

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 63B Lobbying
SPONSOR(S): Reagan
TIED BILLS: HB 65B **IDEN./SIM. BILLS:** SB 6B

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee	10 Y, 0 N	Mitchell	Mitchell
2) State Administration Council	6 Y, 3 N	Mitchell	Bussey
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 63B modifies the registration and reporting requirements that govern legislative lobbyists and lobbyists of the executive branch and the Constitution Revision Commission. The bill amends ss. 11.045, 11.40 and 112.3215, F.S., and creates ss. 11.0455 and 112.32155, F.S.

A similar bill, HB 1849 by the Ethics and Elections Committee and Representative Reagan, was filed in the 2005 session and passed all House committees of reference. The Senate version of the bill, CS/SB 2646, was taken up in the House, amended and passed by a vote of 96-14, but died in the Senate (as a message from the House) on May 6, 2005.

Except as otherwise expressly provided, the bill is effective January 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

Requiring more detailed financial disclosure by lobbyists makes the government more responsive and open to the public.

B. EFFECT OF PROPOSED CHANGES:

Current Situation -

In 2004, there were 2,041 legislative lobbyists registered in Florida to represent 2,845 principals. The total number of registrations for the year was 7,915, as a single lobbyist often registers to represent multiple principals and must file a separate registration for each principal. Florida's legislative lobbyists (and principals through their designated lobbyists) must register annually¹ and report lobbying "expenditures" twice per year.²

Lobbying "expenditures," essentially payments, distributions, or anything of value made by a lobbyist or principal for the purpose of lobbying, are reported *in the aggregate* in ten broad categories to the Division of Legislative Information Services' Lobbying Registration Office (LRO).³ Individual expenditures are not reported to the LRO. Legislative lobbyists filed 7,445 expenditure reports for activities in the first half of 2004, and 7,543 for the second half.

Florida does not offer electronic filing for registration or semi-annual expenditure reports; paper registration and reports are currently required. Consequently, the LRO manually aggregates the expenditures for each reporting period, for each principal with multiple lobbyists; and each principal's total annual lobbying expenditures.⁴

This aggregate expenditure information, as well as monetary information contained in the expenditure reports, are available from the LRO in hard-copy form upon request, but are not currently available on-line. The only tangible on-line information with respect to providing public notice of special interest activities is the name and address of principals and lobbyists, along with the affiliation between lobbyists and principals.⁵

¹ Each lobbyist registration must include a free-form, general description of the lobbyist's area of legislative interest on behalf of the principal. No categories of interest are prescribed for the lobbyist. As a result, descriptions tend to be generic (i.e., issues pertaining to clients) and mostly without any practical value in providing notice to the public of the general lobbying interests of each principal.

² Expenditure reports are due 45 days after the end of each semi-annual reporting period. s. 11.045(3)(d), F.S. Reporting for the period January 1 through June 30 is due no later than August 14; reporting for the period July 1 through December 31 is due no later than February 14.

³ Sections 11.045(1)(c), 11.045 (3)(a), F.S. Categories of expenditures on the report are: (1) Food & Beverage; (2) Entertainment; (3) Research; (4) Communication; (5) Media Advertising; (6) Publications; (7) Travel; (8) Lodging; (9) Special Events; (10) Other. s. 11.045(3)(a), F.S.

⁴ Florida law directs the Division to perform these calculations. s. 11.045(3)(c), F.S.

⁵ The web site also contains instructional materials such as forms, guides to filing, and applicable laws and rules.

Current law does not require reporting of compensation by registered lobbyists

Proposed Situation -

Filing of Compensation Reports

- The bill requires quarterly reporting of compensation received by lobbying firms.
- Compensation reporting would be by total compensation received by the lobbying firm from all principals in the aggregate.
- Quarterly increments for total compensation begin in \$50,000 increments, up to \$1 million or more.
- Compensation reporting would also be reported by the lobbying firm as received from each principal.
- Quarterly increments for individual principals compensation would begin in \$20,000 increments, up to \$60,000. Any compensation in excess of \$60,000 would be reported to the nearest \$1,000 increment.

No Expenditure Reports

- The bill would prohibit lobbyists and their principals from making *any lobbying expenditures including food and beverages to members or legislative staff.*
- The sole exception would be for floral arrangements and other celebratory items given to members on opening day of the regular session and displayed in chambers.
- Because lobbying expenditures are prohibited under this bill, no lobbyist expenditure reports will be needed, and none will be filed.

Audits and Enforcement

- Lobbying firm compensation reports will be subject to random audits, beginning May 2007.
- 3% of compensation reports will be randomly selected for audit on an annual basis.
- The Joint Legislative Auditing Committee (JLAC) will establish the procedures for random selection.
- The JLAC will also approve a list of no less than 10 state-licensed certified public accountants who will be available to conduct random audits.
- A lobbying firm selected for random audit may choose an auditor from the approved list or the JLAC will appoint one.
- All random audits will be forwarded to the Speaker of the House and Senate President.
- The rules of each house will govern the procedures for review of random audits.
- Any complaints against a lobbyist will be governed by the rules of each house.

Electronic Filing of Compensation Reports

HB 63B creates s. 112.32155, F.S., *effective April 1, 2006*, to provide for electronic filing of compensation reports. The system will be Internet-based and accessible to anyone with Internet access using standard web browsing software. The electronic filing system appears to be modeled after the system used by candidates, committees and political parties for filing campaign treasurer's reports, pursuant to s. 106.0705, F.S.

The first compensation reports subject to the bill must be filed by May 15, 2006, for the reporting period January 1, 2006 through March 31, 2006.

Miscellaneous Issues

- The bill provides the same reporting and enforcement for executive branch lobbyists, except that the random audit reports for these lobbyists are forwarded to the Commission on Ethics.
- There is also a tied public records bill, **HB 65B**, that exempts the private business records of the randomly selected lobbying firms for purposes of conducting the random audits.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

There will be additional costs associated with the creation and maintenance of an on-line, electronic filing system for lobbying reports. The Office of Legislative Information Technology Services (OLITS) estimated during the 2005 session that the cost of a joint electronic filing system meeting the requirements of CS/SB 2646, if the program were outsourced, at \$488,625.⁶ However, this bill contemplated filing of expenditure reports *which are not required under this bill*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

⁶ Information contained in Staff Analysis of CS/SB 2646 by Senate Ways and Means Committee, dated March 31, 2005.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Two amendments were offered by Representative Bogdanoff at the State Administration Council meeting on December 6, 2005. The first amendment was not adopted and the second amendment was withdrawn.