

**STORAGE NAME:** s0718a.rc  
**DATE:** March 24, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
RULES & CALENDAR  
ANALYSIS**

**BILL #:** SB 718 (1st Eng.)  
**RELATING TO:** Legislative Lobbying  
**SPONSOR(S):** Senator McKay  
**TIED BILL(S):** SCR 720

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) RULES & CALENDAR YEAS 18 NAYS 0
  - (2)
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

This bill would revise reporting requirements for registered lobbyists of the Legislature, Executive Branch of Government and the Constitution Revision Commission. Specifically, statements reporting expenditures would be required two times per year covering the periods of January 1, through June 30, and July 1, through December 31. New language specifically requires each registered lobbyist to file an expenditure report for that portion of a reporting period during which he or she was registered, and each principal shall also ensure that an expenditure report is filed for each period during any portion of time which the principal was represented by a registered lobbyist. The bill would provide for a cap of \$5,000 on fines assessed for late expenditure reports. The time frame associated with a one-time waiver request is changed as is the time frame for notice of appeal.

Provisions regarding registered lobbyists of the Legislature would be changed further to specify that the designated lobbyist of a principal, when a principal has two or more lobbyist, is the first lobbyist to register. New language provides for a waiver of the filing of an expenditure report for good cause shown, based on unusual circumstances.

Additionally, new language provides that fines imposed and not waived by the Commission on Ethics against a registered lobbyist for the Executive Branch, or the Constitution Revision Commission, shall be collected by the Department of Banking and Finance as a claim or debt owed to the state when the fine remains unpaid more than 60 days.

The effective date of the bill would be upon becoming law.

See section VI., Amendments and Committee Substitute Changes.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Lobbyist for the Legislature:**

Section 11.045, F.S., provides for the registration and reporting requirements for lobbyists of the Legislature. Section 11.045(2), F.S., requires that each house of the Legislature is to provide by rule, or a joint rule adopted by both houses, for the registration of lobbyists who lobby the Legislature. Section 11.045(3)(b), F.S., provides that a principal represented by two or more lobbyists shall appoint one of the lobbyists as the designated lobbyist whose expenditure reports shall include all lobbying expenditures made directly by the principal and those expenditures of the designated lobbyist on the principal's behalf.

Currently, statements of expenditures must be filed two times per year and after each special session. The first report must cover the period of January 1, through the date of adjournment of regular session, including any extension. The second report covers the remainder of the calendar year. An additional report is required no later than 45 days after each special session.

Section 11.045(3)(f)1., F.S., provides for the penalty of \$50 per day, per report, for late filed reports. The late filing fee is due 20 days after the lobbyist receives the notice of payment due from the Lobbyist Registration Office. A one-time fine waiver is available if the lobbyist responsible for such late reports files the reports within 20 days after receipt of notice that any reports have not been timely filled. Any lobbyist may appeal or dispute a fine, based upon unusual circumstances and may request a hearing. The lobbyist must file a request for a hearing within 20 days after receipt of the notice of payment due.

**Lobbyist for the Executive Branch or the Constitution Revision Commission:**

Section 112.3215, F.S., provides for the registration and reporting requirements for lobbyists of the Executive Branch of Government or the Constitution Revision Commission. Lobbyists must pay a registration fee not to exceed \$40 per each principal represented. The funds are deposited into the Executive Branch Lobby Registration Trust Fund, created within the Commission on Ethics (commission), to be used for funding the office established to administer the registration of lobbyist.

Lobbyist are required to submit quarterly to the commission, a signed expenditure report summarizing all lobbying expenditures of the lobbyist and the principal. The reporting statements must be filed no later than 45 days after the end of each reporting period and include the expenditures for the period

from January 1, through March 31, April 1 through June 30, July 1, through September 30, and October 1, through December 31, respectively.

Fines for late-filed reports are assessed at \$50 per day, per report. The person delegated to determine the timeliness of a report is to immediately notify the lobbyist of the failure to timely file the report. Upon receipt of the report, the person designated to review the timeliness of the report shall determine the amount of the fine. The fine is to be paid within 20 days after receipt of the notice of payment due. Fines may not be assessed against a lobbyist the first time any reports are late. However, to receive the waiver, all reports for the lobbyist must be filed within 20 days after the receipt of notice that any reports have not been timely filed. A lobbyist may appeal or dispute a fine, based upon unusual circumstances, and shall be entitled to a hearing before the commission. The commission has the authority to waive the fine, in whole or in part, for good cause.

Chapter 17, Florida Statutes, provides duties and responsibilities of the Comptroller and the authority of the Department of Banking and Finance (department) to carry out certain responsibilities. The department is to settle the accounts of all officers of this state, and to handle any person who may be indebted to the state. Section 17.20(1), F.S., provides that the department shall charge the state attorneys with the collection of all claims placed in their hands for collection. The department may assign the collection of any claim to a collection agent who is registered and in good standing pursuant to Chapter 559, F.S., governing, generally, the regulation of trade, commerce, and investments, and providing for consumer and commercial collection practices.

#### C. EFFECT OF PROPOSED CHANGES:

Reporting Requirements for lobbyists of the Executive Branch, Constitution Revision Commission and the Legislature:

The bill requires lobbyists to file statements two times per year. Two specific reporting periods are established. New language is added to require each lobbyist to file an expenditure report for the portion of a reporting period during which he or she was registered. The principal is also required to ensure that an expenditure report is filed for each period during any portion of which the principal was represented by a registered lobbyist.

Time-frames and Notice:

The fine for a late filed report is capped at \$5,000 and is due 30 days, rather than 20, after notice of payment due. The time runs from date of transmittal from the Lobbyist Registration Office rather than date of receipt by the lobbyist.

To receive a one-time fine waiver, all reports for which the lobbyist is responsible must be filed within 30 days after notice is transmitted by the Lobbyist Registration Office.

To appeal a fine, the time-frame for such a request runs from date of transmittal from the Lobbyist Registration Office rather than date of receipt by the lobbyist. The time-frame for such request is advanced from 20 to 30 days.

Waivers:

For Legislative Branch lobbyist only, a waiver from filing an expenditure report may be requested for good cause shown, based on unusual circumstances. Following recommendation by the General Counsel of the Office of Legislative Services, the decision to grant such a waiver is made by the President of the Senate and the Speaker of the House of Representatives.

Suspension:

The registration of a lobbyist is suspended if a fine is not timely paid or waived.

In the case of Executive Branch and Constitution Revision Commission lobbyists only, fines not waived and imposed by the Commission on Ethics, and that remain unpaid after 60 days of notice of payment due or more than 60 days after the commission renders a final order on the lobbyist's appeal, shall be collected by the Department of Banking and Finance. The department may assign the collection of such fines to a collection agent as provided in s. 17.20, F.S.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1** - Amends s.11.045(3), F.S., revising the registration and reporting requirements of legislative lobbyist. Specifically, the bill would:

- ◆ Delete the requirement for the filing of a statement reporting expenditures after each special session of the Legislature.
- ◆ Revise the language determining who the "designated lobbyist" for a principal represented by two or more lobbyist shall be, from such designation by the principal to the first lobbyist who registers for the principal.
- ◆ Specify that each lobbyist shall file an expenditure report for each period during which he or she was registered, and each principal shall ensure that an expenditure report is filed for each period during any portion of which the principal was represented by a lobbyist.
- ◆ Revise the reporting period dates from January 1, through the date of adjournment of the regular session of the Legislature to January 1, through June 30. New language specifies that the second reporting period is July 1, through December 31. Language requiring a supplemental report to be filed no later than 45 days after each special session of the Legislature disclosing expenditures incurred during the period since the filing of the last previous report through the adjournment of the special session, is deleted.
- ◆ Provide a cap on fines assessed for a late reports of \$5,000, per report.
- ◆ Require that in order to receive the one-time fine waiver, all late reports must be filed within 30 days after a notice of late reports has been transmitted by the Lobbyist Registration Office.
- ◆ Revise the payment due date of an assessed fine for the filing of a late report from 20 days after receipt of the notice of payment, to 30 days after the notice of payment due is transmitted by the Lobbyists Registration Office. A request for a hearing by a lobbyist in dispute of a fine assessed, shall be made within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office.
- ◆ Provide new language allowing a request to be made by a lobbyist, a lobbyist's legal representative, or the principal of a lobbyist, to waive upon good cause shown, based upon unusual circumstances, the filing of an expenditure report. The request must be filed with the General Counsel of the Office of Legislative Services, who makes a recommendation of appropriate action to the President of the Senate and the Speaker of the House of Representatives. The President and the Speaker may grant or deny such request.
- ◆ Provide for the automatic suspension of a lobbyist's registration who fails to timely pay an assessed fine. The registration is suspended until the fine is paid or waived.

**Section 2** - Amends s. 112.3215, F.S., revising the registration and reporting requirements of lobbyists before the Executive Branch or the Constitution Revision Commission. Specifically, the bill would:

- ◆ Include an employee of a legislative or judicial branch entity in the list of persons not considered a Lobbyist when acting in the normal course of his or her duties.

- ◆ Provide that instead of quarterly reporting statements, biannually reporting statements covering expenditures for the periods January 1, through June 30, and July 1, through December 31, are required.
- ◆ Provide a maximum assessed fine of \$5,000 per late report.
- ◆ Specify that a signed expenditure report must be submitted by the lobbyist and the principal for each six-month period during any portion of which the lobbyist is registered.
- ◆ Provide for the payment of late fines assessed within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office.
- ◆ Provide that in order to receive the one-time fine waiver, all reports for which the lobbyist is responsible must be filed within 30 days after the notice that any reports have not been timely filed, is transmitted by the Lobbyist Registration Office.
- ◆ Specify that a lobbyist seeking to appeal or dispute a fine, must file such a request within 30 days after the notice of payment due is transmitted by the Lobbyist Registration Office.
- ◆ Provide that notwithstanding the provisions of ch. 120, Florida Statutes, any fine imposed pursuant to this section that is not waived by final order of the Commission on Ethics and that remains unpaid more than 60 days after the notice of payment due, or more than 60 days after the Commission renders a final order on the lobbyist's appeal, shall be collected by the Department of Banking and Finance as a claim, debt, or other obligation owed to the state, and such collection may be assigned to a collection agent as provided in s. 17.20, F.S.

**Section 3** - Provide an effective date of upon becoming law.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

N/A

2. Expenditures:

N/A

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

N/A

2. Expenditures:

N/A

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill would place a cap of \$5000 on fines assessed to lobbyist of the Legislature, Executive Branch and the Constitution Revision Commission, for late-filed expenditure reports.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Not applicable because this bill does not require local governments to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable because this bill does not affect the revenue raising authority of local governments.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable because this bill does not affect revenues.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None provided.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

SB 718 was passed by the Senate on March 9, 2000 after being amended on the floor. The amendment adopted and subsequently engrossed in the bill provided language that conformed certain provisions regarding the reporting and registration requirements of lobbyist of the Executive Branch and the Constitution Revision Commission, to registration and reporting requirements of Legislative lobbyist.

On March 21, 2000, the House Committee on Rules and Calendar passed SB 718 with one amendment. The amendment changed the language allowing legislative lobbyists to request a waiver from the filing of an expenditure report by:

1. Changing the word "waiver" to "relief";
2. Requiring the request for relief to be filed under oath; and,
3. Allowing the President of the Senate and the Speaker of the House of Representatives to award lesser or other than the relief sought.

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VII. SIGNATURES:

COMMITTEE ON RULES & CALENDAR:

Prepared by:

Staff Director:

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Jill F. Turman

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