

## Summary of Proposed Amendment to the Arkansas Ethics Commission's Rules on Lobbyist Registration and Reporting

The Ethics Commission is revising the Rules on Lobbyist Registration and Reporting to bring them in conformity with Acts 315, 341, 342, and 661 of 2019. Those changes are summarized below.

- With regard to implementing Act 315, the rule revisions would remove the word “regulation” from the Arkansas Code as follows:
  - Ark. Code Ann. § 21-8-402(1)(A) “Administrative action” means any decision on, or proposal, consideration, or making of any rule, ~~regulation~~, ratemaking proceeding, or policy action by a governmental body.
  - § 21-8-601(a)(3)(F) Assisting an executive agency, at the written request of the agency, in drafting administrative ~~regulations~~ rules or in publicizing or assisting in the implementation of final administrative actions;
  
- Act 341 increased the fine range from \$50-\$2,000 to \$50-\$3,500.
  
- Act 342 amended Arkansas Code Title 21, Chapter 8, Subchapter 1, to add an additional section as provided below. The Ethics Commission is revising the Rules on Lobbyist Registration and Reporting to include this new definition on who is permitted to register as a lobbyist while serving as an elected state official:
  - Ark. Code Ann. § 21-8-103. Elected state officials prohibited from registering as lobbyists
    - (a) A person serving as an elected state official in any jurisdiction is prohibited from registering as a lobbyist in Arkansas under § 21-8-601 et seq. or similarly in any other jurisdiction while the person is serving as an elected state official.
    - (b) As used in this section, “elected state official” means a person holding an elective office of state government as a constitutional officer or as a member of the General Assembly and includes persons during the time period between the date that he or she is elected and the date he or she takes office.
  
- Act 661 amended the wording of the ban on lobbying for two years after leaving the General Assembly, and similarly bans two (2) more types of jobs during that two (2) year period of time, and sets time frames for which legislators these rules apply to:
  - A former member of the General Assembly shall ~~not be eligible to be registered as a lobbyist under § 21-8-601 et seq.~~ take the following actions until two (2) years after the expiration of the term of office for which he or she was elected: (A) Register as a lobbyist under § 21-8-601 et seq.; or (B) Enter into employment as the director of an: (i) Educational cooperative or (ii) Area agency on aging.
  - Portions of this section apply to persons elected or reelected to the General Assembly on or after November 6, 2018 and the newer portions of this section apply to a person elected or reelected to the General Assembly on or after November 4, 2014. (Approved: 4/2/19 with Emergency Clause)

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT/AGENCY** Arkansas Ethics Commission

**DIVISION** \_\_\_\_\_

**PERSON COMPLETING THIS STATEMENT** Graham Sloan

**PHONE NO.** 324-9600 **FAX NO.** 324-9606 **E-MAIL** Graham.Sloan@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Rules on Lobbyist Registration and Reporting

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No X
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes X No \_\_\_\_\_
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes X No \_\_\_\_\_

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_  
N/A

(b) The reason for adoption of the more costly rule;

\_\_\_\_\_  
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

\_\_\_\_\_  
N/A

(d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

\_\_\_\_\_  
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue	<u>-0-</u>
Federal Funds	<u>-0-</u>
Cash Funds	<u>-0-</u>
Special Revenue	<u>-0-</u>
Other (Identify)	<u>-0-</u>
 Total	 <u>-0-</u>

**Next Fiscal Year**

General Revenue	<u>-0-</u>
Federal Funds	<u>-0-</u>
Cash Funds	<u>-0-</u>
Special Revenue	<u>-0-</u>
Other (Identify)	<u>-0-</u>
 Total	 <u>-0-</u>

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	<u>-0-</u>
Federal Funds	<u>-0-</u>
Cash Funds	<u>-0-</u>
Special Revenue	<u>-0-</u>
Other (Identify)	<u>-0-</u>
 Total	 <u>-0-</u>

**Next Fiscal Year**

General Revenue	<u>-0-</u>
Federal Funds	<u>-0-</u>
Cash Funds	<u>-0-</u>
Special Revenue	<u>-0-</u>
Other (Identify)	<u>-0-</u>
 Total	 <u>-0-</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ -0-

**Next Fiscal Year**

\$ -0-

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ -0-

**Next Fiscal Year**

\$ -0-

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes \_\_\_\_\_ No  X

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**MARK-UP**

**RULES ON  
LOBBYIST  
REGISTRATION  
AND  
REPORTING**

**ARKANSAS ETHICS COMMISSION  
Post Office Box 1917  
Little Rock, Arkansas 72203-1917  
(501) 324-9600 or (800) 422-7773  
Facsimile (501) 324-9606**

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## Lobbyist Registration

### § 500. Definitions.

(a) “Administrative action” means any decision on, or proposal, consideration, or making of any rule, regulation, ratemaking proceeding, or policy action, other than ministerial action, by a governmental body.

(b) “Association” means a body of individuals acting together for the prosecution of a common enterprise.

(c) “Business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted.

(d) “Business association” means an association formed for the purpose of doing business, including associations formed for the purpose of establishing an employer/employee, principal/agent and/or an employer/independent contractor relationship.

(e) (1) “Family” means an individual’s spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse.

(2) The term “household” includes an individual’s significant other.

(3) The term “household” does not include an individual’s roommate.

(f) (1) “Gift” means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor.

(2) The term “gift” does not include:

(A) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties (NOTE: Payments for travel or reimbursement for any expenses are not informational material);

(B) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant’s office and when appearing in an official capacity;

(C) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;

(D) Gifts from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this subdivision;

(E) Campaign contributions;

(F) Any devise or inheritance;

(G) anything with a value of \$100 or less (NOTE: The value of an item shall be considered to be less than \$100 if the public servant reimburses the person from whom the item was received any amount over \$100 and the reimbursement occurs within ten (10) days from the date the item was received);

(H) Wedding presents and engagement gifts;

(I) A monetary or other award presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education;

(J) Tickets to charitable fundraising events held within this state by a non-profit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

(K) A personalized award, plaque, or trophy with a value of \$150 or less;

(L) An item which appointed or elected members of a specific governmental body purchase with their own personal funds and present to a fellow member of that governmental body in recognition of public service;

(M) Food or beverages provided at a conference scheduled event that is part of the program of the conference;

(N) Food or beverages provided in return for participation in a bona fide panel, seminar, speaking engagement at which the audience is a civic, social, or cultural organization or group;

(O) A monetary or other award publicly presented to an employee of state government in recognition of his or her contributions to the community and State of Arkansas when the presentation is made by the employee's supervisor or peers, individually or through a non-profit organization which is exempt from taxation under Section 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality (NOTE: This exception shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities);



**(P)** Any work of art, contracted for prior to January 1, 1998, for public service recognition for members of the Arkansas General Assembly; or

**(Q)** Racing passes provided to and accepted by members of the General Assembly and other constitutional officers for redistribution to their constituents and persons residing outside the State of Arkansas to promote tourism and advance the economic interests of the State.

**(g)** “Governmental body” means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof.

**(h)** “Income” or “compensation” means any money or anything of value received, or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received. The term “compensation” does not include anything of value presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee’s contribution to education.

**(i)** “Legislative action” means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality.

**(j)** “Lobbying” means to communicate directly or solicit others to communicate with any public servant to influence legislative or administrative action.

**(k)** “Lobbyist” means a person who is engaged in lobbying activities as defined in § 501 of these rules.

**(l)** “Lobbyist’s client” means the person, such as an employer, on whose behalf the lobbyist influences or attempts to influence legislative or administrative action.

**(m)** “Ministerial action” means an action in which a person performs in a given state of facts, in a prescribed manner, in obedience to the mandate of legal authority, without regard to or the exercise of his or her own judgment upon the propriety of the act being done.

**(n)** “Official capacity” means activities which arise solely because of the position held by the public servant, which would be subject to expense reimbursement by the agency with which the public servant is associated, and which involve matters falling within the official responsibilities of the public servant.

(o) “Paid or reimbursed” includes income received prior, during, or subsequent to the period the income is earned, or expenses reimbursed prior, during, or subsequent to the period the expenditure is made.

(p) “Partnership” means a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not a trust or estate or a corporation.

(q) “Person” means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

(r) “Public official” means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office and shall include such persons during the time period between the date they were elected and the date they took office.

(s) “Public servant” means all public officials, public employees, and public appointees.

(t) “Registered lobbyist” means a lobbyist registered pursuant to § 502 of these rules.

(u) “Special event” means a planned activity to which a specific governmental body or identifiable group of public servants is invited.

### **§ 501. Definition of “lobbyist.”**

(a) For purposes of these rules, persons engaged in lobbying activity as defined by § 500(j) will be considered lobbyists, subject to registration and reporting, if the person:

- (1) receives income or reimbursement in a combined amount of \$400 or more in a calendar quarter for lobbying activities; or
- (2) expends \$400 or more in a calendar quarter for lobbying activities, excluding the cost of personal travel, lodging, meals, or dues; or
- (3) expends \$400 or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with any public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients.

(b) All persons who act as lobbyists shall register as lobbyists pursuant to § 502 of these rules unless specifically exempted from registration pursuant to § 504 herein.

(c) Whether a person is a lobbyist is a factual determination made by the Arkansas Ethics Commission.

**§ 502. Lobbyist registration and re-registration.**

(a) It is the intent of the Arkansas Ethics Commission that the public have full and accurate disclosure of the items required to be reported under these rules.

(b) A lobbyist shall register no later than five (5) days after beginning lobbying.

(c) A lobbyist will not be considered registered until the registration form is delivered to the appropriate office under § 505 of these rules; this registration form shall contain:

- (1) the name, address, and telephone number of the lobbyist;
- (2) the calendar year for which the lobbyist is registering;
- (3) the types of public servants being lobbied;
- (4) the name, address, and telephone number of the lobbyist's client(s) or employer;
- (5) the type of business/entity which is the lobbyist's client(s) or employer; and
- (6) certification by the lobbyist that the information contained on the lobbyist registration form is true and correct.

(d) If a business or other entity which has members or employees who lobby only on behalf of that organization and that business or entity chooses to register as a firm, then both the business or entity and the lobbyist(s) listed on its registration form shall be responsible for compliance with all of these rules. In addition to the other requirements of this rule, the business or other entity registering as a firm shall include on its registration form:

- (1) the name and signature of each person who is authorized to lobby for the firm; and
- (2) the name of a contact person within the firm.

If the business or entity hires a lobbyist who also lobbies independently for other clients, that individual lobbyist shall be solely responsible for compliance with these rules.

(e) In order to maintain continued status as a registered lobbyist, each registered lobbyist shall re-register by January 15 of each year. The lobbyist registration form will not be considered filed until it is delivered to the appropriate office under § 505 of these rules.

(f) Lobbyist registration and re-registration are only valid for the calendar year in which the registration or re-registration takes place.

(g) For purposes of these rules, any forms required to be filed may be delivered either in person, through the mail, or by facsimile. If delivery of the form is in person, it will be considered filed on the date of delivery to the appropriate office. If the delivery is by mail, it will be considered filed on the postmark date. If the delivery is by facsimile, it will be considered filed on the date the facsimile is received, provided the original is received by the appropriate office within ten (10) days of the transmission. In any case, a form will not be considered filed unless it has been delivered to the appropriate office.

(h) Each lobbyist who continues to lobby or file lobbyist activity reports but fails to re-register under paragraphs (c) and (d) of this section may be subject to sanctions under § 507.

**§ 503. Amendment of information on registration or re-registration form.**

(a) Except as provided in subparagraph (b) of this section, if during the year of registration, there are any changes in the information a lobbyist must disclose pursuant to § 502 of these rules, that lobbyist shall file an amended registration form containing the different or new information within ten (10) days of the change.

(b) A lobbyist registered to lobby members of the General Assembly shall file an amended registration form within three (3) business days of a change of information that occurs during a regular or extraordinary session of the General Assembly.

(c) A lobbyist who files an amended registration form under paragraphs (a) or (b) of this section shall clearly mark on the front of the form that it is an amended form.

**§ 504. Exceptions to the lobbyist registration requirement.**

(a) A lobbyist is not required to register if he or she engages in no lobbying other than the following activities:

- (1) The publishing or broadcasting by news media executives or their employees or agents in the ordinary course of business, of news items, editorials or other comments or paid advertisements which urge legislative or administrative action;
- (2) Engaging in lobbying exclusively on behalf of an Arkansas church which qualifies as a tax exempt organization under § 501(c)(3) of

the Internal Revenue Code when lobbying solely for the purpose of protecting the rights of members or adherents to practice the religious doctrines of the church;

- (3) Acting in his or her official capacity as a public servant unless he or she:
  - (A) receives income from a non-governmental person over \$400 in a quarter for lobbying; or
  - (B) expends or is reimbursed over \$400 in a quarter, regardless of the source, for lobbying, excluding the cost of informational material and personal travel, lodging, meals, and dues;
- (4) Drafting legislation;
- (5) Appearing in a judicial proceeding, a proceeding or hearing that is a matter of public record or a hearing or appeal conducted pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.*;
- (6) Assisting an executive agency, at that agency's written request, in drafting administrative ~~regulations~~ rules or in publicizing or assisting in the implementation of final administrative actions;
- (7) Testifying as an individual at a public hearing in support of or in opposition to legislation or administrative action, testifying on behalf of a corporation, partnership, association or other organization of which the person is regularly associated as an employee, officer, member, or partner or testifying at the request of a legislative committee; or
- (8) Actions by contractors or their employees while engaged in selling to a governmental body by demonstrating or describing goods or services or asking about specifications or terms and conditions of a particular purchase, unless the contractor or its employees expends more than \$400 in a calendar quarter for food, lodging, travel, or gifts to benefit public servants who purchase goods or services on behalf of a governmental body.

(b) A person whose only act of lobbying is to pay or reimburse a registered lobbyist on his or her own behalf is not required to register as a lobbyist.

(c) Whether a person falls under an exception to the lobbyist registration requirement is a factual determination made by the Arkansas Ethics Commission.

**§ 505. Where to register and make other filings.**

(a)(1) A lobbyist who lobbies public servants of state government shall register and make other filings with the Secretary of State as required by these rules and the laws of Arkansas.

(2) A lobbyist who lobbies public servants of municipal government shall register and make other filings as required by these rules and the laws of Arkansas with the city clerk or recorder of the municipality, as the case may be.

(3) A lobbyist who lobbies public servants of county government or any government body not otherwise covered by this section shall register and make other filings with the county clerk of the county as required by these rules and the laws of Arkansas.

(4) A lobbyist who lobbies public servants of a governmental body covering a district that includes all or part of more than one county shall file with the Secretary of State and the county clerk of his or her principal place of business or residence within the state.

(b) A lobbyist who would be required to register and file with more than one public official under this section may instead register and make other filings as required by these rules and the laws of Arkansas with the Secretary of State and the county clerk of his or her principal place of business or residence within the state.

**§ 506. Termination of lobbyist registration.**

(a) When a registered lobbyist's employment or designation as a lobbyist is terminated, a written notice of termination shall be given by the lobbyist or his or her designated agent to the public official with whom the lobbyist is registered.

(b) The written notice of termination shall:

- (1) report the registered lobbyist's name;
- (2) report the date the registered lobbyist's employment is terminated or his or her designation as a lobbyist is terminated; and
- (3) report any activity to be reported during the period in which the registration was in effect that has not already been reported.

(c) If a registered lobbyist either fails to re-register as detailed in § 502 of these rules or fails to submit a notice of termination under this section, his or her registration as a lobbyist will automatically expire at midnight January 15 of the year following the last year in which the lobbyist is registered. A lobbyist whose registration expires or is terminated pursuant to this

subsection shall not lobby until the lobbyist re-registers pursuant to § 502 of these rules under threat of penalties as detailed in § 507 of these rules.

**§ 507. Penalties for failure to register or re-register properly.**

(a)(1) Those persons who act as lobbyists as defined by § 501 of these rules but fail to register within five (5) days of beginning lobbying activities as required by § 502 of these rules may be assessed by the Arkansas Ethics Commission a fine of not less than \$50 and not more than ~~\$2,000~~ **\$3,500** and may be issued a public letter of caution, warning or reprimand.

(2) Any person who acts as a lobbyist as defined by § 501 of these rules but purposely fails to register within five (5) days of beginning lobbying activities as required by § 502 of these rules is subject to a fine of not less than \$500 and not more than \$1,000.

(b)(1) Any person who acts as a lobbyist and gives false information on the lobbyist registration form or omits information from that form required by § 502 of these rules may not be considered a registered lobbyist and may be assessed by the Arkansas Ethics Commission a fine of not less than \$50 and not more than ~~\$2,000~~ **\$3,500** and may be issued a public letter of caution, warning or reprimand.

(2) Any person who acts as a lobbyist and purposely provides false information or purposely omits information on the lobbyist registration form shall not be considered a registered lobbyist and shall be subject to a fine of not less than \$500 or more than \$1,000.

**Lobbyist Activity Reports**

**§ 508. Requirement of lobbyist activity reports; filing deadlines and public inspection.**

(a) Each person registered or required to be registered as a lobbyist shall file an activity report, signed and sworn to, concerning his or her lobbying activities during the previous calendar quarter no later than fifteen (15) days after the end of each calendar quarter. These are the due dates for the quarterly lobbyist activity reports:

First quarter (covering January 1-March 31):	<b>April 15</b>
Second quarter (covering April 1-June 30):	<b>July 15</b>
Third quarter (covering July 1-September 30):	<b>October 15</b>
Fourth quarter (covering October 1-December 31):	<b>January 15</b>

(b) A registered lobbyist who lobbies members of the General Assembly shall file a monthly lobbyist activity report, signed and sworn to, for any month or part thereof in which the General Assembly is in session. This monthly report shall be filed no later than ten (10) days after the end of each month. A quarterly report is not required if the registered lobbyist has filed monthly lobbyist activity reports for each month of the calendar quarter.

(c) Whenever the filing due date listed in paragraph (a) or (b) falls on a Saturday, Sunday, or legal holiday or any day the office is closed for official business, the time for such filing shall be extended to the next day which is not a Saturday, Sunday, or legal holiday. Any filing required by these rules shall be timely filed if it is:

- (1) Hand-delivered to the appropriate public official(s) as set forth in § 505;
- (2) Mailed to the appropriate public official(s) as set forth in § 505, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on or before the date due;
- (3) Received via facsimile by the appropriate public official(s) as set forth in § 505 on or before the due date, provided the original is received by the public official(s) within ten (10) days of the transmission;
- (4) Received by the appropriate public official as set forth in § 505 in a readable electronic format which is approved by the Arkansas Ethics Commission;

Except that, beginning January 1, 2010, all lobbyists who are required to make their filings with the Secretary of State shall make such filings in electronic form through the internet. In addition, the Secretary of State shall provide a form to be filed simultaneously with the lobbyist report which indicates that it is signed by a registered lobbyist under penalty of perjury under Ark. Code Ann. § 5-53-102, and that the lobbyist activity report is accurate.

(d) Lobbyist activity reports shall be filed as due whether there has been lobbying activity (see §§ 510-511) or no lobbying activity (see § 509).

(e) Lobbyist activity reports shall be open to public inspection.

### **§ 509. Reports of no activity.**

(a) Each person required to be registered as a lobbyist shall file quarterly and/or monthly activity reports as required by § 508 and § 510 of these rules even if there has been no activity during the previous calendar quarter or month.

(b) An activity report filed pursuant to paragraph (a) of this section shall consist of the front page of the lobbyist activity report indicating that no activity has occurred.



**§ 510. Basic requirements of lobbyist activity reports.**

(a) It is the intent of the Arkansas Ethics Commission that the public have full and accurate disclosure of the contact between lobbyists and public servants and to that end, the Commission encourages lobbyists not to avoid reporting through the use of technicalities or ambiguities.

(b) Lobbyist activity reports shall be signed and sworn to by the registered lobbyist affirming that the information contained on the activity report is true and correct. The reports must be filed as described by § 508 of these rules.

(c) As further detailed in §§ 511-513 of these rules, lobbyist activity reports shall contain:

- (1) The total of all expenditures made or incurred by the registered lobbyist or on behalf of the registered lobbyist by (i) his or her employer or (ii) any officer, employee, or agent during the preceding period. As used herein, the term “agent” means one who acts for or in place of another by authority from him or her.
  - (A) These expenditures shall include reimbursements for expenses, but not compensation to lobbyists for lobbying; and
  - (B) The report shall itemize these totals according to financial category and employers and clients, including food and refreshments, entertainment, living accommodation(s), advertising, printing, postage, travel, telephone, and other expenses or services.
- (2) The name and address of the registered lobbyist and his or her client(s).

(NOTE: When reporting expenditures by employer or client, a lobbyist may combine reimbursements for the lobbyist’s own expenses with other expenditures made for or on behalf of a particular employer or client. If desired, however, a lobbyist may report reimbursements for the lobbyist’s own expenses separately from other expenditures made for or on behalf of the employer or client. In such event, there would be two entries for that employer or client.)

**§ 511. Reporting of expenditures made on behalf of public servants; subject areas.**

(a) Lobbyist activity reports shall contain an itemized listing of each of the following items:

- (1) Each gift worth more than \$100 given to a public servant or on behalf of the public servant, including:
  - (A) the date the gift was given;

- (B) the greater of the cost or fair market value of the gift;
  - (C) the name of the public servant to whom the gift was given;
  - (D) a description of the gift;
  - (E) the amount paid by the lobbyist towards the total expenditure; and
  - (F) the name of the lobbyist's employer or client making the expenditure and, if applicable, the names of all other lobbyists sharing in the cost of the payment.
- (2) Each payment for food (including beverages), lodging, or travel costing in excess of \$40 per day provided to a public servant, including:
- (A) the date of the expenditure;
  - (B) the exact amount paid by the lobbyist towards the total expenditure

(NOTE: in calculating the amount paid for a meal, sales tax related to the meal should be included but it is not necessary to include the tip related to the meal);

- (C) the name of the public servant benefited;
- (D) the description of the item;
- (E) the name of the conference, seminar, or event;
- (F) the purpose of the lodging or travel;
- (G) the name of the entity receiving the payment and in the case of lodging, the name of hotel, motel, or other place of accommodation;
- (H) the greater of the actual cost paid by the lobbyist or the fair market value of the lodging or travel; and
- (I) the name of the lobbyist's employer or client making the expenditure and, if applicable, the names of all other lobbyists sharing in the cost of the payment.

## EXAMPLES:

(i) If a lobbyist takes a public servant and his or her spouse to dinner and spends more than \$40 on the public servant or more than \$80 on the public servant and his or her spouse, the lobbyist shall itemize the expenditure.

(ii) If three lobbyists provide a meal to a public servant costing \$75 and split the bill for the meal evenly, the \$40 itemization would be met and each lobbyist would report an expenditure of \$25 as well as the names of the other lobbyists sharing the cost of the meal.

(iii) If four lobbyists provide two public servants with lodging or travel costing \$152 and split the bill evenly, the itemization threshold would be met and each lobbyist would report an expenditure of \$38 as well as the names of the other lobbyists sharing the expense.

- (3) Any other item paid or given to a public servant or on behalf of a public servant, except campaign contributions, having a value in excess of \$40 each unless consideration of equal or greater value has been given therefor. The information reported shall include:
- (A) the date the item was given;
  - (B) the name of the public servant benefited;
  - (C) the greater of the cost or fair market value of the item;
  - (D) the exact amount paid by the lobbyist towards the total expenditure;
  - (E) the name of the lobbyist's employer or client making the expenditure and, if applicable, the names of all other lobbyists sharing in the cost of the payment;
  - (F) a description of the item; and
  - (G) if the person receiving or being benefited by the item is a public employee, the governmental body which employs the person shall be identified.

EXAMPLE: If five lobbyists share equally in the cost of giving of an item worth \$100 to a public servant, the \$40 itemization threshold would be met and each lobbyist would report the giving of a \$20 item to the public servant and also report the names of the other lobbyists sharing in the cost of the giving of the item.

**(b)** Lobbyist activity reports shall include:

- (1) a detailed statement of any money loaned or promised or line of credit established for a public servant or on behalf of the public servant over \$25 per individual, except as noted in § 514(3); and
- (2) a statement detailing the direct business association or partnership with any public servant whom the lobbyist may lobby.

**(c)** Whenever the name of a public servant will appear in an activity report of a lobbyist, the lobbyist shall notify the public servant and provide him or her the information being reported. The lobbyist shall mail or deliver the notification to the public servant not later than seven (7) working days prior to the date for filing the activity report.

**§ 512. Reporting of expenditures for amusement, charity and sporting events.**

**(a)** On the activity report, the lobbyist shall itemize each expenditure made for the benefit of a public servant for a ticket or tickets to an event or events, if this expenditure exceeds \$40 in the aggregate.

**EXAMPLE:** If the lobbyist buys four tickets to a football game costing \$22 each and gives them all to a legislator, the lobbyist must itemize this expenditure on his lobbyist activity report. This lobbyist would report that he made an \$88 expenditure on four tickets to a football game, the date of the expenditure and the name of the legislator to whom he gave the tickets. Even if the lobbyist did not originally intend to give the tickets to the legislator, the fact that he eventually did so makes this an expenditure on behalf of a public servant under § 511 of these rules.

**(b)** “Event or events,” as used in this section, includes, but is not limited to, sporting events such as football or basketball games and hunting or fishing trips, entertainment or arts events such as concerts or plays, and charity fundraising events such as banquets. “Event or events” does not include “special events” as defined in § 513.

**(c)** The lobbyist shall itemize each expenditure made for the benefit of a public servant for hunting or fishing trips by reporting its fair market value. The fair market value of a hunting or fishing trip is equivalent to the cost of such a trip as available from a commercial provider. In pricing hunting and fishing trips, the lobbyist shall presume that the public servant hunted or fished whether or not he or she actually did so. The value of the expenditure should also include the fair market value of food, lodging, or travel if such was provided during the trip.

**(d)** When reporting the cost of tickets to a charity event, the value of the ticket to the event shall not include the tax deductible portion of the ticket.

**§ 513. Reporting special events.**

(a) Generally, expenses related to lobbying activity are itemized as detailed in §§ 510-512 of these rules. In the case of special events, as defined in paragraph (b), where the expenses related to the event are incurred by the lobbyist, the lobbyist need not allocate the expenses by individual but may categorize them on a group basis as listed herein in paragraph (c).

(b) A special event is a planned activity where a specific governmental body or identifiable groups of public servants are invited. Special events may include parties, dinners, athletic events, entertainment, and charity events. For a discussion of the meaning of the terms “specific governmental body” and “identifiable groups of public servants”, see Advisory Opinion No. 99-EC-008.

(c) In the case of a special event, expenses need not be allocated by individuals. The information reported for a special event shall include:

- (1) the date of the event;
- (2) the name of the event;
- (3) the location of the event;
- (4) the name of the governmental body or group(s) of public servants invited;
- (5) the exact amount paid by the lobbyist towards the total expenditure;  
and
- (6) the name of the lobbyist’s employer or client making the expenditure and, if applicable, the names of all other lobbyists sharing in the cost of the payment.

EXAMPLE: If two lobbyists invite the members of the Senate Insurance & Commerce Committee to a dinner, the dinner may be reported as a special event. If the lobbyists split the cost of the dinner evenly, each lobbyist would report their share of the dinner as well as the name of the other lobbyist sharing in the cost of the dinner.

(d) Hospitality rooms may be reported as a special event provided the lobbyists invite specific governmental bodies or identifiable groups of public servants as provided for in these rules. When reporting hospitality room expenses, the lobbyist shall itemize:

- (1) the date(s) the hospitality room was open;
- (2) the name of the event hosted, if applicable;

- (3) the exact amount paid by the lobbyist towards the total expenditure for the hospitality room; and
- (4) the name of the lobbyist's employer or client making the expenditure and, if applicable, the names of all other lobbyists sharing in the cost of the room.

(e) Whether an event is a "special event" under the meaning of this section is a factual determination made by the Arkansas Ethics Commission.

**§ 514. What lobbyist activity reports do not have to disclose.**

Lobbyist activity reports do not have to disclose the following:

- (1) Office expenses other than those specifically required to be reported under § 510 of these rules;
- (2) Unreimbursed personal living and travel expenses not incurred directly for lobbying;
- (3) Money loaned or a line of credit established that is issued in the ordinary course of business by a financial institution or a person who regularly and customarily extends credit; and
- (4) Compensation paid to the lobbyist by his or her client(s) or principal(s).

**§ 515. Maintenance of records.**

All registered lobbyists operating within the State of Arkansas shall maintain and preserve all accounts, bills, receipts, and any other documents necessary to substantiate the financial reports required by §§ 508-513 of these rules for at least four (4) years from the date of the filing of the statement or report.

**§ 516. Provision of forms; public availability of filed statements and reports.**

The Secretary of State, each county clerk and each city clerk or recorder shall:

- (1) provide forms approved by the Arkansas Ethics Commission for registration and for statements required by §§ 502, 503, 505, 506, and 508-513 to all persons required to file;
- (2) make all statements, forms, and reports filed available for public inspection and copying, at a reasonable cost, during regular office hours.

**Prohibited Acts and Penalties**

**§ 517. Prohibited acts.<sup>1</sup>**

(a) No person may purposely employ any lobbyist who is required to register as a lobbyist but is not registered pursuant to §§ 502-505.

(b) (1) A former member of the ~~Arkansas Senate or the Arkansas House of Representatives elected to the~~ General Assembly ~~on or after November 4, 2014,~~ shall not ~~be eligible to be registered as a lobbyist take the following actions~~ until two (2) years after the expiration of the term of office for which he or she was elected.:

(A) Register as a lobbyist under Ark. Code Ann. § 21-8-601 *et seq.*; or

(B) Enter into employment as the director of an:

(i) Educational cooperative under The Public School Educational Cooperative Act of 1981, Ark. Code Ann. § 6-13-901, *et seq.*; or

(ii) Area agency on aging.

(2) (A) Except as provided in subdivision (b)(2)(B) of this subsection, subsection (b)(1) of this section applies to a person elected or reelected to the General Assembly on or after November 6, 2018.

(B) Subdivision (b)(1)(A) of this section shall apply to a person elected or reelected to the General Assembly on or after November 4, 2014.

(c) The Governor, Lieutenant Governor, Secretary of State, Attorney General, Treasurer of State, Auditor of State, and Commissioner of State Lands shall not be eligible to be registered as a lobbyist until one (1) year after the expiration of the term of office for which he or she was elected.

(d) An individual employed in the office of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Treasurer of State, Auditor of State, or Commissioner of State Lands shall not be eligible to be registered as a lobbyist until one (1) year after the expiration of the individual's employment in that office.

(e) A member of the Arkansas Public Service Commission shall not be eligible to be registered as a lobbyist until one (1) year after the expiration of his or her service on the Arkansas Public Service Commission.<sup>2</sup>

<sup>1</sup> The penalties referenced in § 517(h) and (k) are applicable in criminal prosecutions and not in Arkansas Ethics Commission proceedings.

<sup>2</sup> This prohibition, established by Act 486 of 2013 and codified as Ark. Code Ann. § 23-2-113, falls outside of the Arkansas Ethics Commission's jurisdiction.

(f) An individual employed as an executive head of a state agency or as a chief deputy of an executive head of a state agency shall not be eligible to be registered as a lobbyist until one (1) year after the expiration of his or her employment in that capacity.<sup>3</sup>

(g) No person engaging in lobbying may:

- (1) influence or attempt to influence, by coercion, bribery or threat of economic sanction, any public servant in the discharge of the duties of his or her office;
- (2) purposely provide false information to any public servant as to any material fact pertaining to any legislative or administrative action;
- (3) purposely omit, conceal, or falsify in any manner information required by the registration and lobbyist activity reports;
- (4) contract to receive or accept compensation that is dependent in any manner upon the success or failure of a legislative or administrative action, or the outcome of any executive, legislative, or administrative action relating to the solicitation or securing of a procurement contract; or
- (5) provide payment for food or beverages at any location or event at which the lobbyist is not present physically, with the exception of a special event as that term is defined in § 500 of these rules.

(h)(1) Any person criminally convicted for violation of any provision of Ark. Code Ann. § 21-8-607(a) or (b) shall not act as a lobbyist for three (3) years from the date conviction and shall be subject to a fine of not less than \$100 and not more than \$1,000.

(2) Any person violating this three (3) year ban will be deemed guilty of an additional violation of subchapter 6 of chapter 8 of Title 21.

(i) Any person who acts as a lobbyist as defined by § 501 of these rules, but purposely fails to register within five (5) days of beginning lobbying activities as required by § 502 of these rules is subject to a fine of not less than \$500 and not more than \$1,000.

(j) On a lobbyist registration form, a person acting as a lobbyist shall not purposely provide false information or purposely omit information. A person who violates § 517(f) shall not be considered a registered lobbyist and shall be subject to a fine of not less than \$500 and not more than \$1,000.

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<sup>3</sup> This prohibition, established by Act 486 of 2013 and codified as Ark. Code Ann. § 25-16-103, falls outside of the Ethics Commission's jurisdiction.



(k) A person criminally convicted of three (3) or more violations of a provision of subchapter 6 of chapter 8 of Title 21 shall be permanently prohibited from acting as a registered lobbyist in the State of Arkansas.

(l) An expunged record shall not serve as the basis for disqualification under Ark. Code Ann. § 21-8-607.

(m) No member of the General Assembly shall receive any income or compensation as defined in Ark. Code Ann. § 21-8-401 *et seq.*, other than income and benefits from the governmental body to which he or she is duly entitled, for lobbying other members of the General Assembly by communicating directly or soliciting others to communicate with any other member with the purpose of influencing legislative action by the General Assembly.

(n) (1) A person serving as an elected state official in any jurisdiction is prohibited from registering as a lobbyist in Arkansas under Ark. Code Ann. § 21-8-601, *et seq.* or similarly in any other jurisdiction while the person is serving as an elected state official.

(2) As used in this subdivision, “elected state official” means a person holding an elective office of state government as a constitutional officer or as a member of the General Assembly and includes persons during the time period between the date that he or she is elected and the date he or she takes office.

**§ 518. Penalties for failure to file or late filing of lobbyist activity reports.**

(1a) In addition to other sanctions which may be imposed under Ark. Code Ann. § 7-6-218(b)(4), lobbyists who fail to file activity reports when due shall be subject to fines for the late filing of reports. Although fines are based on the facts of each case, the following schedule serves as a guideline in determining the amount of the fines:

<u>Date Report Filed</u>	<u>First Time Delinquency</u>	<u>Repeated Delinquency by Same Lobbyist</u>
1 to 10 days late	\$25.00/per report	\$50.00/per report
11 to 20 days late	\$50.00/per report	\$100.00/per report
21 to 30 days late	\$100.00/per report	\$200.00/per report

(2b) A registered lobbyist who gives false or materially misleading information on a lobbyist activity report or omits information from that report required by §§ 508-513 of these rules may be assessed by the Arkansas Ethics Commission a fine of not less than \$50 or more than ~~\$2,000~~ \$3,500 for each violation and may be issued a public letter of caution, warning or reprimand.

**§ 519. Criminal penalties**

Pursuant to Ark. Code Ann. § 7-6-218(b)(4)(D), the Arkansas Ethics Commission may report any person found to have violated any of these rules to the proper law enforcement authorities. Upon conviction, any person who violates any provision of Ark. Code Ann. § 21-8-401 through

§ 21-8-804 is guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.