

Do it Right:

An Introduction to North Carolina's New Ethics and Lobby Laws

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North Carolina's new State Government Ethics Act and Lobbying Act became effective January 1, 2007. Affecting how one may seek to influence in North Carolina's legislative, executive, and judicial branches of government, these statutes must be read and interpreted together to understand these changes.

PURPOSE

These statutes:

- establish the State Ethics Commission;
- create ethical standards for state public officers, employees, and appointees to advisory state boards and commissions;
- require the filing of a public disclosure of economic

- interests statement by "covered persons";
- mandate registration and reporting requirements; and
- amend the lobbying laws.

STATE OFFICIALS

The Ethics Act applies to "**covered persons**" who are "legislators, public servants, or judicial officers" as identified by the State Ethics Commission.

"**Public servants**" are the constitutional officers of the state; employees of the Office of the Governor; and heads of all principal state departments and their chief deputy and administrative assistant. "Public servants" also include the foregoing individuals' confidential assistants and secretaries; employees in exempt positions and their confidential secretaries; employees or appointees designated by the Governor; judicial employees; voting

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members of all boards and commissions, including ex officio members, serving by appointment; board members and leaders of the University of North Carolina system and their constituent institutions; board members and leaders of the Community College System and their constituent institutions; members of the State Ethics Commission; and designated persons working under contract with the state.

These individuals annually must file a "**statement of economic interest**" which is available for public review. To view the current disclosure statement, see http://www.ethicscommission.nc.gov/documents/2007_SEI.pdf.

Failure to comply with the provisions of these new statutes may result in a variety of civil or criminal sanctions to a covered person, association, or individual.

STATE ETHICS COMMISSION

The State Government Ethics Act established an appointed eight-member commission. Among its duties the **State Ethics Commission** will:

- conduct inquiries into alleged violations of these statutes;
- review all statements of economic interest filed by covered persons;
- render advisory opinions on the applications of the ethics and lobby laws; and
- develop and implement required ethics educational programs for public servants, legislators and legislative employees, and lobbyists and lobbyist principals.

The commission will list all "covered persons" and state boards and commissions subject to the statutes. See: <http://www.ethicscommission.nc.gov/cpersons.htm> and <http://www.ethicscommission.nc.gov/cboards.htm>. One also should check with each department for their list.

LOBBYING

Lobbying is broadly defined as "influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that person's immediate family."

Lobbying now explicitly incorporates the practice known as "goodwill lobbying." "**Goodwill lobbying**" is defined as "developing goodwill through communications or activities, including the building of relationships, with a

designated individual or that person's immediate family with the intention of influence in current or future legislative or executive action, or both."

Lobbying specifically does not include "communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both."

Lobbyists and Lobbyist-Principals must register within one day and ten days respectively after engaging in lobbying. An association or individual may inadvertently subject itself to reporting requirements by "soliciting others" to act to affect public policy and having expenditures of more than \$3,000.00 during any 90-day period. "**Solicitation of others**" is the "solicitation of members of the public to communicate directly with or contact one or more designated individuals for the purpose of influencing or attempting to influence legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the following methods:

- a broadcast, cable, or satellite transmission
- an email communication or a web site posting
- a communications delivered by print media
- a letter or other written communication delivered by mail or by comparable delivery service

- telephone
- a communication at a conference, meeting, or similar event

It does not include communications to a "person's stockholders, employees, board members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices."

Registration by lobbyists and lobbyist-principals triggers quarterly and monthly reporting including all "**reportable expenditures**" made for the purpose of lobbying. For the Secretary of State's guidebook and forms, see <http://www.secretary.state.nc.us/lobbyists/lobforms.aspx#>.

Gifts are "anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, or a person." Covered persons are prohibited from soliciting or receiving gifts except under narrowly defined circumstances. Similarly, lobbyists, lobbyist principals, and others are prohibited from providing gifts to covered persons except under narrowly defined circumstances. This includes gifts provided at a "**public event**" which has been convened in compliance with the law. Offering, giving, or receiving a gift subjects the donor and the recipient to civil fines or criminal prosecution.

Finally, lobbyists are prohibited from making campaign contributions to a candidate or their campaign committee. They may not collect, possess, or deliver contributions from multiple contributors to be transmitted or transferred to a covered person who is a candidate or their campaign committee.

CONCLUSION

The requirements for legal and ethical lobbying have changed significantly. Boards of directors and executive directors must become knowledgeable about these changes and implement practices and policies which comply with these new laws.

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