

State of Arkansas

Call Item 2

76th General Assembly

Third Extraordinary Session, 1988

HOUSE BILL 1034

By: Representatives Tullis and Wilson AS ENGROSSED 1/28/88

"AN ACT TO AMEND THE ARKANSAS CODE TITLE 10, CHAPTER 2,
SUBCHAPTER 4, TO ENACT THE ARKANSAS LOBBYIST REGISTRATION
LAW; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code title 10, chapter 2, subchapter 4, is hereby amended to read as follows:

"SUBCHAPTER 4.

10-2-401. This subchapter may be referred to and cited as the 'Arkansas Lobbyist Registration Law.'

10-2-402. As used in this subchapter:

(1) 'Administrative action' means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, ratemaking proceeding or policy action or non-action by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body. 'Administrative action' shall not include ministerial action.

(2) 'Business' means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted.

(3) 'County government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county.

(4) 'Family' means an individual's spouse, children of that individual or his or her spouse, brothers, sisters, or parents of the individual or his or

her spouse.

(5) (A) 'Gift' means any retainer, payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value has been given therefor.

(B) The term 'gift' does not include:

(i) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. Payments for travel or reimbursement for any expenses shall not be deemed 'informational material.'

(ii) 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. If the expenses for food, lodging or travel are paid for by a registered lobbyist, the expenses shall be presumed to bear a relationship to the public servant's office and that he or she was appearing in his or her official capacity.

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

(iv) 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 paragraph.

(v) Campaign contributions.

(vi) Any devise or inheritance.

(vii) Anything with a value of less than one hundred dollars (\$100.00).

(6) 'Governmental body' means any office, department, commission, council, board, bureau, 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.

(7) '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, capital gain, or any other form of recompense or any combination thereof.

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

(9) 'Legislator' means any person who is a member of the Arkansas General Assembly, a quorum court of any county, or the city council or board of directors of any municipality.

(10) 'Lobbying' means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action.

(11) 'Lobbyist' means a person who:

(A) Receives income or reimbursement in a combined amount of two hundred fifty dollars (\$250.00) or more in a calendar quarter for lobbying; or

(B) Expends two hundred fifty dollars (\$250.00) or more in a calendar quarter for lobbying excluding the cost of personal travel, lodging, meals, or dues; or

(C) Expends two hundred fifty dollars (\$250.00) 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.

(12) 'Ministerial action' means an action performed 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, the public servant's own judgment as to the propriety of the action being taken.

(13) 'Municipal government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality.

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

(15) 'Public appointee' means an individual who is appointed to a governmental body and does not receive a salary for his or her services. 'Public appointee' shall not include an individual appointed to an elective office.

(16) 'Public employee' means an individual who is employed by a governmental body or who is appointed to serve a governmental body. 'Public employee' shall not include public officials or public appointees.

(17) 'Public official' means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office.

(18) 'Public servant' means all public officials, public employees and public appointees.

(19) 'Registered lobbyist' means a lobbyist registered pursuant to the provisions of this subchapter.

(20) 'Retainer' means a consideration or fee paid on a regular and continuing basis to a person for services, whether or not specific services are performed by the person.

(21) 'Salary' means fixed compensation paid regularly for services.

(22) 'State government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.

10-2-403. Any person who violates any provision of this subchapter shall be deemed guilty of a Class A misdemeanor. The culpable mental state required by this subchapter shall be a knowing violation, except where another culpable mental state is specifically provided.

10-2-404. The Prosecuting Attorney of the District wherein an alleged violation occurred, shall have the authority to investigate the alleged violations of this subchapter and to use all existing powers granted that office.

10-2-405. (a) (1) A lobbyist shall register within five (5) days after beginning lobbying.

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

(A) 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 directly or indirectly urge legislative action or administrative action;

(B) Actions in a person's official capacity as a public ser-

vant. However, if the public servant receives income from a non-governmental person or expends funds of a non-governmental person in excess of two hundred fifty dollars (\$250.00) per quarter for the purpose of lobbying, the public servant is presumed not to be acting in his or her official capacity;

(C) Drafting legislation;

(D) Appearance in:

(i) a judicial proceeding,

(ii) a proceeding pursuant to the Arkansas Administrative Procedure Act if the appearance is a matter of public record,

(iii) a proceeding or hearing which is adversarial in nature if the appearance is a matter of public record, or

(iv) any hearing or appeal proceeding conducted pursuant to the Arkansas Tax Procedure Act;

(E) Assisting an executive agency, at the written request of the agency, in drafting administrative regulations or in publicizing or assisting in the implementation of final administrative actions;

(F) At a public hearing in support of or in opposition to legislation or administrative action, testifying as an individual, testifying on behalf of a corporation, partnership, association, or other organization with which the person is regularly associated as an employee, officer, member or partner, or testifying at the request of a legislative committee; or

(G) Solicitation of a contract or agreement for the sale of goods or services to a governmental body or for the purchase of goods or services from a governmental body or any contact with a governmental body pertaining to a contract or agreement.

(3) A person whose only act of lobbying is to compensate or reimburse a registered lobbyist to lobby in the person's behalf shall not be required to register as a lobbyist.

(b) The lobbyist shall file, as part of registration, a signed and sworn statement stating that he or she has read and will comply with all laws, rules and regulations pertaining to the responsibilities of a registered lobbyist and that the information that he or she has filed is true and correct to the best of his or her knowledge.

(c) The public official with whom the lobbyist registers shall be responsible for providing to the lobbyist a copy of all laws, rules, and regulations pertaining to lobbying.

(d) Upon the termination of a registered lobbyist's employment or designation as a lobbyist, the termination shall be conveyed by the registered lobbyist in writing to the public official with whom the lobbyist is registered.

(e) Each registered lobbyist whose employment or designation as a lobbyist has not terminated shall re-register by January 15 of each year.

(4) A person or organization that engages in lobbying exclusively for or on behalf of an Arkansas church which qualifies as a tax exempt organization under Section 501(c) of the Internal Revenue Code of 1986 shall not be required to register or to file lobbyist activity reports under this chapter.

10-2-406. The public official with whom a lobbyist is to register and make other filings shall be determined as follows:

(1) A lobbyist who lobbies public servants of municipal government shall register and make other filings with the City Clerk or Recorder of the municipality, as the case may be;

(2) 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;

(3) A lobbyist who lobbies public servants of state government shall register and make other filing with the Secretary of State;

(4) A lobbyist who lobbies public servants of a governmental body covering a district which 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; and

(5) A lobbyist who would be required to register and file with more than one (1) public official under this section may, in lieu of registering with each public official, register and make other filings with the Secretary of State and the County Clerk of his or her principal place of business or residence within the state.

10-2-407. (a) (1) Within thirty (30) days after the end of each calendar quarter, each registered lobbyist shall file a complete and detailed statement signed and sworn concerning his or her lobbying activities during the previous calendar quarter. This shall be known as the 'quarterly lobbyist activity report.'

(2) In addition to the quarterly lobbyist activity report, a registered lobbyist who lobbies members of the General Assembly shall file a monthly lobbyist activity report for any month in which the General Assembly is in session. The monthly lobbyist activity report shall be filed within ten (10) days after the end of the month.

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

10-2-408. The lobbyist activity reports shall be signed by the registered lobbyist and, if applicable, his or her employer. The reports shall contain:

(1) The total of all expenditures made or incurred by the registered lobbyist or on behalf of the registered lobbyist by his or her employer during the preceding period. These totals shall be itemized according to financial category and employers and clients, including food and refreshments, entertainment, living accommodations, advertising, printing, postage, travel, telephone, and other expenses or services. Registered lobbyists shall not be required to report office expenses other than office expenses specifically required to be reported under this section. Registered lobbyists are not required to report unreimbursed personal living and travel expenses not incurred directly for lobbying.

(2) (A) An itemized listing of each:

(i) gift given to a public servant or on behalf of the public servant;

(ii) payment for food, lodging or travel in excess of twenty-five dollars (\$25.00) on behalf of a public servant; and

(iii) any other item paid or given to a public servant or on behalf of the public servant in excess of twenty-five dollars (\$25.00) unless consideration of equal or greater value has been given therefor.

(B) Each item shall be identified by date, amount, and the name of the individual receiving or to be benefited by the item.

(C) In the case of special events, including parties, dinners, athletic events, entertainment, and other functions expenses need not be allocated by individuals but the date of the event, location, name of the governmental body or groups of public servants invited and total expense incurred by the person filing shall be stated.

(3) A detailed statement of any money loaned or promised or line of

credit established to a public servant or to anyone on behalf of the public servant in excess of twenty-five dollars (\$25.00) per individual. 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 shall not be required to be disclosed.

(4) A statement detailing the direct business association or partnership with any public servant before whom the registered lobbyist may engage in lobbying.

10-2-409. A registered lobbyist shall maintain and preserve all accounts, bills, receipts and any other documents necessary to substantiate the financial reports required by this subchapter for a period of at least three (3) years from the date of the filing of the statement or report.

10-2-410. The Secretary of State, each County Clerk, and each City Clerk or Recorder shall:

(1) Provide forms for registration and for statements required by this subchapter to all persons required to file.

(2) Issue a certificate of registration to a lobbyist registered under the provisions of this subchapter.

(3) Prepare and maintain a lobbyist registration file containing the name, permanent address and business phone number and occupation of each registered lobbyist and the name, occupation and business address of each employer or client who has engaged the registered lobbyist or the registered lobbyist's employer to lobby.

(4) Organize and cross-index the registrations alphabetically according to the name of the registered lobbyist.

(5) Preserve the statements for six (6) years from the date of receipt.

(6) Accept and file any information voluntarily received which may exceed the requirements of this subchapter.

(7) Make all statements and reports filed available for public inspection and copying at a reasonable cost, during regular office hours.

(8) Compile and maintain a current list and summary of all statements filed.

10-2-411. (a) No person shall knowingly employ any lobbyist who is

required to register as a registered lobbyist but is not registered pursuant to this subchapter.

(b) No person engaging in lobbying shall:

(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 legislation or administrative action.

(3) Knowingly omit, conceal, or falsify in any manner information required by the registration and lobbyist activity reports.

(c) Any person convicted for violation of any provision of this subchapter is prohibited from acting as a registered lobbyist for a period of three (3) years from the date of conviction. Any person violating this three (3) year ban shall be deemed guilty of a violation of this subchapter."

SECTION 2. MISCELLANEOUS AND NON-CODIFIED PROVISIONS. The provisions of this act shall become effective on January 1, 1989.

/s/ Tullis

