislator's spouse, or the legislator's dependent  
10 household members and the lobbyist's principal, currently in existence or entered into  
11 within the previous 12 months.

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

14 (d) When a lobbyist's principal fails to file a lobbying expense report as required  
15 herein, the Secretary of State shall send a certified or registered letter advising the  
16 lobbyist's principal of the delinquency and the penalties provided by law. Within 20  
17 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United  
18 States mail to the Secretary of State the required report and a late filing fee in an amount  
19 equal to the late filing fee under G.S. 163-278.34(a)(2).

20 (e) Filing of the required report and payment of the late fee within the time  
21 extended shall constitute compliance with this section.

22 (f) The oath required under this section shall attest to the truthfulness and  
23 completeness of the report.

24 **"§ 120-47.7A. Powers and duties of the Secretary of State.**

25 (a) The Secretary of State shall perform systematic audits of reports required to  
26 be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis.

27 (b) The Secretary of State may petition a court of competent jurisdiction for the  
28 approval to issue subpoenas and subpoenas duces tecum as necessary to conduct  
29 investigations of violations of this Article. The court shall authorize subpoenas under  
30 this subsection when the court determines they are necessary for the enforcement of this  
31 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court  
32 through the court's contempt powers.

33 (c) Complaints of violations of this Article and all other records accumulated in  
34 conjunction with the investigation of these complaints shall be considered records of  
35 criminal investigations under G.S. 132-1.4 and shall not become public records until a  
36 determination is made by the appropriate prosecutorial authority that no criminal  
37 charges will be brought against the person against whom the complaint was filed.

38 **"§ 120-47.7B. Legislator/lobbyist prohibitions.**

39 (a) No legislator or former legislator may be employed as a lobbyist by a  
40 principal to lobby as defined in this Article during any biennial legislative session to  
41 which the legislator has been elected or appointed.

42 (b) No legislator may solicit contributions or donations from lobbyists or their  
43 principals for any charity, civic project, or other community project.

44 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

- 2 (1) An individual, not acting as a lobbyist, solely engaged in expressing a  
3 personal opinion on legislative matters to his own legislative  
4 delegation or other members of the General Assembly.
- 5 (2) A person appearing before a ~~legislative committee~~ committee,  
6 commission, board, council, or other collective body at the invitation  
7 or request of the ~~committee~~ collective body or a member thereof and  
8 who engages in no further activities as a lobbyist in connection with  
9 that or any other executive or legislative matter ~~action~~.
- 10 (3) a. A duly elected or appointed official or employee of the State,  
11 the United States, a county, municipality, school district or  
12 other governmental agency, when appearing solely in  
13 connection with matters pertaining to his office and public  
14 duties.
- 15 b. Notwithstanding the persons exempted in this Article, the  
16 Governor, Council of State, and all appointed heads of State  
17 departments, agencies and institutions, shall designate all  
18 authorized official legislative liaison personnel and shall file  
19 and maintain current lists of designated legislative liaison  
20 personnel with the Secretary of State and shall likewise file  
21 with the Secretary of State a full and accurate accounting of all  
22 money expended on lobbying, other than the salaries of regular  
23 full-time employees, at the same times lobbyists are required to  
24 file expense reports under G.S. 120-47.6.
- 25 (4) A person performing professional services in drafting ~~bills~~ bills, rules,  
26 regulations, executive orders, policies, resolutions, contracts, or  
27 requests for proposal, or in advising and rendering opinions to clients,  
28 or to legislators or executive branch officials on behalf of clients, as to  
29 the construction and effect of proposed or pending ~~legislation~~  
30 executive or legislative action where the professional services are not  
31 otherwise, directly or indirectly, connected with legislative or  
32 executive action.
- 33 (5) A person who owns, publishes or is employed by any news medium  
34 while engaged in the acquisition or dissemination of news on behalf of  
35 the news medium.
- 36 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 37 (7) Members of the General ~~Assembly~~ Assembly when the lobbying  
38 concerns legislative action.
- 39 (8) A person responding to inquiries from a member of the General  
40 Assembly or a legislative employee, and who engages in no further  
41 activities as a lobbyist in connection with that or any other legislative  
42 matter.



1           (8a) A person responding to inquiries from an executive branch officer or  
2           employee and who engages in no further activities as a lobbyist in  
3           connection with that or any other executive branch matter.

4           (9) An individual giving facts or recommendations pertaining to  
5           legislative matters to his own legislative delegation only.

6   **"§ 120-47.9. Punishment for violation.**

7       (a) Whoever willfully violates any provision of this Article shall be guilty of a  
8   Class 1 misdemeanor. In addition, no lobbyist who is convicted of a violation of the  
9   provisions of this Article shall in any way act as a lobbyist for a period of two years  
10   following his conviction.

11       (b) In addition to the criminal penalties set forth in this section, the Secretary of  
12   State may levy civil fines for false or inadequate reporting up to five thousand dollars  
13   (\$5,000) per violation.

14   **"§ 120-47.10. Enforcement of Article by Attorney General.**

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

21   **"§ 120-47.11. Rules and forms.**

22       The Secretary of State shall make, amend, and rescind any rules, orders, forms, and  
23   definitions as are necessary to carry out the provisions of this Article.

24   **"§ 120-47.12. Limitations on agency legislative liaisons.**

25       (a) No principal State department may use State funds to contract with persons  
26   who are not employed by the State to lobby the General Assembly.

27       (b) No more than two persons in each principal State department and constituent  
28   institution of The University of North Carolina may be registered to lobby the General  
29   Assembly or designated as legislative ~~liaisons~~ liaison personnel pursuant to this Article.

30       (c) All persons designated as legislative liaison personnel pursuant to this Article  
31   and the principal State department or constituent institution of The University of North  
32   Carolina who employs the legislative liaison personnel shall report all expenditures  
33   made for lobbying purposes in the same manner as required for legislative lobbyists  
34   under G.S. 120-47.6 and lobbyist's principals under G.S. 120-47.7."

35       **SECTION 2.** There is appropriated from the General Fund to the Office of  
36   the Secretary of State the sum of two hundred thousand dollars (\$200,000) for the  
37   2005-2006 fiscal year to provide for the enforcement personnel, administrative staff,  
38   and expenses necessary to implement this act.

39       **SECTION 3.** There is appropriated from the General Fund to the Office of  
40   the Secretary of State the sum of one hundred twelve thousand dollars (\$112,000) for  
41   the 2005-2006 fiscal year to provide for the implementation of electronic filing of all  
42   lobbyists' and lobbyists' principals reports required under Article 9A of Chapter 120 of  
43   the General Statutes and to provide public access via the Internet to all these filings. The  
44   Secretary of State shall implement electronic filing of all lobbyists' and lobbyists'

- 1 principals reports required under Article 9A of Chapter 120 of the General Statutes and  
2 provide public access via the Internet to all these filings as soon as practicable.  
3           **SECTION 4.** Sections 2, 3, and 4 of this act become effective July 1, 2005.  
4 The remainder of this act becomes effective January 1, 2006.