

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 740  
HOUSE BILL 89

AN ACT TO CHANGE THE REGISTRATION AND REPORTING REQUIREMENTS FOR LOBBYISTS AND THEIR PRINCIPALS AND TO PROHIBIT CAMPAIGN FUND-RAISING FROM LOBBYISTS FOR LEGISLATORS AND COUNCIL OF STATE MEMBERS WHILE THE GENERAL ASSEMBLY IS IN REGULAR SESSION.

PART I CHANGES IN REGISTRATION AND REPORTING FOR LOBBYISTS AND THEIR PRINCIPALS.

PART II NO-FUNDRAISING IN SESSION FROM LOBBYISTS.

The General Assembly of North Carolina enacts:

PART I – CHANGES IN REGISTRATION AND REPORTING.

Section 1.1. 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. enforceable, but those terms do not include prizes, awards, or compensation not exceeding one hundred dollars (\$100.00) in a calendar year.
- (2) ~~The term "legislative agent" shall mean any person who is employed or retained, with compensation, by another person to give facts or arguments to any member of the General Assembly during any regular or special session thereof upon or concerning any bill, resolution, amendment, report or claim pending or to be introduced. The term "legislative agent" shall include, but not be limited to, corporate officers and directors and other individuals who are full or part time employees of other persons and whose duties or activities as legislative agents, as hereinbefore defined, are incidental to the~~

~~principal purposes for which they are employed or retained. The reimbursement of actual personal travel and subsistence expenses reasonably necessary to communicate with a member or members of the General Assembly shall not be considered compensation for purposes of determining whether a person is a legislative agent under this subdivision.~~

- ~~(3) The term 'person' means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons.~~
- ~~(4) The term 'legislative action' means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature or by a member or employee of the legislature acting or purporting to act in an official capacity.~~
- ~~(5) The term 'lobbying' means:
  - ~~a. Influencing or attempting to influence legislative action through direct oral or written communication with a member of the General Assembly; or~~
  - ~~b. Solicitation of others by lobbyists to influence legislative action.~~~~
- ~~(6) The term 'lobbyist' means an individual who:
  - ~~a. Is employed and receives compensation, or who contracts for economic consideration, for the purpose of lobbying; or~~
  - ~~b. Represents another person and receives compensation for the purpose of lobbying.~~~~

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

- ~~(7) The terms 'lobbyist's principal' and 'principal' mean the entity in whose behalf the lobbyist influences or attempts to influence legislative action.~~
- ~~(8) The term 'person' means any individual, firm, partnership, committee, association, corporation, or any other organization or group of persons.~~
- ~~(9) The General Assembly is in 'regular session' from the date set by law or resolution that the General Assembly convenes until the General Assembly either:
  - ~~a. Adjourns sine die; or~~
  - ~~b. Recesses or adjourns for more than 10 days.~~~~

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

(a) ~~In each General Assembly session and for each employer, or retainer, every person employed or retained as a legislative agent in this State shall, before engaging in any activities as a legislative agent, register with the Secretary of State. If a corporation or partnership is employed or retained as a legislative counsel, and more than one partner, employee or officer of the corporation or partnership, shall act as a legislative agent on behalf of the client, then the additional individuals shall be separately listed on the registration under subsection (b), and a fee in the same amount as imposed by G.S. 120-47.3 shall be due for each such individual in excess of one. A lobbyist shall file a registration statement with the Secretary of State before engaging in any lobbying. A separate registration statement is required for each lobbyist's principal.~~

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

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

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

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

**"§ 120-47.3. Registration fee.**

~~Every person, corporation or association which employs any person to act as legislative agent as defined by law to promote or oppose in any manner the passage by the General Assembly of any legislation affecting the pecuniary interests of any individual, association or corporation as distinct from those of the whole people of the State, or to act in any manner as a legislative agent in connection with any such legislation, Every lobbyist's principal shall pay to the Secretary of State a fee of seventy-five dollars (\$75.00) which fee shall be due and payable by either the employer or the employee lobbyist or the lobbyist's principal at the time of registration.~~

A separate registration, together with a separate registration fee of seventy-five dollars (\$75.00), shall be required for each ~~person, corporation or association lobbyist's principal~~ for which a person acts as ~~legislative agent. a lobbyist.~~ Fees so collected shall be deposited in the ~~general fund~~ General Fund of the State.

**"§ 120-47.4. Written authority from employer to be filed; copy for legislative committee. lobbyist's principal to be filed.**

Each ~~legislative agent lobbyist~~ shall file with the Secretary of State within 10 days after his registration a written authorization to act as such, signed by ~~the person employing him, the lobbyist's principal.~~

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

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

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

**"§ 120-47.6. Statements of ~~legislative agent's lobbyist's~~ lobbying expenses required.**

~~Each legislative agent shall file annually, within 30 days after the final adjournment of the regular session of the General Assembly held in a calendar year, a report with respect to each person represented setting forth the date, to whom paid, and amount of each expenditure made during the previous year in connection with promoting or opposing any legislation in any manner covered by this Article,~~

(a) Each lobbyist shall file an expense report with respect to each principal within 60 days after the last day of the regular session. This expense report shall include all expenditures made between January 1 and the last day of the regular session. The lobbyist shall file a supplemental report including all expenditures made after the last day of the regular session, but during the calendar year, by February 28 of the following year. The lobbyist shall file both expense reports whether or not expenditures are made.

(b) Each expense report shall set forth the date of each expenditure, to whom paid, the name of any legislator who benefitted from each expenditure, and the amount of each expenditure made during the previous reporting period in connection with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of more than twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised, directly or indirectly. It shall not be necessary to report expenditures in a particular category if the total amount expended in the particular category on behalf of a person represented is of twenty-five dollars (\$25.00) or less. less, nor shall it be necessary to report any expenditures made in connection with the attendance of a legislator at any fund-raising function or event sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). A report shall be filed annually whether or not contributions or expenditures are made. When more than 10 members of the General Assembly benefitted or were invited to benefit from an expenditure, the lobbyist shall not be required to report the name of any legislator, but shall be required to report the number of legislators or, with particularity, the basis for their selection.

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

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

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

(a) ~~Each person who employs or retains a legislative agent shall file annually, within 30 days after the final adjournment of the regular session of the General Assembly held in a calendar year, a report with respect to each agent employed or retained setting~~ Each lobbyist's principal shall file an expense report within 60 days after the last day of the regular session. This expense report shall include all expenditures made between January 1 and the last day of the regular session. The principal shall file a supplemental expense report, including all expenditures made after the last day of the regular session, but during the calendar year, by February 28 of the following year. The principal shall file both expense reports whether or not expenditures are made during a reporting period.

(b) Each expense report shall set forth the date, name and address of each lobbyist employed, appointed, or retained by the lobbyist's principal, the date of each expenditure made, to whom paid, name of any legislator who benefitted from each expenditure, and amount of each expenditure made during the previous year reporting period in connection with promoting or opposing any legislation in any manner covered by this Article, lobbying, in each of the following categories: (1) transportation, (2) lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or promised, directly or indirectly, and (7) compensation to legislative agents lobbyists in connection with their lobbying activities. It shall not be necessary to report expenditures in any particular category if the total amount expended in the particular category on behalf of a person represented is of twenty-five dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in connection with the attendance of a legislator at any fund-raising function or event sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more than 10 members of the General Assembly benefitted or were invited to benefit from an expenditure, the principal shall not be required to report the name of any legislator, but shall be required to report the number of legislators or the basis for their selection. In the category of compensation to legislative agents lobbyists it shall not be necessary to report the full salary, or any portion thereof, of a legislative agent who is a full time employee of or is annually retained by the reporting employer. the principal shall estimate and report the

compensation paid or promised directly or indirectly, to all lobbyists based on the estimated time, effort and expense in connection with lobbying activities on behalf of the principal. If a lobbyist is a full-time employee of the principal, or is compensated by means of an annual fee or retainer, the principal shall estimate and report the portion of all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying. A report shall be filed annually whether or not payments are made.

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

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

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

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

- (1) An individual, not acting as a ~~legislative agent, lobbyist,~~ solely engaged in expressing a personal opinion on legislative matters to his own legislative delegation or other members of the General Assembly.
- (2) A person appearing before a legislative committee at the invitation or request of the committee or a member thereof and who engages in no further activities as a ~~legislative agent lobbyist~~ in connection with that or any other legislative matter.
- (3)
  - a. A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district or other governmental agency, when appearing solely in connection with matters pertaining to his office and public duties.
  - b. Notwithstanding the persons exempted in this Article, the Governor, Council of State, and all appointed heads of State departments, agencies and institutions, shall designate all authorized official legislative liaison personnel and shall file and maintain current lists of designated legislative liaison personnel with the Secretary of State and shall likewise file with the Secretary of State a full and accurate accounting of all money expended on lobbying, other than the salaries of regular full-time employees, at the same times lobbyists are required to file expense reports under G.S. 120-47.5.
- (4) A person performing professional services in drafting bills or in advising and rendering opinions to clients, or to legislators on behalf of clients, as to the construction and effect of proposed or pending

legislation where ~~such~~ the professional services are not otherwise, directly or indirectly, connected with legislative action.

- (5) A person who owns, publishes or is employed by any news medium while engaged in the acquisition or dissemination of news on behalf of ~~such~~ the news medium.
- (6) ~~Notwithstanding the persons exempted in this section, the Governor, Council of State, and all appointed heads of State departments, agencies and institutions, shall designate all authorized official legislative liaison personnel and shall file and maintain current lists of designated legislative liaison personnel with the Secretary of State and shall likewise file with the Secretary of State a full and accurate accounting of all money expended in influencing or attempting to influence legislation, other than the salaries of regular full-time employees.~~
- (7) Members of the General Assembly.
- (8) A person responding to inquiries from a member of the General ~~Assembly, Assembly~~ or a legislative employee, and who engages in no further activities as a legislative agent-lobbyist in connection with that or any other legislative matter.
- (9) An individual giving facts or recommendations pertaining to legislative matters to his own legislative delegation only.

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

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

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

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

**"§ 120-47.11. Rules and forms.**

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

Sec. 1.2. Article 10 of Chapter 120 of the General Statutes is repealed.

**PART II – LIMITS ON FUND-RAISING IN SESSION.**

Sec. 2. Chapter 163 of the General Statutes is amended by adding a new section to read:

**"§ 163-278.13A. No fund-raising from lobbyists for legislators or Council of State members while General Assembly is in regular session.**

(a) While the General Assembly is in regular session, none of the following entities may solicit or accept a contribution from, or at the behest or recommendation of, an individual registered as a lobbyist pursuant to Article 9A of Chapter 120 of the General Statutes:

- (1) A member of the Council of State; or
- (2) A member of the General Assembly; or
- (3) A political committee the principal purpose of which is to assist a member or members of the Council of State or General Assembly.

(b) While the General Assembly is in regular session, no individual registered as a lobbyist under Article 9A of Chapter 120 of the General Statutes may make a contribution to any of the entities listed in subdivisions (1) through (3) of subsection (a) of this section.

(c) This section does not apply to:

- (1) Any contribution made to or by a State, county or congressional district executive committee of a political party; or
- (2) Any contribution made to or solicited for a political committee that operates on a Statewide basis in conjunction with the executive committee of a political party for the purpose of assisting that party's candidates for Council of State or General Assembly; or
- (3) Any contribution made by a member of the Council of State or General Assembly to a political committee the principal purpose of which is to assist himself; or
- (4) Any contribution made to or any solicitation for a nonprofit organization under 26 U.S.C. § 501(c); or
- (5) Any contribution accepted with the intent that it be used to defray legal or other expenses incurred in connection with the contesting of election results; or
- (6) Any contribution to any of the entities listed in subdivisions (1) through (3) of subsection (a) of this section if the member of the Council of State or General Assembly has filed an official notice of candidacy with the appropriate board of elections for any elective office, provided the contribution is for the elective office for which the member has filed.

(d) A violation of this section is a misdemeanor, but no individual or person shall be prosecuted under this section for accepting or making a contribution unless the State Board of Elections has notified the individual or person of the apparent violation in writing by certified mail, has given the individual or person an opportunity to return or to request the return of the contribution, and, within 10 days of the receipt of the notification, the individual or person has failed to return or to request the return of the contribution.

(e) For purposes of this section, the General Assembly is in regular session from the date set by law or resolution that the General Assembly convenes until the General Assembly either:

- (1) Adjourns **sine die**; or

(2) Recesses or adjourns for more than 10 days."

Sec. 3. Part I of this act shall become effective January 1, 1992, except for G.S. 120-47.11 which is effective on ratification. Part II of this act is effective on ratification. This act shall be implemented within funds available to the Secretary of State. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives